

MUNICIPAL AFFAIRS AND HOUSING STATUTES AMENDMENT ACT, 2019

CHAPTER 5

Assented to March 25, 2019

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – BUILDING ACT AMENDMENTS

1 *Section 3 (2) of the Building Act, S.B.C. 2015, c. 2, is amended*

(a) by repealing paragraph (i), and

(b) by adding the following paragraph:

- (j) authorize a specified local authority, or a specified class of local authorities, in specified circumstances or conditions, to do one or both of the following:
 - (i) provide that a building regulation, or one or more requirements in a building regulation, does not apply in all or part of the jurisdiction of the local authority or class of local authorities;
 - (ii) if a building regulation includes more than one requirement, specify which requirement or requirements apply in all or part of the jurisdiction of the local authority or class of local authorities.

2 *Section 5 is amended*

(a) in subsection (3) by striking out “a local building requirement has no effect” and substituting “a local building requirement, other than a local building requirement contemplated under section 3 (2) (j), has no effect”, and

(b) by adding the following subsection:

- (5) A local authority must ensure that a local building requirement in relation to a matter that is prescribed by regulation as an unrestricted matter and a local building requirement contemplated under section 3 (2) (j) comply with the enactment listed in subsection (2) under which it is made.

3 *Section 41 (2) is amended by adding the following paragraph:*

- (b.1) specifying conditions that apply in relation to a matter that is prescribed as unrestricted for the purposes of section 5 (4); .

Transitional Provision

Transition – energy conservation unrestricted

- 4 (1) A local building requirement enacted by a local authority under section 2.2 (3) of the Building Act General Regulation, B.C. Reg. 131/2016, that would have been validly enacted had section 41 (2) (b.1) of the *Building Act*, as added by this Act, been in force when section 2.2 of the Building Act General Regulation came into force is conclusively deemed to have been validly enacted.
- (2) All things done by a local authority in relation to a local building requirement enacted under section 2.2 (3) of the Building Act General Regulation that would have been validly done had section 41 (2) (b.1) of the *Building Act*, as added by this Act, been in force when section 2.2 of the Building Act General Regulation came into force are conclusively deemed to have been validly done.
- (3) This section is retroactive to the extent necessary to give full force and effect to its provisions and must not be construed as lacking retroactive effect in relation to any matter because it makes no specific reference to that matter.

PART 2 – THE CULTUS LAKE PARK ACT AMENDMENTS

- 5 *The title of An Act Respecting Cultus Lake Park, S.B.C. 1932, c. 63, is repealed and the following substituted:*

THE CULTUS LAKE PARK ACT .

- 6 *Section 1 is repealed.*
- 7 *Sections 2 to 8 are repealed and the following substituted:*

Definitions

- 2 In this Act:
- “**board**” means the Cultus Lake Park Board continued under section 3 (1);
- “**Chilliwack representative**” means a member of the board described in section 3 (1) (a);
- “**leaseholder**” means a person who holds a lease from the board for a building site for private or public use in the park for a period not exceeding 21 years;
- “**park**” means Cultus Lake Park, comprising the following lands and premises: Fractional part of Legal Subdivisions 11, 13 and 14 of Section 25, and Legal Subdivisions 3 and 4 of Section 36, Township 22, east of the Coast meridian,

New Westminster District, together with any lands that may at any time be added thereto or set apart for the purpose of being administered as part of Cultus Lake Park;

“**park representative**” means a member of the board described in section 3 (1) (b).

Cultus Lake Park Board continued

- 3** (1) The Board of Commissioners, known as the Cultus Lake Park Board, is continued as a corporation consisting of
- (a) 2 members who represent the City of Chilliwack, and
 - (b) 3 members who represent the residents of the park.
- (2) The mandate of the board is the use, regulation, protection, management, maintenance and improvement of the park.

Qualifications of board members

- 4** (1) A person is qualified to be nominated as a Chilliwack representative, and to be elected and to hold office as a Chilliwack representative, if at the relevant time the person meets the qualifications to be nominated as a member of the council of a municipality under the *Local Government Act* and to be elected and to hold office as a member of the council of a municipality under the *Local Government Act*.
- (2) A person is qualified to be nominated as a park representative, and to be elected and to hold office as a park representative, if at the relevant time the person
- (a) is a leaseholder or resides in the park, and
 - (b) meets the qualifications to be nominated as a member of the council of a municipality under the *Local Government Act* and to be elected and to hold office as a member of the council of a municipality under the *Local Government Act*.

