

Community Charter

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STATUTE

**PART 1—
Principles, Purposes and Interpretation**

Principles of municipal governance

- 1** (1) Municipalities and their councils are recognized as an order of government within their jurisdiction that
 - (a) is democratically elected, autonomous, responsible and accountable,
 - (b) is established and continued by the will of the residents of their communities, and
 - (c) provides for the municipal purposes of their communities.
- (2) In relation to subsection (1), the Provincial government recognizes that municipalities require
 - (a) adequate powers and discretion to address existing and future community needs,
 - (b) authority to determine the public interest of their communities, within a legislative framework that supports balance and certainty in relation to the differing interests of their communities,
 - (c) the ability to draw on financial and other resources that are adequate to support community needs,

- (d) authority to determine the levels of municipal expenditures and taxation that are appropriate for their purposes, and
- (e) authority to provide effective management and delivery of services in a manner that is responsive to community needs.

[...]

Broad interpretation

- 4** (1) The powers conferred on municipalities and their councils under this Act or the *Local Government Act* must be interpreted broadly in accordance with the purposes of those Acts and in accordance with municipal purposes.
- (2) If
- (a) an enactment confers a specific power on a municipality or council in relation to a matter, and
 - (b) the specific power can be read as coming within a general power conferred under this Act or the *Local Government Act*,
- the general power must not be interpreted as being limited by that specific power, but that aspect of the general power that encompasses the specific power may only be exercised subject to any conditions and restrictions established in relation to the specific power.

Definitions and other interpretation rules

- 5** The Schedule to this Act establishes definitions of terms used in this Act and rules of interpretation that apply to this Act.

PART 2— Municipal Purposes and Powers

Division 1—Purposes and Fundamental Powers

Municipalities and their councils

- 6** (1) A municipality is a corporation of the residents of its area.
- (2) The governing body of a municipality is its council.
- (3) New municipalities may be established, and the boundaries of existing municipalities may be altered, in accordance with Part 2 [*Incorporation*] of the *Local Government Act*.

Municipal purposes

- 7** The purposes of a municipality include
- (a) providing for good government of its community,
 - (b) providing for services, laws and other matters for community benefit,
 - (c) providing for stewardship of the public assets of its community, and
 - (d) fostering the economic, social and environmental well-being of its community.

Fundamental powers

- 8** (1) A municipality has the capacity, rights, powers and privileges of a natural person of full capacity.
- (2) A municipality may provide any service that the council considers necessary or desirable, and may do this directly or through another public authority or another person or organization.
- (3) A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following:
- (a) municipal services;
 - (b) public places;
 - (c) trees;
 - (d) [...];
 - (e) [...];
 - (f) cemeteries, crematoriums, columbariums and mausoleums and the interment or other disposition of the dead;
 - (g) the health, safety or protection of persons or property in relation to matters referred to in section 63 [*protection of persons and property*];

- (h) the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [*nuisances, disturbances and other objectionable situations*];
 - (i) public health;
 - (j) protection of the natural environment;
 - (k) animals;
 - (l) buildings and other structures;
 - (m) the removal of soil and the deposit of soil or other material.
- (4) A council may, by bylaw, regulate and impose requirements in relation to matters referred to in section 65 [*signs and other advertising*].
- (5) A council may, by bylaw, regulate and prohibit in relation to the discharge of firearms.[. . .]
- (6) A council may, by bylaw, regulate in relation to business.
- (7) The powers under subsections (3) to (6) to regulate, prohibit and impose requirements, as applicable, in relation to a matter
- (a) are separate powers that may be exercised independently of one another,
 - (b) include the power to regulate, prohibit and impose requirements, as applicable, respecting persons, property, things and activities in relation to the matter, and
 - (c) may not be used to do anything that a council is specifically authorized to do under Part 26 [*Planning and Land Use Management*] or Part 27 [*Heritage Conservation*] of the *Local Government Act*.
- (8) As examples, the powers to regulate, prohibit and impose requirements under this section include the following powers:
- (a) to provide that persons may engage in a regulated activity only in accordance with the rules established by bylaw;
 - (b) to prohibit persons from doing things with their property;
 - (c) to require persons to do things with their property, to do things at their expense and to provide security for fulfilling a requirement.
- (9) A municipality must make available to the public, on request, a statement respecting the council's reasons for adopting a bylaw under subsection (3), (4), (5) or (6).
- (10) Powers provided to municipalities under this section
- (a) are subject to any specific conditions and restrictions established under this or another Act, and
 - (b) must be exercised in accordance with this Act unless otherwise provided.
- (11) For certainty,
- (a) the authority under subsection (2) does not include the authority to regulate, prohibit or impose requirements, and
 - (b) for the purposes of subsection (3) (a), a service does not include an activity that is merely the exercise of authority to regulate, prohibit or impose requirements and related enforcement.

[. . .]

Division 2 — Scope of Jurisdiction

[. . .]

Area of jurisdiction

- 11** (1) A municipality and its council may only exercise or perform their powers, duties and functions within the boundaries of the municipality, unless authorized under this or another Act.
- (2) The natural person powers of a municipality may be exercised outside the boundaries of the municipality.
- (3) If a municipality has established works or facilities outside the boundaries of the municipality for the purposes of a municipal service, the council's power to regulate, prohibit and impose requirements in relation to the use of those works and facilities may be exercised outside the boundaries of the municipality.

Division 3—Ancillary Powers

[. . .]

Authority to enter on or into property

- 16** (1) This section applies in relation to an authority under this or another Act for a municipality to enter on property.

- (2) The authority may be exercised by officers or employees of the municipality or by other persons authorized by the council.
- (3) Subject to this section, the authority includes authority to enter on property, and to enter into property, without the consent of the owner or occupier.
- (4) Except in the case of an emergency, a person
 - (a) may only exercise the authority at reasonable times and in a reasonable manner, and
 - (b) must take reasonable steps to advise the owner or occupier before entering the property.
- (5) The authority may only be used to enter into a place that is occupied as a private dwelling if any of the following applies:
 - (a) the occupier consents;
 - (b) the municipality has given the occupier at least 24 hours' written notice of the entry and the reasons for it;
 - (c) the entry is made under the authority of a warrant under this or another Act;
 - (d) the person exercising the authority has reasonable grounds for believing that failure to enter may result in a significant risk to the health or safety of the occupier or other persons;
 - (e) the entry is for a purpose referred to in subsection (6) (a) in relation to regulations, prohibitions or requirements applicable to the place that is being entered.
- (6) Without limiting the matters to which this section applies, a municipality may enter on property for any of the following purposes:
 - (a) to inspect and determine whether all regulations, prohibitions and requirements are being met in relation to any matter for which the council, a municipal officer or employee or a person authorized by the council has exercised authority under this or another Act to regulate, prohibit and impose requirements;
 - (b) to take action authorized under section 17 (1) [*municipal action at defaulter's expense*];
 - (c) in relation to section 18 [*authority to discontinue providing a service*], to disconnect or remove the system or works of the service;
 - (d) to assess or inspect in relation to the exercise of authority under section 8 (3) (c) [*spheres of authority — trees*].

Municipal action at defaulter's expense

- 17** (1) The authority of a council under this or another Act to require that something be done includes the authority to direct that, if a person subject to the requirement fails to take the required action, the municipality may
- (a) fulfill the requirement at the expense of the person, and
 - (b) recover the costs incurred from that person as a debt.
- (2) [...]

[...]

