

Municipalities &
THE NEW

Making the

LOCAL

most of

GOVERNMENT

Municipal Act Reform

ACT



BRITISH
COLUMBIA

Ministry of Municipal Affairs

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A NEW ACT

Municipalities need good legislation to make sure communities are well-planned, responsibly administered and accountable to their citizens. They must be able to adapt to new issues and challenges by gaining greater powers and developing effective, creative tools to deliver services and meet the needs of their citizens, while remaining accountable to their citizens' concerns.

For many decades, the *Municipal Act* that governs both municipalities and regional districts served well as the most comprehensive piece of local government legislation in British Columbia. However, despite many annual changes that allowed it to evolve, the *Municipal Act* was out of step with community expectations of what local government should do.

The Ministry of Municipal Affairs and the Union of B.C. Municipalities (UBCM) have been working together since 1996 to update the *Municipal Act*. Since then, the legislation has been modernized in all of its core elements to give local governments the greater flexibility they need to respond effectively to their unique needs and goals. This has resulted in a new *Act*, not just another piecemeal update to legislation that has outlived its usefulness.

The new legislation recognizes local government, "is an independent, responsible and accountable order of government." This sets the stage for legislative provisions that enhance the autonomy of local governments. The new *Act* provides for broad corporate powers, broad service powers and enhanced planning powers, while ensuring strong accountability to citizens.

The legislation establishes the basic purposes of local government:

- providing good government for the community;
- providing the works, services, facilities and other items local government considers necessary for all or part of its community;
- providing stewardship of the public assets of the community; and
- fostering the current and future economic, social and environmental well-being of its community.

The legislation balances the independence of local government with the provincial government's responsibility to consider the interests of the citizens of British Columbia generally. It sets out principles that will guide the relationships between local government and the province. These include:

- Provincial and local governments are to foster a cooperative working relationship.
- Local governments need to have the powers that allow them to fulfill their responsibilities.
- The province must give notice and consult with local governments when planning provincial actions that directly affect local government interests.
- Communities have different needs and circumstances that require different approaches.

A NEW NAME

The changes made to the *Municipal Act* over the past four years have been so sweeping that it has become the *Local Government Act*. As the name suggests, the new *Local Government Act* recognizes the important role played by *all* local governments – including both municipalities *and* regional districts. The new name recognizes that a clean break has been made in the legislative strategy applying to the local government system.

MUNICIPAL COUNCILS AND THE NEW ACT

The *Local Government Act* has important implications for municipal councillors and their constituents. The new *Act* will help municipal councillors do their job better.

Now, municipalities no longer have to squeeze their unique needs into the limitations of “one size fits all” legislation. The new *Act* provides municipalities with new independence, responsibilities, flexibility and accountability to design unique solutions that customize decisions and services to fit community needs.

CHANGE THROUGH CONSULTATION

The municipal provisions of the new *Local Government Act* are based on an extensive consultation process with the UBCM, individual local governments, other stakeholders and the public through specially convened meetings, symposiums and workshops. Local governments have worked closely with the Ministry of Municipal Affairs over the last several years to develop the new municipal provisions in the *Act*.

KEY MILESTONES

1996	<i>Protocol of Recognition</i>
1997	<i>Sub-Agreement on a New Legislative Foundation for Local Government</i>
1997	<i>Local Government Statutes Amendment Act No.2 (Bill 46)</i>
1998	<i>Symposium on New Local Government Legislation</i>
1998	<i>Local Government Statutes Amendment Act (Bill 31)</i>
1998	<i>Regional Accountability Workshops</i>
1999	<i>Symposium on New Local Government Legislation</i>
1999	<i>Local Government Statutes Amendment Act (Bill 88)</i>
2000	<i>Symposium on New Local Government Legislation</i>
2000	<i>Local Government Statutes Amendment Act (Bill 14)</i>

A PRINCIPLED FOUNDATION

The framework of the *Local Government Act* is based on the following key principles – principles that are central to understanding the intent of the new *Act* and the role and responsibilities of elected officials:

BALANCE between the interests of citizens, local governments and the provincial government

CLEAR, SIMPLE, AND UNDERSTANDABLE legislation and related administrative procedures

FLEXIBILITY to respond practically to specific local needs and circumstances

ACCOUNTABILITY in fair and open decision processes, with local government accessible and answerable to citizens

BROAD POWERS to do business in new, innovative and more effective ways

MATCHING RESOURCES TO RESPONSIBILITIES to provide the expected level of services

RESOLVING INTER-LOCAL GOVERNMENTAL ISSUES through consultation, collaboration and closure on issues

CONSULTATION with local government on matters directly affecting local government decisions and activities as they relate to the *Act*

PROVINCIAL INVOLVEMENT IN LOCAL AFFAIRS LIMITED to areas where the government has a clear purpose, responsibility or interest.