Election of board

- 5** (1) Chilliwack representatives are nominated and elected at the same time and in the same manner that members of the council of a municipality are nominated and elected under the provisions of the *Local Government Act*.
- (2) Chilliwack representatives are elected by electors of the City of Chilliwack.
- (3) Park representatives are nominated and elected at the same time and in the same manner that school trustees are nominated and elected, and Divisions 4 [Electors] and 5 [Election Proceedings] of Part 4 [School Trustees] of the *School Act*, as they apply to a trustee election conducted by a board of school trustees, apply to the election of park representatives, except as otherwise provided.
- (4) In applying the provisions referred to in subsection (3),
- (a) a reference to a board must be read as a reference to the board as defined in this Act,

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- (b) a reference to a trustee electoral area must be read as a reference to the park as defined in this Act,
 - (c) a reference to the secretary treasurer of a board must be read as a reference to the officer or employee of the board who is assigned responsibility for election matters by the board, and
 - (d) a reference to the minister must be read as a reference to the minister responsible for this Act.
- (5) The park representatives are elected by persons
- (a) who are leaseholders, or
 - (b) who reside in the park.
- (6) Despite section 41 (4) (d) [*non-resident property electors*] of the *School Act*, for the purpose of non-resident property electors registering to vote in an election of the park representatives, a leaseholder is a registered owner of real property.

Term of office

- 6 The term of office of a member of the board
- (a) begins on the date of the first regular board meeting following an election under this Act, and
 - (b) ends immediately before the date of the first regular board meeting that follows the next election under this Act,
- unless the member of the board resigns or becomes disqualified.

Filling vacancies

- 7 (1) If a vacancy occurs on the board, the Council of the City of Chilliwack must, as soon as practicable, appoint a new member to the board to fill the vacancy.
- (2) The member appointed under subsection (1) holds office for the remainder of the term for which the member's predecessor was elected.

Disqualification

- 8 A member of the board is disqualified until the next election under this Act and the member's office becomes vacant in any of the following circumstances:
- (a) the board passes a resolution declaring as vacant the office of a member who is absent from the meetings of the board for 3 consecutive months without the member
 - (i) obtaining leave of absence from the board, or
 - (ii) providing reasons for the member's absence that are satisfactory to the board;
 - (b) the member ceases to hold the qualifications required under section 4;

- (c) the member contravenes Division 6 [*Conflict of Interest*] of Part 4 [*Public Participation and Council Accountability*] of the *Community Charter*, as applied under section 20 of this Act.

8 ***Section 9 is repealed.***

9 ***The following sections are added:***

Procedures of board

9.1 (1) The following provisions of the *Community Charter* apply to the board in relation to the board's governance and procedures, except as otherwise provided:

- (a) Division 3 [*Open Meetings*] of Part 4 [*Public Participation and Council Accountability*], except for section 93 (b) to (g);
- (b) Division 4 [*Public Notice and Access to Records*] of Part 4, except for sections 95 (3), 96 and 97 (1) (d) and (h);
- (c) Division 2 [*Council Proceedings*] of Part 5 [*Municipal Government and Procedures*], except for sections 125 (5) to (7) and 134;
- (d) Division 3 [*Bylaw Procedures*] of Part 5, except for sections 135 (4) and (5) and 137 (2);
- (e) Division 4 [*Committees, Commissions and Other Bodies*] of Part 5, except for sections 143 and 145;
- (f) Division 5 [*Officers and Employees*] of Part 5;
- (g) Division 6 [*Delegation*] of Part 5, except for sections 154 (2) (f) and 155;
- (h) Division 7 [*Other Matters*] of Part 5, except for sections 157 and 158.

(2) In applying the provisions referred to in subsection (1),

- (a) a reference to "council" must be read as a reference to the board as defined in this Act,
- (b) a reference to "council committee" must be read as a reference to "board committee",
- (c) a reference to a council committee meeting must be read as a reference to a board committee meeting,
- (d) a reference to a council meeting must be read as a reference to a board meeting,
- (e) a reference to a council member must be read as a reference to a board member,
- (f) a reference to "mayor" must be read as a reference to the chair of the board,

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- (g) a reference to a municipal employee must be read as a reference to a board employee,
 - (h) a reference to “municipal hall” must be read as a reference to “park office”,
 - (i) a reference to a municipal officer must be read as a reference to a board officer,
 - (j) a reference to a municipal record must be read as a reference to a board record,
 - (k) a reference to “municipal service” must be read as a reference to “board service”, and
 - (l) a reference to “municipality” must be read as a reference to the board as defined in this Act or as a reference to the park as defined in this Act, as applicable.
- (3) In applying sections 123 (6) and 129 (1) of the *Community Charter*, “under section 118 [size of council]” must be read as “under section 3 (1) of *The Cultus Lake Park Act*”.
 - (4) In applying sections 124 and 125 of the *Community Charter*, a reference to “general local election” must be read as a reference to “election under *The Cultus Lake Park Act*”.
 - (5) In applying section 129 (2) of the *Community Charter*, the reference to “this Act” must be read as a reference to *The Cultus Lake Park Act*.
 - (6) In applying section 148 (c) of the *Community Charter*, “under this Act or any other Act relating to municipalities” must be read as “under this Act, any other Act relating to municipalities or *The Cultus Lake Park Act*”.