PART 3— Additional Powers and Limits on Powers

Division 1—Partnering and Other Agreements

[...]

Agreements granting exclusive or limited franchises

- 22** (1) A council may, by bylaw adopted with the approval of the electors, enter into an agreement that grants an exclusive or limited franchise for the provision of one or more of the following in accordance with the agreement:
- (a) a public transportation system;
 - (b) water through a water supply system;
 - (c) sewage disposal through a sewage system;
 - (d) gas, electrical or other energy supply system.
- (2) The maximum term of an initial agreement or a renewal agreement under this section is 21 years.

Agreements with other public authorities

- 23** (1) A council may make agreements with a public authority respecting

- (a) activities and services within the powers of a party to the agreement, including agreements respecting the undertaking, provision and operation of activities and services,
 - (b) operation and enforcement in relation to the exercise of authority to regulate, prohibit and impose requirements within the powers of a party to the agreement, and
 - (c) the management of property or an interest in property held by a party to the agreement.
- (2) An agreement between a municipality and a public authority in another country respecting the provision and operation of works and services has no effect unless it is approved by the Lieutenant Governor in Council.

Division 2—Restrictions on Providing Assistance

Publication of intention to provide certain kinds of assistance

- 24** (1) A council must give notice in accordance with section 94 [*public notice*] of its intention to provide any of the following forms of assistance to a person or organization:
- (a) disposing of land or improvements, or any interest or right in or with respect to them, for less than market value;
 - (b) lending money;
 - (c) guaranteeing repayment of borrowing or providing security for borrowing;
 - (d) assistance under a partnering agreement.
- (2) The notice must be published before the assistance is provided and must
- (a) identify the intended recipient of the assistance, and
 - (b) describe the nature, term and extent of the proposed assistance.

General prohibition against assistance to business and exceptions

- 25** (1) Unless expressly authorized under this or another Act, a council must not provide a grant, benefit, advantage or other form of assistance to a business, including
- (a) any form of assistance referred to in section 24 (1) [*publication of intention to provide certain kinds of assistance*], or
 - (b) an exemption from a tax or fee.
- (2) A council may provide assistance to a business for one or more of the following purposes:
- (a) acquiring, conserving and developing heritage property and other heritage resources;
 - (b) gaining knowledge and increasing public awareness about the community's history and heritage;
 - (c) any other activities the council considers necessary or desirable with respect to the conservation of heritage property and other heritage resources.
- (3) A council may, by an affirmative vote of at least 2/3 of all the members of council, provide assistance to a business for the conservation of any of the following property:
- (a) property that is protected heritage property;
 - (b) property that is subject to a heritage revitalization agreement under section 966 of the *Local Government Act*;
 - (c) property that is subject to a covenant under section 219 of the *Land Title Act* that relates to the conservation of heritage property.

Division 3—Municipal Property

Notice of proposed property disposition

- 26** (1) Before a council disposes of land or improvements, it must publish notice of the proposed disposition in accordance with section 94 [*public notice*].
- (2) In the case of property that is available to the public for acquisition, notice under this section must include the following:
- (a) a description of the land or improvements;
 - (b) the nature and, if applicable, the term of the proposed disposition;
 - (c) the process by which the land or improvements may be acquired.
- (3) In the case of property that is not available to the public for acquisition, notice under this section must include the following:
- (a) a description of the land or improvements;
 - (b) the person or public authority who is to acquire the property under the proposed disposition;
 - (c) the nature and, if applicable, the term of the proposed disposition;

- (d) the consideration to be received by the municipality for the disposition.

Exchange or other disposal of park land

- 27** (1) This section applies to land vested in a municipality under
- (a) section 29 [*subdivision park land*] of this Act,
 - (b) section 936 (5) (a) [*park land in place of development cost charges*] of the *Local Government Act*, or
 - (c) section 941 (14) [*park land in relation to subdivision*] of the *Local Government Act*.
- (2) A council may, by bylaw adopted with the approval of the electors,
- (a) dispose of all or part of the land in exchange for other land suitable for a park or public square, or
 - (b) dispose of the land, provided that the proceeds of the disposal are to be placed to the credit of a reserve fund under section 188 (2) (b) [*park land acquisition reserve fund*].
- (3) Land taken in exchange by a municipality under this section is dedicated for the purpose of a park or public square and the title to it vests in the municipality.
- (4) A transfer of land by a municipality under this section has effect free of any dedication to the public for the purpose of a park or a public square and section 30 (3) [*removal of park dedication*] does not apply.

Disposal of water systems, sewage systems and other utilities

- 28** (1) This section applies to works for one or more of the following:
- (a) the supply, treatment, conveyance, storage and distribution of water;
 - (b) the collection, conveyance, treatment and disposal of sewage;
 - (c) the supply and distribution of gas or electrical energy;
 - (d) a transportation system;
 - (e) a telephone system, closed circuit television system or television rebroadcasting system.
- (2) A council has unrestricted authority to dispose of works referred to in subsection (1) if
- (a) the works are no longer required for the purpose described in subsection (1), or
 - (b) the works are disposed of to another municipality in the same regional district or to the regional district.
- (3) In the case of works referred to in subsection (1) (a) or (b) that are used by a municipality to provide a water or sewer service, the council may only dispose of the works if
- (a) an agreement under which the water or sewer service will continue for a period specified in the agreement is in effect, and
 - (b) the intended disposition and agreement receives the assent of the electors.
- (4) In the case of works other than those referred to in subsections (2) and (3), the council may only dispose of the works with the approval of the electors.

[...]

Division 9—Business Regulation

Powers to require and prohibit

- 59** (1) A council may, by bylaw, do one or more of the following:
- (a) require operators of premises in which rooms or suites are let for living purposes to maintain, in accordance with the bylaw, a register of persons living there;
 - (b) in relation to persons engaged in the business activity of purchasing, taking in barter or receiving used or second hand goods,
 - (i) require such persons, after purchasing, taking in or receiving used or second hand goods, to notify the chief constable who has jurisdiction in the municipality within the time period established by the bylaw, and
 - (ii) prohibit such persons from altering the form of, selling, exchanging or otherwise disposing of those goods during the time period established by the bylaw;
 - (c) require manufacturers and processors to dispose of the waste from their plants in the manner directed by the bylaw;
 - (d) prohibit the operation of a public show, exhibition, carnival or performance of any kind or in any particular location;

- (e) prohibit the operation of places of amusement to which the public has access, including halls and other buildings where public events are held;
 - (f) prohibit professional boxing, professional wrestling and other professional athletic contests.
- (2) Before adopting a bylaw under subsection (1) or section 8 (6) *[business regulation]*, a council must
- (a) give notice of its intention in accordance with subsection (3), and
 - (b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.
- (3) Notice required under subsection (2) (a) may be provided in the form and manner, at the times and as often as the council considers reasonable.

Business licence authority

- 60** (1) An application for a business licence may be refused in any specific case, but
- (a) the application must not be unreasonably refused, and
 - (b) on request, the person or body making the decision must give written reasons for the refusal.
- (2) In addition to the authority under section 15 (1) (e) *[licences, permits and approvals — suspension and cancellation]*, a business licence may be suspended or cancelled for reasonable cause.
- (3) Before suspending or cancelling a business licence, the council must give the licence holder notice of the proposed action and an opportunity to be heard.
- (4) Despite section 155 (2) (b) *[restriction on delegation of hearings]*, a council may, by bylaw under section 154 *[delegation of council authority]*, authorize a municipal officer or employee to suspend or cancel a business licence.
- (5) If a municipal officer or employee exercises authority to grant, refuse, suspend or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have the council reconsider the matter.

