
October 27, 2021

BULLETIN

**SIGNIFICANT AMENDMENTS TO LOCAL GOVERNMENT LEGISLATION
PROPOSED IN BILL 26**

The provincial legislature tabled Bill 26 – Municipal Affairs Statutes Amendment Act (No. 2), 2021 on October 26, 2021. The proposed legislation, if adopted, would amend a number of statutes such as the *Local Government Act*, the *Community Charter*, and the *Islands Trust Act*. Some of the more significant proposed changes include:

- Requirements for local government to consider developing or updating codes of conduct;
- Clarifying that no public hearing is required for a zoning bylaw, as long as it is consistent with an official community plan that is in effect for that area;
- Allowing for delegation of decisions on “minor” development variance permits;
- Enabling local governments to determine specific notice methods for public notice requirements;
- Amendments to the Islands Trust Act; and
- Removal of historic regulatory restrictions around Powell River’s mill site area.

Local Governments will be required to consider developing or updating codes of conduct

Bill 26 introduces two new sections into the *Community Charter* that address codes of conduct for council members. Although these provisions do not make codes of conduct mandatory, they will require council to consider their adoption, and mark the first reference to codes of conduct in the *Community Charter*.

The first of these, s. 113.1, will require councils to consider developing a code of conduct for council members, or review current codes of conduct if any already exist. This consideration must take place within 6 months after the first regular council meeting that follows a general local election. If a council ultimately decides not to establish a new code, or declines to review an existing code, reasons for this decision must be made publicly available.

The second code of conduct provision, s. 113.2, will require reconsideration of a council’s decision not to establish or review a code. This reconsideration must occur before January 1st of the year of the next general local election. If a council confirms its prior decision not to establish or review a code, a further set of reasons for this confirmation must be made publicly available.

There are several things a council must do when either deciding whether to develop or update a code of conduct under s. 113.1, or reconsidering a decision not to develop or update a code under s. 113.2. In both circumstances, council must consider the prescribed principles for codes of conduct; consider any other prescribed matters; and comply with any prescribed requirements. What these prescribed principles, matters, and requirements will entail is not yet known. However, it is likely that subsequent regulation will provide clearer criteria outlining what must be considered in this process.

Streamlining Local Government Development Approval Processes

Currently, local governments can waive public hearings for a zoning bylaw if it is consistent with an official community plan. This has long been an option, but in our experience its popularity spiked when COVID-19 made public hearings impossible or ill-advised. The proposed amendment to s. 464(2) of the *Local Government Act* would replace the current “a local government may waive” wording with “a local government is not required to hold”. The proposed amended notice requirement would say: “if a local government decides not to hold a public hearing”. So, it appears what is now a decision to “waive” a public hearing will become a decision “not to hold” a public hearing. Old wine, new bottles?

If Bill 26 gets to enactment, the more groundbreaking change in Part 14 of the LGA will be in relation to development variance permits. A new section 498.1 will authorize the delegation of the power to issue a DVP for variance that is a “minor variance”, but only if it varies the following: zoning bylaws respecting siting, size and dimensions of buildings, structures and permitted uses; off-street parking and loading space requirements; regulation of signs; screening and landscaping to mask or separate uses or to preserve, protect, restore and enhance natural environment; and a provision of the *Local Government Act* prescribed by regulation of the Lieutenant Governor in Council (the “eligible bylaw provisions”). This delegation could only be done by bylaw, and the local government will have to set out criteria for determining what is a minor variance and guidelines the delegate must consider when making a decision whether to issue the DVP. Although the local government gets to decide what is “minor”, the local government would not be allowed to authorize delegation of DVPs for anything other than the eligible bylaw provisions. So far, it does not look like the Province is flirting with the idea of DVPs to tweak use and density.

Modernized Notice Requirements

The proposed amendments in Bill 26 will also authorize local governments to establish, by bylaw, alternative notice requirements, when public notice is required to be given. Newspaper will still be an option, but councils will be invited to select alternative methods, including via the internet or other electronic means, after taking into consideration principles the minister may establish by regulation. The minister will also be authorized to specify types of notice that must be included in an alternative notice bylaw. Rogue local governments, take notice.

Islands Trust Act Updates

Bill 26 also includes amendments to the *Islands Trust Act*, which address three requests from the Islands Trust. The first recognizes and furthers the Island Trust's ongoing relationship and reconciliation efforts with First Nations through the inclusion of specific reference to "First Nations" in the Act's objectives in s. 3. The second expands the trust council's ability to provide support and financial assistance to community groups engaged in preservation or educational initiatives relating to the environment and unique amenities of the Trust Area in s. 8(2). The third repeals s. 29(3.1) of the Act, granting the power to adopt and amend development approval information bylaws to local trust committees rather than the trust council. Additionally, s. 49.6 of the Act is repealed and replaced, which will bring notice requirements for the proposed discharge of a protection covenant in line with the requirements set out in s. 94 of the *Community Charter*.

We will monitor Bill 26 as it makes its way through the Legislature and will issue further bulletins in the future as needed.

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