Enforcement of by-laws

- 9.2** (1) Sections 260 [enforcement powers] and 261 [payment of fines and other penalties to municipality] of the *Community Charter* apply to the enforcement of the by-laws of the board.
- (2) In applying the provisions referred to in subsection (1),
 - (a) a reference to “bylaw”, “bylaw of the municipality” or “municipal bylaw” must be read as a reference to a by-law of the board,
 - (b) a reference to “council” must be read as a reference to the board as defined in this Act, and
 - (c) a reference to “municipality” must be read as a reference to the board as defined in this Act or as a reference to the park as defined in this Act, as applicable.
 - (3) A reference to “A bylaw under section 260 (1) [enforcement powers]” in section 265 [penalties in relation to ticket offences] of the *Community Charter* must be read as a reference to “A by-law of the board”.

- (4) A reference to “this Act or the *Local Government Act*” in section 274 (1) (b) and (3) [*actions by municipality*] of the *Community Charter* must be read as a reference to *The Cultus Lake Park Act*.

Authority to enter on property

- 9.3** (1) Subject to this section, the board has the authority to enter on property, without the consent of the owner or occupier, 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 board, a board officer or employee, or a person authorized by the board has exercised authority under this or another Act to regulate, prohibit and impose requirements;
 - (b) to take action authorized under section 23 (a) [*power to perform work at expense of person in default*];
 - (c) to exercise the board’s authority under section 9.2 (1).
- (2) The authority in subsection (1) of this section may be exercised by officers or employees of the board or by other persons authorized by the board.
- (3) Except in the case of an emergency, a person
- (a) may exercise the authority in subsection (1) only at reasonable times and in a reasonable manner, and
 - (b) must take reasonable steps to advise the owner or occupier before the person enters on the property.

10 *Sections 10 and 11 are repealed.*

11 *Section 12 is repealed and the following substituted:*

By-laws

- 12** (1) The board may pass by-laws for the use, regulation, protection, management, maintenance and improvement of the park.
- (2) Section 12 (1) [*authority to establish variations, terms and conditions*] of the *Community Charter* applies to by-laws, and in applying that section, a reference to a municipal bylaw must be read as a reference to by-laws of the board.

12 *Section 13 is repealed.*

13 *Section 14 is amended*

- (a) *by striking out* “The Board shall have the power to:—” *and substituting* “The board may do any of the following:”;

(b) by repealing paragraph (a) and substituting the following:

- (a) grant concessions and licences to a person for any purpose that the board considers advisable for the use of the park by the public for a term, including any option for renewal, that does not
 - (i) exceed 5 years, except with the approval of the Council of the City of Chilliwack, or
 - (ii) exceed 20 years in any event; ,

(c) by adding the following paragraph:

- (a.1) impose and collect a charge for a concession or licence described in paragraph (a); ,

(d) in paragraph (b) by striking out “To lease” and substituting “lease”, by striking out “and to lease” and substituting “and lease” and by striking out “:” at the end of the paragraph and substituting “;”;***(e) by repealing paragraph (c) and substituting the following:***

- (c) in relation to water services,
 - (i) construct, operate and maintain in the park a waterworks system,
 - (ii) dispose of a waterworks system in the park to the Fraser Valley Regional District, and
 - (iii) supply water to concessionaires, licensees and lessees, and impose and collect a charge for the supply of water; ,

(f) by repealing paragraph (d),***(g) by repealing paragraphs (e) to (i) and substituting the following:***

- (e) provide for the removal of trespassers;
- (f) construct, operate and maintain in the park any improvements, buildings, equipment, facilities, conveniences, amusements and businesses that the board considers advisable for the use of the park by the public;
- (f.1) impose and collect a charge in relation to the improvements, buildings, equipment, facilities, conveniences, amusements and businesses described in paragraph (f);
- (g) make arrangements and provide facilities that the board determines advisable for the protection of the park against fire;
- (g.1) impose and collect a charge in relation to the arrangements and facilities described in paragraph (g);
- (h) organize and operate a garbage collection system within the park;
- (h.1) impose and collect a charge for the garbage collection system described in paragraph (h);

- (i) make arrangements for, including with governmental bodies, and provide sewage disposal and treatment facilities within the park, or a portion or portions of the park, that the board determines advisable;
- (i.1) impose a charge on and collect a charge from the leaseholders benefiting from sewage disposal or treatment facilities described in paragraph (i), for the cost of the construction, maintenance, operation or replacement of the sewage disposal and treatment facilities; , *and*

(h) in paragraph (j) by striking out “by by-law” and by striking out “District of Chilliwack” and substituting “City of Chilliwack”.