[...]

Division 12—Remedial Action Requirements

Council may impose remedial action requirements

- 72** (1) A council may impose remedial action requirements in relation to
- (a) matters or things referred to in section 73 *[hazardous conditions]*,
 - (b) matters or things referred to in section 74 *[declared nuisances]*, or
 - (c) circumstances referred to in section 75 *[harm to drainage or dike]*.
- (2) In the case of matters or things referred to in section 73 or 74, a remedial action requirement
- (a) may be imposed on one or more of
 - (i) the owner or lessee of the matter or thing, and
 - (ii) the owner or occupier of the land on which it is located, and
 - (b) may require the person to
 - (i) remove or demolish the matter or thing,
 - (ii) fill it in, cover it over or alter it,
 - (iii) bring it up to a standard specified by bylaw, or
 - (iv) otherwise deal with it in accordance with the directions of council or a person authorized by council.
- (3) In the case of circumstances referred to in section 75, a remedial action requirement
- (a) may be imposed on the person referred to in that section, and
 - (b) may require the person to undertake restoration work in accordance with the directions of council or a person authorized by council.

Hazardous conditions

- 73** (1) Subject to subsection (2), a council may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;
 - (c) a tree;
 - (d) wires, cables, or similar matters or things, that are on, in, over, under or along a highway;

- (e) matters or things that are attached to a structure, erection or other matter or thing referred to in paragraph (a) that is on, in, over, under or along a highway.
- (2) A council may only impose the remedial action requirement if
 - (a) the council considers that the matter or thing is in or creates an unsafe condition, or
 - (b) the matter or thing contravenes the Provincial building regulations or a bylaw under section 8 (3) (l) [*spheres of authority — buildings and other structures*] or Division 8 [*Building Regulation*] of this Part.

Declared nuisances

- 74** (1) A council may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;
 - (c) a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;
 - (d) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (c).
- (2) Subsection (1) also applies in relation to a thing that council considers is so dilapidated or unclean as to be offensive to the community.

Harm to drainage or dike

- 75** A council may impose a remedial action requirement if a person has
- (a) obstructed, filled up or damaged a ditch, drain, creek or watercourse that was constructed or improved under this Act or the *Local Government Act*, or
 - (b) damaged or destroyed a dike or other drainage or reclamation work connected with it.

Time limit for compliance

- 76** (1) The resolution imposing a remedial action requirement must specify the time by which the required action must be completed.
- (2) Subject to section 79 [*shorter time limits in urgent circumstances*], the time specified under subsection (1) must not be earlier than 30 days after notice under section 77 (1) [*notice to affected persons*] is sent to the person subject to the remedial action requirement.
- (3) The council may extend the time for completing the required action even though the time limit previously established has expired.

Notice to affected persons

- 77** (1) Notice of a remedial action requirement must be given by personal service or by registered mail to
- (a) the person subject to the requirement, and
 - (b) the owner of the land where the required action is to be carried out.
- (2) In addition, notice of the remedial action requirement must be mailed to
- (a) each holder of a registered charge in relation to the property whose name is included on the assessment roll, at the address set out in that assessment roll and to any later address known to the corporate officer, and
 - (b) any other person who is an occupier of that land.
- (3) A notice under this section must advise
- (a) that the person subject to the requirement, or the owner of the land where the required action is to be carried out, may request a reconsideration by council in accordance with section 78 [*person affected may request reconsideration*], and
 - (b) that, if the action required by the remedial action requirement is not completed by the date specified for compliance, the municipality may take action in accordance with section 17 [*municipal action at defaulter's expense*] at the expense of the person subject to the requirement.

Person affected may request reconsideration by council

- 78** (1) A person who is required to be given notice under section 77 (1) [*notice to affected persons*] may request that the council reconsider the remedial action requirement.

- (2) Subject to section 79 [*shorter time limits in urgent circumstances*], a request under subsection (1) must be made by written notice provided within 14 days of the date on which the notice under section 77 (1) was sent or a longer period permitted by council.
- (3) If the council receives a notice that complies with subsection (2), it must provide the person with an opportunity to make representations to the council.
- (4) After providing the opportunity referred to in subsection (3), the council may confirm, amend or cancel the remedial action requirement.
- (5) Notice of a decision under subsection (4) must be provided in accordance with section 77 (1) and (2) [*notice to affected persons*].

Shorter time limits in urgent circumstances

- 79** If the council considers that there is a significant risk to health or safety if action is not taken earlier, the resolution imposing the remedial action requirement may
- (a) set a time limit under section 76 [*time limit for compliance*] that is shorter than the minimum otherwise applicable under subsection (2) of that section, and
 - (b) set a time limit for giving notice under section 78 [*persons affected may request reconsideration*] that is shorter than the limit otherwise applicable under subsection (2) of that section.

Recovery of municipal costs through sale of property

- 80** (1) This section applies to remedial action requirements in relation to the following:
- (a) matters or things referred to in section 73 (1) (a) [*unsafe and non-complying structures*];
 - (b) matters or things referred to in section 74 (1) (a) [*nuisances in relation to structures*];
 - (c) matters or things referred to in section 74 (1) (d) [*nuisances in relation to things in or near structures*] that are in or about a matter or thing referred to in section 74 (1) (a).
- (2) Subject to this section, if a remedial action requirement has not been satisfied by the date specified for compliance, the municipality may sell the matter or thing in relation to which the requirement was imposed or any part or material of it.
- (3) The earliest date on which the municipality may sell property referred to in subsection (2) is the later of
- (a) the date specified for compliance, and
 - (b) 60 days after the notice under section 77 (1) [*notice to affected persons*] is given.
- (4) If a municipality sells property under this section, it
- (a) may retain from the proceeds
 - (i) the costs incurred by the municipality in carrying out the sale, and
 - (ii) if applicable, the costs incurred by the municipality in exercising its power under section 17 [*municipal actions at defaulter's expense*] that have not yet been paid by the person subject to the requirement, and
 - (b) must pay the remainder of the proceeds to the owner or other person lawfully entitled.
- (5) For certainty, the authority under this section is in addition to that provided by section 17 [*municipal action at defaulter's expense*].

PART 4— Public Participation and Council Accountability

Division 3—Open Meetings

General rule that meetings must be open to the public

- 89** (1) A meeting of a council must be open to the public, except as provided in this Division.
- (2) A council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public.

Meetings that may or must be closed to the public

- 90** (1) A part of a council meeting **may** be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
 - (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
 - (c) labour relations or other employee relations;
 - (d) the security of the property of the municipality;
 - (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
 - (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
 - (g) litigation or potential litigation affecting the municipality;
 - (h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
 - (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
 - (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;
 - (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*];
 - (m) a matter that, under another enactment, is such that the public may be excluded from the meeting;
 - (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
 - (o) the consideration of whether the authority under section 91 [*other persons attending closed meetings*] should be exercised in relation to a council meeting.
- (2) A part of a council meeting **must** be closed to the public if the subject matter being considered relates to one or more of the following:
- (a) a request under the *Freedom of Information and Protection of Privacy Act*, if the council is designated as head of the local public body for the purposes of that Act in relation to the matter;
 - (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party;
 - (c) a matter that is being investigated under the *Ombudsperson Act* of which the municipality has been notified under section 14 [*ombudsperson to notify authority*] of that Act;
 - (d) a matter that, under another enactment, is such that the public must be excluded from the meeting.
 - (e) a review of a proposed final performance audit report for the purpose of providing comments to the auditor general on the proposed report under section 23 (2) of the *Auditor General for Local Government Act*.
- (3) If the only subject matter being considered at a council meeting is one or more matters referred to in subsection (1) or (2), the applicable subsection applies to the entire meeting.