WHAT'S NEW FOR MUNICIPALITIES?

For municipalities, the highlights of the *Local Government Act* include:

- broad corporate powers,
- broad service powers,
- new tools for partnership arrangements,
- more financial planning ability,
- improved planning tools,
- more accountability and consultation, and
- less provincial oversight.

DISTRICT OF LAKE COUNTRY

The District of Lake Country has used the new broad powers to enter into an agreement with Washington State. The district will undertake building inspection on behalf of the state for manufactured homes built in Lake Country and exported to Washington. The district receives a fee, the manufacturer reduces red tape and Washington gets assurance that the homes meet state standards.

BROAD CORPORATE AND SERVICE POWERS

The *Local Government Act* gives municipalities a broad authority allowing them to do business more effectively in new and innovative ways. The outdated, overly specific and narrow authorities have been removed. These broad powers require municipal councillors to fundamentally rethink what services to provide and how to deliver those services now that more – and more flexible – service delivery options are available.

Municipalities across B.C. are already looking at how they can adapt and integrate their existing mix of services. They may want to deliver services within traditional areas like water and roads in new ways, as well as consider new service initiatives in areas like economic development and safety. It is up to municipal councils to decide what services a municipality needs and how they will be provided.

CITY OF CRANBROOK

Cranbrook is developing a major recreation complex, including an aquatic centre and ice arena along with private retail businesses using the public-private partnership provisions in the *Act*. The complex is being developed, owned and operated by the private sector on city land. At the end of 30 years, the facility will be owned by Cranbrook. The city contribution includes land, a partial property tax exemption and a lease-back of the aquatic centre.

SERVICE DELIVERY CHOICES

Municipalities may:

- establish and operate any service that council decides is necessary or desirable for all or part of the community;
- make agreements with other public authorities, or with private partners to provide or undertake services, works or facilities;
- acquire, manage and dispose of land and any other type of property, enhancing the ability to provide services in new and innovative ways;
- grant assistance to benefit the community, perhaps to exempt a local group from a user fee, or assist a non-profit housing society by guaranteeing repayment of borrowing or providing land at below market value;
- delegate to fellow council members, staff, committees or other local government bodies. This should streamline procedures and save time and money for councillors, staff, and the public.

SOME EXAMPLES OF DELEGATION:

- allowing staff to negotiate and sign contracts
- establishing a management committee to oversee the water distribution service
- delegating minor development permit approvals to staff
- creating a recreation committee and making it responsible for managing an arena, including all hiring and contract management

The *Act* provides for inter-municipal business licenses. For example, a number of municipalities in the Capital Region have agreed to provide a single business license system. This will reduce the administrative bureaucracy surrounding business licensing and reduce confusion for businesses that operate in more than one municipality.

NEW TOOLS FOR PARTNERSHIPS

In an era of fiscal restraint, municipalities can develop new partnerships to provide services and facilities in new ways. The *Act*'s broad corporate powers can be used to facilitate these new partnerships. There is much more flexibility in the types of agreements that local governments can make. Agreements can be undertaken to provide, construct and operate local government services, enforce local government regulations or manage local government property.

To assist local governments in establishing new service partnerships, the Ministry of Municipal Affairs has produced a best practices guide. This document describes the characteristics of partnerships and guides the local government through the process from inception through to implementation. Copies of *Public Private Partnerships: A Guide to Local Government* can be obtained by contacting Crown Publications or from the Ministry's website, www.marh.gov.bc.ca/LGPOLICY/MAR/PPP/ on the Internet.

FINANCIAL PLANNING, COST RECOVERY AND ACCOUNTABILITY

Financial provisions in the new *Act* provide municipalities with greater flexibility for managing their finances. *The Act* also emphasizes long-term planning and accountability by requiring five-year financial planning that combines both operating and capital budgeting in one document.

Municipalities now have more flexibility to recover the costs of any service or regulatory scheme through fees, charges and taxes. However, fees and charges must bear a relationship to the actual cost of providing the service or regulation. As a way to balance property tax levies and relieve the tax burden on certain taxpayers, parcel taxes can now be used much more extensively for any service. Parcel taxes are no longer limited to services like roads, street lighting, sidewalks and sewers, but may now be used for services like recreation and fire protection.

Municipalities may also provide taxpayers with options for property tax payments, such as establishing one or more dates when taxes are due. This will help people who have difficulty paying their taxes in a single lump sum, making it easier for them to budget. It could also help municipalities acquire funds needed to finance operations earlier in the fiscal year.

