

LEGISLATIVE AUTHORITY AND SCOPE

Municipalities in British Columbia are given the authority to adopt an *Official Community Plan* (OCP) under the *Local Government Act* (LGA). The LGA outlines what may and must be included in an OCP, establishes requirements for public consultation as well as procedures for adoption.

The OCP applies to the entire District of Sooke and will guide the community until such time that it needs review, which is generally every five to ten years. The plan can be viewed as a living document that may updated from time to time. Section 478 (1) of the LGA states *that an OCP does not commit or authorize a municipality to proceed with any project that is specified in the plan*. However, the OCP must satisfy requirements of provincial legislation, and be consistent with the Capital Regional District’s Regional Growth Strategy.

The legal requirements of an OCP may or must include polices and content on the areas listed below.

REQUIRED POLICIES AND CONTENT	LOCAL GOVERNMENT ACT SECTION
Consistency with the Regional Growth Strategy	471
Residential development for at least 5 years	473 (1)(a)
Commercial, industrial, institutional, agricultural, recreational, public utility and land use policies	473 (1)(b)
Location of sand and gravel deposits suitable for future extraction	473 (1)(c)
Restrictions on the use of hazardous and or environmentally sensitive lands	473 (1)(d)
Location & phasing of major road, sewer, and water infrastructure systems	473 (1)(e)
Present and proposed public facilities such as parks, schools, waste treatment & disposal sites	473 (1)(f)
Affordable housing, rental housing, and special needs housing	473 (2)
Greenhouse gas emission reduction targets and proposed actions	473 (3)
Any applicable provincial policy guidelines for example:	582
<ul style="list-style-type: none"> • Ministry of Environment: Develop with Care 2014: Environmental Guidelines for Urban and Rural Land Development in British Columbia • Agricultural Land Commission: Landscape Buffer Guidelines, • Ministry of Transportation & Infrastructure: Traffic Management Guidelines 	
POLICIES THAT MAY BE INCLUDED	
Social Needs, Well-being, and Social Development Policies	474 (1)(a)
Application to Regional Growth Strategy	474 (1)(b)
Maintenance and enhancement of farming on land in a farming area or in an area designated for agricultural use in the plan	474 (1)(c)
Policies for Preservation, Protection, Restoration, and Enhancement of the Natural Environment, its ecosystems and biological diversity	474 (1)(d)

Division 4 — Official Community Plans

Purposes of official community plan

- 471 (1) An official community plan is a statement of objectives and policies to guide decisions on planning and land use management, within the area covered by the plan, respecting the purposes of local government.
- (2) To the extent that it deals with these matters, an official community plan should work towards the purpose and goals referred to in section 428 [*purpose of regional growth strategy*].

Bylaw to adopt official community plan

- 472 (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.

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.

(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.

(4) In developing an official community plan, the local government must consider any applicable guidelines under section 582 [*provincial policy guidelines*].

Policy statements that may be included

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.

(2) If a local government proposes to include a matter in an official community plan, the regulation of which is not within the jurisdiction of the local government, the plan may state only the broad objective of the local government with respect to that matter unless the minister has, under section 473 (1) (g), required or authorized the local government to state a policy with respect to that matter.

Consultation during development of official community plan

475 (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 the following:

(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) boards of education, greater boards and improvement district boards;

(vi) the Provincial and federal governments and their agencies.

(3) Consultation under this section is in addition to the public hearing required under section 477 (3) (c).

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

Consultation on planning for school facilities

476 (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 official 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 on 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 for official community plan

477 (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 Division 3 [*Voting and Voting Rights*] of Part 6 [*Regional Districts: Governance and Procedures*] to vote on the bylaw.

(3) After first reading of a bylaw under subsection (1), the local government must do the following in the indicated order:

(a) first, consider the proposed official community plan in conjunction with

(i) its financial plan, and

(ii) any waste management plan under Part 3 [*Municipal Waste Management*] of the *Environmental Management Act* that is applicable in the municipality or regional district;

(b) next, if the proposed official community 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;

(c) next, hold a public hearing on the proposed official community plan in accordance with Division 3 [*Public Hearings on Planning and Land Use Bylaws*] of this Part.

(4) In addition to the requirements under subsection (3), a local government may consider a proposed official community plan in conjunction with any other land use planning and with any social, economic, environmental or other community planning and policies that the local government considers relevant.