[...]

Requirements before meeting is closed

92 Before holding a meeting or part of a meeting that is to be closed to the public, a council must state, by resolution passed in a public meeting,

- (a) the fact that the meeting or part is to be closed, and
- (b) the basis under the applicable subsection of section 90 on which the meeting or part is to be closed.

[...]

Division 6—Conflict of Interest

Disclosure of conflict

- 100** (1) This section applies to council members in relation to
- (a) council meetings,
 - (b) council committee meetings, and
 - (c) meetings of any other body referred to in section 93 [*application of open meeting rules to other bodies*].
- (2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has
- (a) a direct or indirect pecuniary interest in the matter, or
 - (b) another interest in the matter that constitutes a conflict of interest,
- the member must declare this and state in general terms the reason why the member considers this to be the case.
- (3) After making a declaration under subsection (2), the council member must not do anything referred to in section 101 (2) [*restrictions on participation*].
- (4) As an exception to subsection (3), if a council member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting his or her entitlement to participate in respect of the matter, the member may
- (a) return to the meeting or attend another meeting of the same body,
 - (b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and
 - (c) after this, participate and vote in relation to the matter.
- (5) For certainty, a council member who makes a statement under subsection (4) remains subject to section 101 [*restrictions on participation if in conflict*].
- (6) When a declaration under subsection (2) or a statement under subsection (4) is made,
- (a) the person recording the minutes of the meeting must record
 - (i) the member's declaration or statement,
 - (ii) the reasons given for it, and
 - (iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and
 - (b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

Restrictions on participation if in conflict

- 101** (1) This section applies if a council member has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 100.
- (2) The council member must not
- (a) remain or attend at any part of a meeting referred to in section 100 (1) during which the matter is under consideration,
 - (b) participate in any discussion of the matter at such a meeting,
 - (c) vote on a question in respect of the matter at such a meeting, or
 - (d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.
- (3) A person who contravenes this section is disqualified from holding an office described in, and for the period established by, section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on inside influence

- 102** (1) A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken
- (a) at a meeting referred to in section 100 (1) [*disclosure of conflict*],
 - (b) by an officer or an employee of the municipality, or
 - (c) by a delegate under section 154 [*delegation of council authority*],

if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

- (2) A person who contravenes this section is disqualified from holding an office described in, and for the period established by, section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on outside influence

- 103** (1) In addition to the restriction under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.
- (2) A person who contravenes this section is disqualified from holding an office described in, and for the period established by, section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Exceptions from conflict restrictions

- 104** (1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:
- (a) the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;
 - (b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;
 - (c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;
 - (d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
 - (e) the pecuniary interest is of a nature prescribed by regulation.
- (2) Despite sections 100 to 103, if a council member
- (a) has a legal right to be heard in respect of a matter or to make representations to council, and
 - (b) is restricted by one or more of those sections from exercising that right in relation to the matter,
- the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

[...]

PART 5— Municipal Government and Procedures

Division 1—Council Roles and Responsibilities

Council as governing body

- 114** (1) The members of a municipal council are the mayor and the councillors.
- (2) [...]
- (3) The powers, duties and functions of a municipality are to be exercised and performed by its council, except as otherwise provided under this or another Act, and a council, in exercising or performing its powers, duties and functions, is acting as the governing body of the municipality.
- (4) [...]

Responsibilities of council members

- 115** Every council member has the following responsibilities:
- (a) to consider the well-being and interests of the municipality and its community;
 - (b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;
 - (c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;
 - (d) to carry out other duties assigned by the council;

- (e) to carry out other duties assigned under this or any other Act.

Responsibilities of mayor

- 116** (1) The mayor is the head and chief executive officer of the municipality.
- (2) In addition to the mayor's responsibilities as a member of council, the mayor has the following responsibilities:
- (a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;
 - (b) to communicate information to the council;
 - (c) to preside at council meetings when in attendance;
 - (d) to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;
 - (e) to establish standing committees in accordance with section 141;
 - (f) to suspend municipal officers and employees in accordance with section 151;
 - (g) to reflect the will of council and to carry out other duties on behalf of the council;
 - (h) to carry out other duties assigned under this or any other Act.

Duty to respect confidentiality

- 117** (1) A council member or former council member must, unless specifically authorized otherwise by council,
- (a) keep in confidence any record held in confidence by the municipality, until the record is released to the public as lawfully authorized or required, and
 - (b) keep in confidence information considered in any part of a council meeting or council committee meeting that was lawfully closed to the public, until the council or committee discusses the information at a meeting that is open to the public or releases the information to the public.
- (3) If the municipality suffers loss or damage because a person contravenes subsection (1) and the contravention was not inadvertent, the municipality may recover damages from the person for the loss or damage.

Size of council

- 118** (1) Unless otherwise provided by letters patent or by a bylaw under this section, the council size for municipalities must be as follows:
- (a) for a city or district having a population of more than 50 000, the council is to consist of a mayor and 8 councillors;
 - (b) for a city or district having a population of 50 000 or less, the council is to consist of a mayor and 6 councillors;
 - (c) for a town or village, the council is to consist of a mayor and 4 councillors.
- (2) For the purposes of this section, any change to a council size under subsection (1) is to be based on the population of the municipality as at January 1 in a general local election year and the change takes effect for the purposes of that election.
- (3) A council may, by bylaw, establish the number of council members as a mayor and 4, 6, 8 or 10 councillors.
- (4) If a bylaw under subsection (3) would
- (a) reduce the number of council members, or
 - (b) maintain the current number of council members, despite an increase that would otherwise result under subsection (2),
- it may only be adopted if it receives the assent of the electors.
- (5) A bylaw under subsection (3)
- (a) must be made at least 6 months before the next general local election, and
 - (b) does not become effective until that general local election.
- (6) [...]

[...]

Division 2—Council Proceedings

Exercise of powers by bylaw or resolution

- 122** (1) A council may only exercise its authority by resolution or bylaw.

- (2) If an enactment provides that a council is required or empowered to exercise a power by bylaw, that power may only be exercised by bylaw.
- (3) If a council may exercise a power by resolution, that power may also be exercised by bylaw.
- (4) An act or proceeding of a council is not valid unless it is authorized or adopted by bylaw or resolution at a council meeting.

General voting rules

- 123** (1) Unless otherwise provided, a motion on a bylaw or resolution, or on any other question before council, is decided by a majority of the council members present at the meeting.
- (2) Each council member has one vote on any question.
 - (3) Each council member present at the time of a vote must vote on the matter.
 - (4) If a council member does not indicate how he or she votes, the member is deemed to have voted in the affirmative.
 - (5) If the votes of the members present at a council meeting at the time of the vote are equal for and against a motion, the motion is defeated.
 - (6) A requirement under an enactment for an affirmative vote of a specified portion of all members of a council means an affirmative vote of that portion of the number of members of which the council consists under section 118 [*size of council*].
 - (7) The voting rules established by this section also apply to council committees.