The *Act* strengthens financial accountability. Municipalities are obligated to consult with the public when developing the five-year financial plan. For other financial activities, such as annual financial reporting, municipalities are required to inform the public. In some circumstances, municipalities must receive public input and approval before taking action. For example, the citizens must approve most longer-term financial liabilities either by a counter-petition process or through a vote.

VOTING & COUNTER PETITIONS

When the *Local Government Act* requires elector approval for local government actions, the two most common forms of approval are vote and counter petition. In some cases — like the disposal of water utilities — a vote requiring majority approval is mandatory; in others approval may be gained through the opportunity to counter petition. In many cases, the legislation gives local governments the option of choosing to hold a vote or to provide a counter petition opportunity.

Counter petitions are generally used in less controversial matters as a litmus test of public opinion. Under a counter petition, the local government may proceed with an action unless five per cent of the electors petition against it within a set deadline. If more than five per cent petition against, the local government cannot proceed with the action until it has received elector approval through a vote.

Counter petitions are typically used for:

- exchange of parkland;
- long-term agreements;
- long-term capital borrowing; or
- long-term property tax exemptions.

GOVERNANCE

WORKING WITH REGIONAL DISTRICTS

The *Local Government Act* encourages the local governments within a region to work cooperatively with each other in the public interest, recognizing that many of the issues that local governments deal with cross jurisdictional boundaries.

SERVICES

One of the major irritants for municipalities over the years has been that residents *outside* their boundaries make use of the services they provide. The new *Act* provides extra opportunities for designing arrangements to deal with this concern in cooperation with other municipalities and electoral areas.

Innovative service partnerships are now possible between municipalities, electoral areas, regional districts and other public authorities. Providing services on a joint basis over a larger area may lead to more efficiency in delivery and perhaps even the development of new services. Those who want to work together can now do so.

The *Local Government Act* gives municipalities authority to establish whatever commissions they need instead of restricting them to specific commissions. This gives municipalities the flexibility they need to delegate the management of a service to a committee or commission.

Guidelines for designing service areas, service agreements and establishing bylaws are being prepared.

LAND USE PLANNING

Municipalities have long had authority to plan and regulate development within their jurisdictions. Recognizing that the fundamentals of the land use planning system are strong, the new *Act* takes the approach of refining, strengthening and adding flexibility to land use planning. In some cases, new tools were required and in others, existing tools needed reinforcing or clarification.

The *Act's* planning and land use provisions have the objective of broadening authority, streamlining procedures and making the system more flexible for local governments. Local governments need the authority to make responsive planning decisions. At the same time, they must attempt to balance the needs and concerns of all affected parties in a way that provides the greatest benefit to the community, now and in the future.

Electoral areas and municipalities are encouraged to consider joint planning when they have shared interests and to consult with each other when developing their Official Community Plans (OCPs). Municipalities are also encouraged to use regional growth strategies to identify municipal interests in electoral area planning and to define electoral area interests in municipal planning.

OFFICIAL COMMUNITY PLANS

The *Local Government Act* requires local governments to work toward promoting socially, economically and environmentally healthy human settlements that make the best use of public facilities, services, land and other resources.

However, it recognizes the need for greater flexibility, broader scope and early, on-going consultation at the local government level prior to developing an Official Community Plan (OCP).

The *Act*:

- Allows municipalities to determine how simple or complex an OCP needs to be. There is no longer any limit on the subjects or topics that may be discussed.
- Allows municipalities to combine elements of an OCP and regulatory tools in one bylaw, tailoring them to community needs.
- Requires municipalities to work toward the regional growth strategy goals in the *Act* and consider provincial policy guidelines when developing an OCP.

- Requires municipalities to consult with people council considers will be affected by an OCP when preparing, amending or repealing it. Consultations with adjacent local governments, provincial and federal agencies, First Nations and other public authorities must be considered and councils must also consider the timing and frequency of these consultations.

Note the legislation provides for eliminating the mandatory content requirement of an OCP. However, this will only be brought into effect once provincial policy guidelines have been established and experience with the new consultation requirements has been gained.

DEVELOPMENT PERMITS

The new *Act* changes Development Permit Areas to give municipalities more control over the form and character of intensive residential developments like small lot or in-fill housing. This will help municipalities ensure community integrity, address the concerns of neighbouring property owners, and promote public acceptance of the development.

Development permit guidelines, originally contained in OCPs, can now be incorporated into the zoning bylaw. A similar provision now also exists for guidelines covering temporary use permit areas.