(5) The minister may make regulations in relation to subsection (3) (b)

(a) defining areas for which and describing circumstances in which referral to the Agricultural Land Commission under that subsection is not required, and

(b) providing that an exception under paragraph (a) is subject to the terms and conditions specified by the minister.

(6) 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 at the same meeting at which the plan passed third reading.

Effect of official community plan

478 (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) an official community plan under section 711 of the *Municipal Act*, R.S.B.C. 1979, c. 290, or an official settlement plan under section 809 of that Act, before the repeal of those sections became effective, must be consistent with the relevant plan.

Division 5 — Zoning Bylaws

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.

(2) The authority under subsection (1) may be exercised by incorporating in the bylaw maps, plans, tables or other graphic material.

(3) The power to regulate under subsection (1) includes the power to prohibit any use or uses in a zone.

(4) A bylaw under this section may make different provisions for one or more of the following:

(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.

(5) In addition to the authority under subsection (4),

- (a) provisions under subsection (1) (d) may be different for different areas, and
- (b) the boundaries of those areas need not be the same as the boundaries of zones created under subsection (1) (a).

Adoption of municipal zoning bylaw

480 Despite section 135 (3) *[at least one day between third reading and adoption]* of the [Community Charter](#), a council may adopt a zoning bylaw at the same meeting at which the bylaw passed third reading.

Restrictions on zoning authority in relation to farming

481 (1) This section does not apply unless a regulation under section 553 *[authority and restrictions apply as declared by regulation]* declares that it applies.

(2) Despite section 479 *[zoning bylaws]* but subject to this section, a local government must not exercise the powers under that section to prohibit or restrict the use of land for a farm business in a farming area unless the local government receives the approval of the minister responsible for the administration of the [Farm Practices Protection \(Right to Farm\) Act](#).

(3) The minister referred to in subsection (2) may make regulations

- (a) defining areas for which and describing circumstances in which approval under that subsection is not required, and
- (b) providing that an exception under paragraph (a) is subject to the terms and conditions specified by that minister.

(4) Regulations under subsection (3) may be different for different regional districts, different municipalities, different areas and different circumstances.

Density benefits for amenities, affordable housing and special needs housing

482 (1) A zoning bylaw may

(a) establish different density rules 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) a condition that the owner enter into a housing agreement under section 483 before a building permit is issued in relation to property to which the condition applies.

(3) A zoning bylaw may designate an area within a zone for affordable or special needs housing, as such housing is defined in the bylaw, if the owners of the property covered by the designation consent to the designation.

Housing agreements for affordable housing and special needs housing

483 (1) A local government may, by bylaw, enter into a housing agreement under this section.

(2) A housing agreement may include terms and conditions agreed to by the local government and the owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions respecting one or more of the following:

(a) the form of tenure of the housing units;

(b) the availability of the housing units to classes of persons identified in the agreement or the bylaw under subsection (1) for the agreement;

(c) the administration and management of the housing units, including the manner in which the housing units will be made available to persons within a class referred to in paragraph (b);

(d) rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time, as specified in the agreement or as determined in accordance with a formula specified in the agreement.

(3) A housing agreement may not vary the use or density from that permitted in the applicable zoning bylaw.

(4) A housing agreement may be amended only by bylaw adopted with the consent of the owner.

(5) If a housing agreement is entered into or amended, the local government must file in the land title office a notice that the land described in the notice is subject to the housing agreement.

(6) Once a notice is filed under subsection (5), the housing agreement and, if applicable, the amendment to it is binding on all persons who acquire an interest in the land affected by the agreement, as amended if applicable.

(7) On filing under subsection (5), the registrar of land titles must make a note of the filing against the title to the land affected.

(8) In the event of any omission, mistake or misfeasance by the registrar of land titles or the staff of the registrar in relation to the making of a note of the filing under subsection (7),

(a) neither the registrar, nor the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,

(b) neither the assurance fund nor the Land Title and Survey Authority of British Columbia, as a nominal defendant, is liable under Part 19.1 of the *Land Title Act*, and

(c) neither the assurance fund nor the minister charged with the administration of the *Land Title Act*, as a nominal defendant, is liable under Part 20 of the *Land Title Act*.

(9) The Lieutenant Governor in Council may prescribe fees for the filing of notices under subsection (5), and section 386 of the *Land Title Act* applies in respect of those fees.