Procedure bylaws

- 124** (1) A council must, by bylaw, establish the general procedures to be followed by council and council committees in conducting their business.
- (2) Without limiting the matters that may be dealt with under this section, a council must, by bylaw, do the following:
 - (a) establish rules of procedure for council meetings, including the manner by which resolutions may be passed and the manner by which bylaws may be adopted in accordance with Division 3 [*Bylaw Procedures*] of this Part;
 - (b) establish rules of procedure for meetings of council committees;
 - (c) provide for the taking of minutes of council meetings and council committee meetings, including requiring certification of those minutes;
 - (d) provide for advance public notice respecting the time, place and date of council committee meetings and establish the procedures for giving that notice;
 - (e) identify places that are to be public notice posting places for the purposes of section 94 [*public notice*];
 - (f) establish the procedure for designating a person under section 130 [*designation of member to act in place of the mayor*];
 - (g) establish the first regular council meeting date referred to in section 125 (1) [*council meetings*] as a day in the first 10 days of December following a general local election.
 - (3) A bylaw under this section must not be amended, or repealed and substituted, unless the council first gives notice in accordance with section 94 [*public notice*] describing the proposed changes in general terms.

Council meetings

- 125** (1) The first regular council meeting following a general local election must be on the day set by procedure bylaw under section 124 (2) (g).
- (2) If a quorum of council members elected at the general local election has not taken office by the time referred to in subsection (1), the first regular council meeting must be called by the corporate officer and held as soon as reasonably possible after a quorum has taken office.
 - (3) After the first regular meeting, a council must meet
 - (a) regularly in accordance with the applicable procedure bylaw, and
 - (b) as it decides and as provided in this Act.
 - (4) A special council meeting is a council meeting other than a regular meeting or an adjourned meeting.

[...]

Notice of council meetings

- 127** (1) A council must
- (a) make available to the public a schedule of the date, time and place of regular council meetings, and

- (b) give notice of the availability of the schedule in accordance with section 94 *[public notice]* at least once a year.
- (2) Subject to subsection (4), notice of a special council meeting must be given at least 24 hours before the time of meeting by
 - (a) posting a copy of the notice at the regular council meeting place,
 - (b) posting a copy of the notice at the public notice posting places, and
 - (c) leaving one copy for each council member at the place to which the member has directed notices be sent.
- (3) The notice under subsection (2) must include the date, time and place of the meeting, describe in general terms the purpose of meeting and be signed by the mayor or the corporate officer.
- (4) Notice of a special council meeting may be waived by unanimous vote of all council members.

[...]

Quorum for conducting business

- 129** (1) Subject to an order under subsection (3) or (4), the quorum is a majority of the number of members of the council provided for under section 118 *[size of council]*.
- (2) The acts done by a quorum of council are not invalid by reason only that the council is not at the time composed of the number of council members required under this Act.
 - (3) If the number of members of a council is reduced to less than a quorum, the minister may either
 - (a) order that the remaining members of the council constitute a quorum until persons are elected and take office to fill the vacancies, or
 - (b) appoint qualified persons to fill the vacancies until persons are elected and take office to fill them.
 - (4) The municipality may apply to the Supreme Court for an order under subsection (5) if, as a result of section 100 *[disclosure of conflict]*, the number of council members who may discuss and vote on a matter falls below
 - (a) the quorum for the council, or
 - (b) the number of council members required to adopt the applicable bylaw or resolution.
 - (5) On an application under subsection (4), the court may
 - (a) order that all or specified council members may discuss and vote on the matter, despite sections 100 *[disclosure of conflict]* and 101 *[restrictions on participation]*, and
 - (b) make the authority under paragraph (a) subject to any conditions and directions the court considers appropriate.
 - (6) An application under subsection (4) may be made without notice to any other person.

[...]

Mayor may require council reconsideration of a matter

- 131** (1) Without limiting the authority of a council to reconsider a matter, the mayor may require the council to reconsider and vote again on a matter that was the subject of a vote.
- (2) As restrictions on the authority under subsection (1),
 - (a) the mayor may only initiate a reconsideration under this section
 - (i) at the same council meeting as the vote took place, or
 - (ii) within the 30 days following that meeting, and
 - (b) a matter may not be reconsidered under this section if
 - (i) it has had the approval of the electors or the assent of the electors and was subsequently adopted by the council, or
 - (ii) there has already been a reconsideration under this section in relation to the matter.
 - (3) On a reconsideration under this section, the council
 - (a) must deal with the matter as soon as convenient, and
 - (b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.
 - (4) If the original decision was the adoption of a bylaw or resolution and that decision is rejected on reconsideration, the bylaw or resolution is of no effect and is deemed to be repealed.

[...]

Meetings and hearings outside municipality

- 134.1** (1) If authorized under subsection (2), the following meetings, hearings and other proceedings may be held, and all powers, duties and functions may be exercised in relation to those proceedings, outside the boundaries of the municipality:
- (a) council meetings;
 - (b) council committee meetings;
 - (c) other public meetings conducted by or on behalf of the council or a council committee;
 - (d) council hearings that are required by law or authorized by an enactment;
 - (e) council proceedings in which a person is entitled under this Act to make representations to the council.
- (2) A council may do either or both of the following:
- (a) by bylaw, provide that meetings, hearings or other proceedings referred to in subsection (1) may be held outside the boundaries of the municipality;
 - (b) by resolution in a specific case, allow a meeting, hearing or other proceeding to be held outside the boundaries of the municipality.

Division 3—Bylaw Procedures**Requirements for passing bylaws**

- 135** (1) Before a bylaw is adopted by a council, it must be given 3 readings by the council.
- (2) Subject to this section and the applicable procedure bylaw, a bylaw may be given up to 3 readings at one meeting of council.
- (3) There must be at least one day between the third reading and the adoption of a bylaw.
- (4) If this or another Act requires that a bylaw receive
- (a) approval of the Lieutenant Governor in Council, a minister or the inspector, or
 - (b) approval of the electors or assent of the electors,
- the approval or assent must be obtained after the bylaw has been given third reading and before it is adopted.
- (5) If a bylaw is subject to both requirements referred to in subsection (4), the approval referred to in subsection (4) (a) must be obtained before the bylaw is submitted for the approval or assent referred to in subsection (4) (b).
- (6) Once a bylaw is adopted,
- (a) the council member presiding at the meeting at which it was adopted, and
 - (b) the corporate officer
- must sign the bylaw.

When a bylaw comes into force

- 136** A bylaw comes into force on the later of
- (a) the date it is adopted by council, and
 - (b) a date set by the bylaw.

Power to amend or repeal

- 137** (1) Unless otherwise provided,
- (a) the power to adopt a bylaw under this or any other Act includes the power to amend or repeal such a bylaw,
 - (b) the included power to amend or repeal must be exercised by bylaw and is subject to the same approval and other requirements, if any, as the power to adopt a new bylaw under that authority, and
 - (c) a bylaw may include provisions that, at a future date set by the bylaw, amend or repeal the bylaw.
- (2) A bylaw that requires approval of the electors or assent of the electors may be amended or repealed without that approval or assent if the minister approves and subject to any terms and conditions the minister considers appropriate.

[...]

Division 5—Officers and Employees**Officer positions****146** A council

- (a) must, by bylaw, establish officer positions in relation to the powers, duties and functions under sections 148 [*corporate officer*] and 149 [*financial officer*],
- (b) may, by bylaw, establish other officer positions, and
- (c) may assign powers, duties and functions to its officer positions.

