

# Local Government Act highlights & Discussion on Provincial Authority for the Town of Lake Cowichan APC

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## I. Local Government Act (selected sections)

### Part 14 — Planning and Land Use Management

#### Division 2: Responsibilities, Procedures and Authorities

- S. 461 Advisory Planning Commission
  - (1) A council may, by bylaw, establish an advisory planning commission to advise council on all matters respecting land use, community planning or proposed bylaws and permits under Divisions 4 to 14 of this Part and section 546 that are referred to the commission by the council.

#### ***Commentary:***

The practice in the Town of Lake Cowichan is for Council determine what specific matters are addressed by the APC on a case by case basis. For example, in the past few years Council has requested the APC to be engaged in the Official Community Plan update and the Zoning Bylaw update. The Council does not request of the APC to review and make recommendations on Development Permit, Development Variance Permit, or rezoning applications.

#### Division 3: Public Hearings on Planning and Land Use Bylaws

- Procedures and notices

#### Division 4: Official Community Plans

##### ***Content and process requirements***

**473** (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) other matters that may, in respect of any plan, be required or authorized by the minister.

(2) An official community plan must include housing policies of the local government respecting **affordable housing, rental housing and special needs housing**.

**NEW:**

2.1 Unless a local government is exempted, or is in a class of local governments exempted, under section 585.11 [application of this Division], the local government must consider the most recent housing needs report the local government received under section 585.31 [when and how housing needs report must be received], and the housing information on which the report is based,

- (a) when developing an official community plan,
- (b) when amending an official community plan in relation to statements and map designations under subsection (1) (a) of this section, or
- (c) when amending an official community plan in relation to housing policies under subsection (2) of this section

(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.

**474** (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) a regional context statement, consistent with the rest of the plan, of how matters referred to in section 429 (2) (a) to (c) [required content for regional growth strategy], and other matters dealt with in the plan, apply in a regional context;
- (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 plan;

- (d) policies of the local government relating to the preservation, protection, restoration and enhancement of the natural environment, its ecosystems and biological diversity.

#### Division 5: Zoning Bylaws

**479** (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 the following 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;
  - (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.

#### Division 7 — Development Permits

##### ***Designation of development permit areas***

**488** (1) An official community plan may designate development permit areas for one or more of the following purposes:

- (a) ***protection of the natural environment***, its ecosystems and biological diversity;
- (b) protection of development from ***hazardous conditions***;
- (c) ***protection of farming***;
- (d) ***revitalization*** of an area in which a commercial use is permitted;
- (e) establishment of objectives for the ***form and character of intensive residential development***;
- (f) establishment of objectives for ***the form and character of commercial, industrial or multi-family residential development***;
- (g) in relation to an area in a resort region, establishment of objectives for the form and character of development in the resort region;
- (h) establishment of objectives to promote ***energy conservation***;
- (i) establishment of objectives to promote ***water conservation***;
- (j) establishment of objectives to promote the ***reduction of greenhouse gas emissions***.

## Division 9 — Development Variance Permits

### **Development variance permits**

498 (1) On application by an owner of land, a local government may, by resolution, issue a development variance permit that varies, in respect of the land covered in the permit, the provisions of a bylaw under any of the following:

(a) the following Divisions of this Part:

- (i) Division 5 [*Zoning Bylaws*];
- (ii) Division 11 [*Subdivision and Development: Requirements and Related Matters*];
- (iii) Division 13 [*Other Land Use Regulation Powers*];
- (iv) Division 17 [*Regulation of Farm Businesses in Farming Areas*];

## Division 11 — Subdivision and Development: Requirements and Related Matters

### Subdivision servicing requirements

**506** (1) A local government may, by bylaw, regulate and require the provision of works and services in respect of the subdivision of land, and for that purpose may, by bylaw, do one or more of the following:

(a) regulate and ***prescribe minimum standards for the dimensions, locations, alignment and gradient of highways in connection with subdivisions of land;***

(b) require that, ***within a subdivision, highways, sidewalks, boulevards, boulevard crossings, transit bays, street lighting or underground wiring be provided,*** located and constructed in accordance with the standards established by the bylaw;

(c) require that, within a subdivision, ***a water distribution system, a fire hydrant system, a sewage collection system, a sewage disposal system, a drainage collection system*** or a drainage disposal system be provided, located and constructed in accordance with the standards established in the bylaw.

(8) As a condition of

(a) the approval of a subdivision, ***or***

***(b) the issue of a building permit,*** a local government may require that the owner of the land provide works and services, in accordance with the standards established in a bylaw under this section, on that portion of a highway immediately adjacent to the site being subdivided or developed, up to the centre line of the highway.

(9) As a condition of the issue of a building permit, a local government may require that the owner of the land provide, on the site being developed, works and services in accordance with the standards established in a bylaw under this section.

## **II. Provincial Supremacy**

In addition to adherence to the Local Government Act and related legislation in crafting bylaws and granting approvals, local governments must abide by Provincial authority over various matters, particularly with regard to the Riparian Area Protection Regulations and the Agricultural Land Reserve regulations. It is not always immediately apparent how this plays out in the 'real world.' Staff will verbally present a number of recent and ongoing examples related to development proposals.