PARKLAND

Under the *Municipal Act*, the title to land dedicated as parkland by developers of subdivisions resided with the Crown. Under the *Local Government Act*, title will go directly to the municipality. The same will apply to the title of parkland provided in lieu of a development cost charge. These changes will help streamline asset management. The requirement that proceeds from the sale of dedicated parkland go into a reserve fund for future parkland acquisition continues.

With the new *Act*, developers will no longer be exempted from the requirement to dedicate five per cent of land being subdivided as parkland when the subdivision consists of three or fewer lots if this is part of a phased development.

OPEN GOVERNMENT

The *Local Government Act* emphasizes open government by balancing the interests of citizens and local governments, making sure local governments are accessible and accountable to their citizens, and requiring consultation with those citizens. The *Act* recognizes that citizens want to be involved and express their views about what happens in and to their communities. When making decisions, local governments need to know how their citizens feel and what their needs and desires are.

The *Act* provides the public with enhanced opportunities to gain access to information and provide input on a wide range of local government activities using clear rules and procedures. These provisions will affect the way municipalities do business at meetings, use corporate powers, plan land use and make financial decisions.

For example:

- Most municipal council and council committee meetings must be open to the public. The only exceptions are discussions relating to issues where the need for confidentiality outweighs the need for openness.
- The public must be informed of the intended use of some of the new corporate powers. For example: notice must be given prior to the disposal of land or improvements; counter petition opportunities must be provided before granting assistance such as long-term

property tax exemptions; and, elector assent through a vote is required for matters such as the disposal of water or sewer works.

- When incurring a liability, for example a contract to operate a facility for more than five years, the public must be given the opportunity to counter petition.
- When establishing fees or charges for services, information must be provided to the public, upon request, on how the fee or charge was determined.
- The requirements for the use of counter petitions have been clarified, and the *Act* makes it an offense to knowingly provide misleading information.
- Local government must consider consultation with citizens, adjacent local governments, provincial and federal government agencies, and First Nations – on an early and ongoing basis – when developing, amending or repealing an OCP. This will assist local government in developing the consultation processes best suited to the issue, rather than relying solely on public hearings.
- The chair of a public hearing may set procedural rules for public hearings, addressing such matters as time, order and types of presentations.

- Under certain circumstances, council must provide an opportunity for citizens to appeal decisions to make sure there is fairness and accountability. For example, citizens must be able to appeal staff decisions on development permits to council.
- New election provisions require more detailed recording and reporting of campaign contributions and have clarified the rules for filing campaign financing disclosure statements to ensure openness in the process.

CONSULTING SUGGESTIONS

- Surveys
- Open houses
- Newspaper clip outs
- Public meetings
- Mail outs
- Forums

PROVINCIAL GOVERNMENT APPROVALS: A STAGED REDUCTION

Since the passage of the first reforms to the *Municipal Act* through Bill 46 in 1997, the number of provincial approvals required of local government actions has been reduced significantly – and the process is expected to continue. Increasingly, direct provincial involvement is being limited to areas where there is a clear, identifiable provincial objective or a third party interest in a matter, like public health, transportation, environment, and long term financial commitments. Over time, the reduction in approvals should result in significant savings in staff time for both provincial and local governments and streamlined approvals at the local level.

PUTTING THE *LOCAL GOVERNMENT ACT* INTO ACTION

Most of the *Local Government Act* has been put in place over the past few years and municipalities have already begun to work with it. The process of legislative reform has taken time, but new opportunities have emerged. Municipalities now have the ability to conduct business with more authority, flexibility, independence, and accountability. The *Local Government Act* empowers municipalities and their residents to work together to build unique communities that meet local needs and expectations.

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APPENDIX: BACKGROUND DOCUMENTS

A number of background papers have been prepared outlining the issues considered by the *Local Government Act* and highlighting the most important aspects of the legislation. Many of these have been posted on the Municipal Affairs website at www.marh.gov.bc.ca. The website is updated frequently as new information becomes available. Examples of background papers on the website are:

- *Protocol of Recognition*
- *Sub-Agreement on a New Legislative Foundation for Local Government*
- *Highlights of Municipal Act Reform – Legislative Changes – 1998, 1999, and 2000*

As the *Local Government Act* has come into effect, technical documents have been prepared to assist local government staff and elected officials. To obtain copies, check the Municipal Affairs website (www.marh.gov.bc.ca) or ask our staff to provide you with copies. Examples of technical documents on the website are:

- *Using the New Local Government Act – a resource book available at www.marh.gov.bc.ca/LGPOLICY/MAR/URMA. Included are numerous bulletins on topics such as:*
 - open meetings
 - counter petition
 - delegation
 - financial plan
- *Public Private Partnerships: A Guide to Local Government – a best practices guide available at www.marh.gov.bc.ca/LGPOLICY/MAR/PPP on the Internet.*