Chief administrative officer

147 A bylaw under section 146 may establish the position of chief administrative officer of the municipality, whose powers, duties and functions include the following:

- (a) overall management of the operations of the municipality;
- (b) ensuring that the policies, programs and other directions of the council are implemented;
- (c) advising and informing the council on the operation and affairs of the municipality.

[...]

Division 6—Delegation

Delegation of council authority

- 154** (1) A council may, by bylaw, delegate its powers, duties and functions, including those specifically established by an enactment, to the extent provided, to
- (a) a council member or council committee,
 - (b) an officer or employee of the municipality, or
 - (c) another body established by the council.
- (2) As exceptions, a council may not delegate the following:
- (a) the making of a bylaw;
 - (b) a power or duty exercisable only by bylaw;
 - (c) a power or duty established by this or any other Act that the council give its approval or consent to, recommendations on, or acceptance of an action, decision or other matter;
 - (d) a power or duty established by an enactment that the council hear an appeal or reconsider an action, decision or other matter;
 - (e) a power or duty to terminate the appointment of an officer;
 - (f) the power to impose a remedial action requirement under Division 12 [*Remedial Action Requirements*] of Part 3.
- (3) Despite subsection (1), a council may only delegate a power or duty to appoint or suspend an officer to its chief administrative officer.
- (4) A council may not delegate under subsection (1) to a corporation.
- (5) In exercising its powers under subsection (1), a council may establish any terms and conditions it considers appropriate.

Special rules respecting delegation of hearings and other proceedings

- 155** (1) This section applies to the delegation of
- (a) council hearings that are required by law or authorized by an enactment, other than hearings referred to in section 154 (2) (d), and
 - (b) council proceedings in which a person is entitled under this Act to make representations to council.
- (2) The following rules apply in relation to a delegation referred to in subsection (1):
- (a) the delegation may be made specifically, by class of hearings or proceedings, or generally;
 - (a.1) despite section 154 (1) [*delegation of council authority*], the delegation may be made by bylaw or resolution;
 - (b) the delegation may only be made to one or more council members;
 - (c) if a council decision is to be made following a delegated hearing or proceeding, the authority to make the decision may only be delegated to the council members to whom the matter is delegated;
 - (d) if a council decision referred to in paragraph (c) is not delegated under that provision, the council must not make the decision until the applicable council members report to the council the views expressed at the hearing or proceeding.
- (3) For certainty, if a delegation has been made under this section, the council may exercise its authority under this section to revoke that delegation or change the delegation to a different delegation in relation to a specific hearing or proceeding.

Reconsideration of delegate's decisions

- 156** (1) A council may, by bylaw, establish a right to have decisions delegated under this Division reconsidered by council.
- (2) If
- (a) a council delegates a power to make a decision, and
 - (b) in relation to that delegation, a provision of this or another Act, or a bylaw under subsection (1), establishes a right to have a delegated decision reconsidered by the council,
- the council must, by bylaw, establish procedures for such a reconsideration, including how a person may apply for the reconsideration.
- (3) In undertaking a reconsideration referred to in subsection (2), a council has the same authority as that conferred on the delegate.
- (4) If there is a right of reconsideration, the person making the decision must advise the person subject to the decision of this right.

[...]

PART 8— Bylaw Enforcement and Related Matters

[...]

Division 4—Enforcement by Civil Proceedings

Actions by municipality

- 274** (1) A municipality may, by a proceeding brought in Supreme Court, enforce, or prevent or restrain the contravention of,
- (a) a bylaw or resolution of the council under this Act or any other Act, or
 - (b) a provision of this Act or the *Local Government Act* or a regulation under those Acts.
- (2) For a civil proceeding referred to in subsection (1), or relating to any damage to or interference with a highway in the municipality,
- (a) the proceeding may be brought by the municipality in its own name,
 - (b) it is not necessary that the Provincial government, the Attorney General or an officer of the Provincial government be a plaintiff in the proceeding, and
 - (c) the municipality must serve a copy of the originating documents on the Attorney General
 - (i) before the end of the period prescribed by the Supreme Court Civil Rules for filing a response to civil claim by the defendant, or
 - (ii) within a further time that may be allowed by the court.
- (3) The authority under subsection (1) is in addition to any other remedy or penalty provided under this Act or the *Local Government Act* and may be exercised whether or not a penalty has been imposed for the contravention.

[...]

SCHEDULE

Definition and Rules of Interpretation

Definitions

1 In this Act and in a bylaw or resolution under this Act:

[...]

"business" means

- (a) carrying on a commercial or industrial activity or undertaking of any kind, and
- (b) providing professional, personal or other services for the purpose of gain or profit,

but does not include an activity carried on by the Provincial government, by corporations owned by the Provincial government, by agencies of the Provincial government or by the South Coast British Columbia Transportation Authority or any of its subsidiaries.

Local Government Act

RSBC 1996, c 323

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STATUTE

**PART 1—
Purposes, Principles, and Interpretation**

[...]

Definitions

5 In this Act:

[...]

"local government" means

- (a) the council of a municipality, and
- (b) the board of a regional district;

[...]

**PART 5—
Regional District Corporate Powers and Their Use**

Division 1—Regional District Corporate Status

[...]

Area of jurisdiction

175 A board may only exercise or perform its powers, duties and functions within the boundaries of the regional district unless authorized under this or another Act.

[...]

Division 4—Board Proceedings

[...]

Meetings and hearings outside regional district

237.1 (1) If authorized under subsection (2), the following meetings, hearings and other proceedings may be held, and all powers, duties and functions may be exercised in relation to those proceedings, outside the boundaries of the regional district:

- (a) board meetings;
- (b) board committee meetings;
- (c) other public meetings conducted by or on behalf of the board or a board committee;
- (d) board hearings that are required by law or authorized by an enactment;
- (e) board proceedings in which a person is entitled under this Act to make representations to the board.

(2) A board may do either or both of the following:

- (a) by bylaw, provide that meetings, hearings or other proceedings referred to in subsection (1) may be held outside the boundaries of the regional district;
- (b) by resolution in a specific case, allow a meeting, hearing or other proceeding to be held outside the boundaries of the regional district.

[...]

PART 6— Challenge and Enforcement of Bylaws

[...]

Division 2—Challenge of Bylaws

[...]

Application to court to set aside bylaw

- 262** (1) On application of an elector of a municipality, or of a person interested in a bylaw of the council, the Supreme Court may
- (a) set aside all or part of the bylaw for illegality, and
 - (b) award costs for or against the municipality according to the result of the application.
- (2) [...]
- (3) Notice of an application to set aside a bylaw, stating the grounds of the application, must be served on the municipality as follows:
- (a) [...]
 - (b) if the bylaw is a bylaw requiring the assent of the electors that the council purported to adopt without assent, the notice may be served more than one month after the adoption of the bylaw, but must be served at least 10 days before the hearing;
 - (c) subject to subsection (3.1), in any other case, the notice must be served at least 10 days before the hearing and not more than one month after the adoption of the bylaw.
- (3.1) [...]
- (4) Except for a bylaw referred to in subsection (3) (b), an order under this section relating to a bylaw must not be made unless the application is heard within 2 months after the adoption of the bylaw.

[...]

Right of action on illegal bylaw

- 265** (1) If
- (a) all or part of a bylaw is illegal, and
 - (b) anything has been done under the bylaw that, because of the illegality, gives a person a right of action, the action must not be brought until the end of the time period under subsection (2).
- (2) An action referred to in subsection (1) must not be brought until
- (a) one month after all or part of the bylaw has been set aside, and
 - (b) one month's notice has been given to the municipality.
- (3) An action referred to in subsection (1) must be brought against the municipality only, and not against a person acting under the bylaw.

[...]

PART 7— Legal Proceedings

[...]

Division 2—Proceedings against Municipality

Limitation period for actions against municipality

- 285** All actions against a municipality for the unlawful doing of anything that
- (a) is purported to have been done by the municipality under the powers conferred by an Act, and
 - (b) might have been lawfully done by the municipality if acting in the manner established by law,

must be commenced within 6 months after the cause of action first arose, or within a further period designated by the council in a particular case, but not afterwards.

Immunity unless notice given to municipality after damage

- 286** (1) A municipality is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to the municipality within 2 months from the date on which the damage was sustained.
- (2) In case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance of the action.
- (3) Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the Court of Appeal, believes
- (a) there was reasonable excuse, and
 - (b) the defendant has not been prejudiced in its defence by the failure or insufficiency.

Immunity for individual municipal public officers

- 287** (1) In this section, "**municipal public officer**" means any of the following:
- (a) a member of a council;
 - (b) a director of a regional board;
- [. . .]
- (l) an officer or employee of a municipality, regional district, improvement district, [. . .];
- [. . .]
- (2) No action for damages lies or may be instituted against a municipal public officer or former municipal public officer
- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's power, or
 - (b) for any alleged neglect or default in the performance or intended performance of that person's duty or exercise of that person's power.
- (3) Subsection (2) does not provide a defence if
- (a) the municipal public officer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or
 - (b) the cause of action is libel or slander.
- (4) Subsection (2) does not absolve any of the corporations or bodies referred to in subsection (1) (a) to (k) from vicarious liability arising out of a tort committed by any of the individuals referred to in subsection (1) for which the corporation or body would have been liable had this section not been in force.

[. . .]

Immunity against certain nuisance actions

- 288** A municipality, council, regional district, board or improvement district, or a greater board, is not liable in any action based on nuisance or on the rule in the Rylands v. Fletcher case if the damages arise, directly or indirectly, out of the breakdown or malfunction of
- (a) a sewer system,
 - (b) a water or drainage facility or system, or
 - (c) a dike or a road.

[. . .]

PART 26— Planning and Land Use Management

[. . .]

Division 2—Official Community Plans

[...]

Authority to adopt by bylaw

- 876** (1) A local government may, by bylaw, adopt one or more official community plans.
- (2) An official community plan
- (a) must be included in the adopting bylaw as a schedule, and
 - (b) must designate the area covered by the plan.
- (3) In developing an official community plan, the local government must consider any applicable guidelines under section 870 [*provincial policy guidelines*].

Required content

- 877** (1) An official community plan must include statements and map designations for the area covered by the plan respecting the following:
- (a) the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years;
 - (b) the approximate location, amount and type of present and proposed commercial, industrial, institutional, agricultural, recreational and public utility land uses;
 - (c) the approximate location and area of sand and gravel deposits that are suitable for future sand and gravel extraction;
 - (d) restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive to development;
 - (e) the approximate location and phasing of any major road, sewer and water systems;
 - (f) the approximate location and type of present and proposed public facilities, including schools, parks and waste treatment and disposal sites;
 - (g) [...]
- (2) An official community plan must include housing policies of the local government respecting affordable housing, rental housing and special needs housing.
- (3) An official community plan must include targets for the reduction of greenhouse gas emissions in the area covered by the plan, and policies and actions of the local government proposed with respect to achieving those targets.

Policy statements in community plans

- 878** (1) An official community plan may include the following:
- (a) policies of the local government relating to social needs, social well-being and social development;
 - (b) [...];
 - (c) policies of the local government respecting the maintenance and enhancement of farming on land in a farming area or in an area designated for agricultural use in the community plan;
 - (d) policies of the local government relating to the preservation, protection, restoration and enhancement of the natural environment, its ecosystems and biological diversity.
- (2) [...]

Consultation during OCP development

- 879** (1) During the development of an official community plan, or the repeal or amendment of an official community plan, the proposing local government must provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected.
- (2) For the purposes of subsection (1), the local government must
- (a) consider whether the opportunities for consultation with one or more of the persons, organizations and authorities should be early and ongoing, and
 - (b) specifically consider whether consultation is required with
 - (i) the board of the regional district in which the area covered by the plan is located, in the case of a municipal official community plan,

- (ii) the board of any regional district that is adjacent to the area covered by the plan,
 - (iii) the council of any municipality that is adjacent to the area covered by the plan,
 - (iv) first nations,
 - (v) school district boards, greater boards and improvement district boards, and
 - (vi) the Provincial and federal governments and their agencies.
- (3) Consultation under this section is in addition to the public hearing required under section 882 (3) (d).

[...]

Planning of school facilities

- 881** (1) If a local government has adopted or proposes to adopt or amend an official community plan for an area that includes the whole or any part of one or more school districts, the local government must consult with the boards of education for those school districts
- (a) at the time of preparing or amending the community plan, and
 - (b) in any event, at least once in each calendar year.
- (2) For consultation under subsection (1), the local government must seek the input of the boards of education as to the following:
- (a) the actual and anticipated needs for school facilities and support services in the school districts;
 - (b) the size, number and location of the sites anticipated to be required for the school facilities referred to in paragraph (a);
 - (c) the type of school anticipated to be required on the sites referred to in paragraph (b);
 - (d) when the school facilities and support services referred to in paragraph (a) are anticipated to be required;
 - (e) how the existing and proposed school facilities relate to existing or proposed community facilities in the area.

Adoption procedures

- 882** (1) An official community plan must be adopted by bylaw in accordance with this section.
- (2) Each reading of a bylaw under subsection (1) must receive,
- (a) in the case of a municipal bylaw, an affirmative vote of a majority of all council members, and
 - (b) in the case of a regional district bylaw, an affirmative vote of a majority of all directors entitled under section 791 *[voting on resolutions and bylaws]* to vote on the bylaw.
- (3) After first reading of a bylaw under subsection (1), the local government must, in sequence, do the following:
- (a) consider the plan in conjunction with
 - (i) its financial plan, and
 - (ii) any waste management plan that is applicable in the municipality or regional district;
 - (b) [...]
 - (c) if the plan applies to land in an agricultural land reserve established under the *Agricultural Land Commission Act*, refer the plan to the Provincial Agricultural Land Commission for comment;
 - (d) hold a public hearing on the proposed official community plan in accordance with Division 4 *[Public Hearings on Bylaws]*.
- (4) Unless exempted under subsection (6), a regional district bylaw under subsection (1) may only be adopted with the approval of the minister.
- (5) [...]
- [...]

[...]

Effect of official community plans

- 884** (1) An official community plan does not commit or authorize a municipality, regional district or improvement district to proceed with any project that is specified in the plan.
- (2) All bylaws enacted or works undertaken by a council, board or greater board, or by the trustees of an improvement district, after the adoption of
- (a) an official community plan, or

(b) [...],
must be consistent with the relevant plan.

[...]

Division 4—Public Hearings and Bylaws

Public hearings

- 890** (1) Subject to subsection (4), a local government must not adopt an official community plan bylaw or a zoning bylaw without holding a public hearing on the bylaw for the purpose of allowing the public to make representations to the local government respecting matters contained in the proposed bylaw.
- (2) The public hearing must be held after first reading of the bylaw and before third reading.
- (3) At the public hearing all persons who believe that their interest in property is affected by the proposed bylaw must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the hearing.
- (3.1) Subject to subsection (3), the chair of the public hearing may establish procedural rules for the conduct of the hearing.
- (4) A local government may waive the holding of a public hearing on a proposed bylaw if
- (a) an official community plan is in effect for the area that is subject to a proposed zoning bylaw, and
 - (b) the proposed bylaw is consistent with the plan.
- (5) More than one bylaw may be included in one notice of public hearing, and more than one bylaw may be considered at a public hearing.
- (6) A written report of each public hearing, containing a summary of the nature of the representations respecting the bylaw that were made at the hearing, must be prepared and maintained as a public record.
- (7) A report under subsection (6) must be certified as being fair and accurate by the person preparing the report and, if applicable, by the person to whom the hearing was delegated under section 891.
- (8) A public hearing may be adjourned and no further notice of the hearing is necessary if the time and place for the resumption of the hearing is stated to those present at the time the hearing is adjourned.
- (9) Despite section 135 (3) [*at least one day between third reading and adoption*] of the *Community Charter*, a council may adopt an official community plan or zoning bylaw at the same meeting at which the plan or bylaw passed third reading.

[...]

Notice of public hearing

- 892** (1) If a public hearing is to be held under section 890 (1), the local government must give notice of the hearing
- (a) in accordance with this section, and
 - (b) [...]
- (2) The notice must state the following:
- (a) the time and date of the hearing;
 - (b) the place of the hearing;
 - (c) in general terms, the purpose of the bylaw;
 - (d) the land or lands that are the subject of the bylaw;
 - (e) the place where and the times and dates when copies of the bylaw may be inspected.
- (3) The notice must be published in at least 2 consecutive issues of a newspaper, the last publication to appear not less than 3 and not more than 10 days before the public hearing.
- (4) If the bylaw in relation to which the notice is given alters the permitted use or density of any area, the notice must
- (a) subject to subsection (5), include a sketch that shows the area that is the subject of the bylaw alteration, including the name of adjoining roads if applicable, and
 - (b) be mailed or otherwise delivered at least 10 days before the public hearing
 - (i) to the owners as shown on the assessment roll as at the date of the first reading of the bylaw, and
 - (ii) to any tenants in occupation, as at the date of the mailing or delivery of the notice,
- of all parcels, any part of which is the subject of the bylaw alteration or is within a distance specified by bylaw from that part of the area that is subject to the bylaw alteration.

- (5) If the location of the land can be clearly identified in the notice in a manner other than a sketch, it may be identified in that manner.
- (6) The obligation to deliver a notice under subsection (4) must be considered satisfied if a reasonable effort was made to mail or otherwise deliver the notice.
- (7) Subsection (4) does not apply if 10 or more parcels owned by 10 or more persons are the subject of the bylaw alteration.
- (8) In respect of public hearings being held under section 890 (1) or waived under section 890 (4), a local government may, by bylaw,
 - (a) require the posting of a notice on land that is the subject of a bylaw, and
 - (b) specify the size, form and content of the notice and the manner in which and the locations where it must be posted.
- (9) [. . .]

[. . .]

Procedure after a public hearing

- 894** (1) After a public hearing, the council or board may, without further notice or hearing,
- (a) adopt or defeat the bylaw, or
 - (b) alter and then adopt the bylaw, provided that the alteration does not
 - (i) alter the use,
 - (ii) increase the density, or
 - (iii) without the owner's consent, decrease the density of any area from that originally specified in the bylaw.
- (2) A member of a council or board who
- (a) is entitled to vote on a bylaw that was the subject of a public hearing, and
 - (b) was not present at the public hearing
- may vote on the adoption of the bylaw if an oral or written report of the public hearing has been given to the member by
- (c) an officer or employee of the local government, or
 - (d) if applicable, the delegate who conducted the public hearing.
- (3) After a public hearing under section 890 (1) or third reading following notice under section 893, a court must not quash or declare invalid the bylaw on the grounds that an owner or occupier
- (a) did not see or receive the notice under section 892 or 893, if the court is satisfied that there was a reasonable effort to mail or otherwise deliver the notice, or
 - (b) who attended the public hearing or who can otherwise be shown to have been aware of the hearing, did not see or receive the notice, and was not prejudiced by not seeing or receiving it.

[. . .]

Division 7—Zoning and Other Development Regulation

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) [. . .]
- (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) [. . .]
- [. . .]

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) [. . .]
- (3) [. . .]
- [. . .]

Non-conforming uses and siting

- 911** (1) If, at the time a bylaw under this Division is adopted,
- (a) land, or a building or other structure, is lawfully used, and
 - (b) the use does not conform to the bylaw,
- the use may be continued as a non-conforming use, but if the non-conforming use is discontinued for a continuous period of 6 months, any subsequent use of the land, building or other structure becomes subject to the bylaw.
- (2) The use of land, a building or other structure, for seasonal uses or for agricultural purposes is not discontinued as a result of normal seasonal or agricultural practices, including
- (a) seasonal, market or production cycles,
 - (b) the control of disease or pests, or
 - (c) the repair, replacement or installation of equipment to meet standards for the health or safety of people or animals.
- (3) A building or other structure that is lawfully under construction at the time of the adoption of a bylaw under this Division is deemed, for the purpose of this section,
- (a) to be a building or other structure existing at that time, and
 - (b) to be then in use for its intended purpose as determined from the building permit authorizing its construction.
- (4) If subsections (1) and (2) authorize a non-conforming use of part of a building or other structure to continue, the whole of that building or other structure may be used for that non-conforming use.

- (5) A structural alteration or addition, except one that is required by an enactment or permitted by a board of variance under section 901 (2), must not be made in or to a building or other structure while the non-conforming use is continued in all or any part of it.
- (6) In relation to land, subsection (1) or (4) does not authorize the non-conforming use of land to be continued on a scale or to an extent or degree greater than that at the time of the adoption of the bylaw under this Division.
- (7) For the purposes of this section, a change of owners, tenants or occupants of any land, or of a building or other structure, does not, by reason only of the change, affect the use of the land or building or other structure.
- (8) If a building or other structure, the use of which does not conform to the provisions of a bylaw under this Division is damaged or destroyed to the extent of 75% or more of its value above its foundations, as determined by the building inspector, it must not be repaired or reconstructed except for a conforming use in accordance with the bylaw.
- (8.1) [. . .]
- (9) If the use and density of buildings and other structures conform to a bylaw under this Division but
 - (a) the siting, size or dimensions of a building or other structure constructed before the bylaw was adopted does not conform with the bylaw, or
 - (b) [. . .]the building or other structure or spaces may be maintained, extended or altered to the extent authorized by subsection (10).
- (10) A building or other structure or spaces to which subsection (9) applies may be maintained, extended or altered only to the extent that
 - (a) the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time the repair, extension or alteration was started, and
 - (b) in the case of protected heritage property, the repair, extension or alteration is permitted or authorized in accordance with the provisions governing the heritage protection of the property.
- (11) [. . .]

[. . .]

Interpretation Act

[RSBC 1996, c 238](#)

CONTENTS

25 Calculation of time or age 31

STATUTE

[...]

Calculation of time or age

25 (1) This section applies to an enactment and to a deed, conveyance or other legal instrument unless specifically provided otherwise in the deed, conveyance or other legal instrument.

[...]

(4) In the calculation of time expressed as clear days, weeks, months or years, or as "at least" or "not less than" a number of days, weeks, months or years, the first and last days must be excluded.

[...]

[...]