14 Sections 15 to 20 are repealed and the following substituted:

Remuneration of board

- 15** (1) The board must, by by-law, authorize and set the remuneration of the chair, vice chair and other members of the board.
- (2) A by-law under subsection (1) may set a greater amount of remuneration for the chair and for the vice chair than for the other members of the board.
- (3) The chair, vice chair and other members of the board are entitled to receive actual disbursements for expenses incurred while discharging the duties of a member of the board if those disbursements are approved by the board.

Annual account audit

- 16** The board must have the accounts of the board audited each year.

Chair and vice chair

- 17** (1) The board must elect a chair and a vice chair by a majority vote of the members of the board present at the first regular meeting of the board each calendar year.
- (2) If a vacancy occurs in the office of chair or vice chair during the calendar year, the board may elect a new chair or vice chair, as applicable, by a majority vote of the members of the board present at a meeting.
- (3) Section 168 [*reporting of council remuneration, expenses and contracts*] of the *Community Charter*, as it applies to the council of a municipality, applies to the board.

Expenditure limited

- 18** (1) Except as provided in subsection (3), the board may authorize the expenditure of only the following moneys:
- (a) the money received from operating the park;
 - (b) any amounts of money that may be granted to the board by the Council of the City of Chilliwack.

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- (2) The board must, within one month of the end of each calendar year, provide the Council of the City of Chilliwack with a statement of receipts and expenditures for the preceding calendar year.
- (3) The board may, by by-law, authorize loans to the board and borrow from a person an amount of money that may be required to meet the lawful expenditures of the board under the conditions set out in subsection (4).
- (4) The conditions for the purposes of subsection (3) are as follows:
 - (a) the obligation given by the board to the lender must
 - (i) be in writing and be signed by the chair and a representative of the finance committee, if there is a finance committee, and the financial officer of the board,
 - (ii) bear the corporate seal, and
 - (iii) be for an original period not exceeding one year but may be renewed from time to time as required beyond the original period;
 - (b) the board must, in the by-law described in subsection (3), specify the following:
 - (i) the amount of money to be borrowed;
 - (ii) the maximum rate of interest of the loan;
 - (iii) the date on or by which the principal and interest are payable;
 - (iv) the form of the obligation to be given as an acknowledgment of the liability;
 - (c) the total of the loan incurred must not at any time exceed \$50 000 without the approval of the Council of the City of Chilliwack, which may be given in all cases where the Council of the City of Chilliwack deems it reasonable.

Business activities within park

- 19** (1) In this section, “**business**” includes a profession, calling, trade or occupation.
- (2) A person must not engage in any business within the park without the prior written permission of the board.
- (3) The board may do the following:
 - (a) grant a permission, for a period not exceeding 5 years, to a person to engage in business within the park;
 - (b) set terms and conditions for permissions granted under paragraph (a).
- (4) Despite this Act and the by-laws of the board, the board may, by unanimous vote of all the members present at any meeting, refuse in any particular case to grant a permission under subsection (3) (a).

Conflict of interest

- 20** (1) Division 6 [*Conflict of Interest*] of Part 4 [*Public Participation and Council Accountability*] of the *Community Charter*, as it applies to a council member, applies to members of the board, except for section 100 (1) (c) and as otherwise provided.
- (2) Division 7 [*Challenge of Council Member Qualification for Office*] of Part 4 of the *Community Charter* applies in relation to the board, except for section 110 (a) (ii) to (iv) and as otherwise provided.
- (3) In applying the provisions referred to in subsections (1) and (2),
- (a) a reference to “council” must be read as a reference to the board as defined in this Act,
 - (b) a reference to “council committee” must be read as a reference to “board committee”,
 - (c) a reference to “member” or “council member” must be read as a reference to “board member”, and
 - (d) a reference to “municipality” must be read as a reference to the board as defined in this Act or as a reference to the park as defined in this Act, as applicable.
- (4) In applying section 104 (1) [*exceptions from conflict restrictions*] of the *Community Charter*, a reference to electors of the municipality must be read as a reference to electors of the park.
- (5) In applying sections 109, 111 and 113 of the *Community Charter*, a reference to electors must be read as a reference to electors of the park and electors of the City of Chilliwack.

15 The following section is added:**Confidentiality**

- 20.1** (1) Section 117 (1) [*duty to respect confidentiality*] of the *Community Charter*, as it applies to a council member, applies to a member of the board.
- (2) Section 117 (2) of the *Community Charter*, as it applies to a municipality, applies to the board.

16 Section 21 is repealed and the following substituted:**Penalties**

- 21** (1) The board may, by by-law, establish the penalties set out in this section for the contraventions set out in this section.
- (2) A person is liable, on summary conviction in any of the following circumstances, to a fine not exceeding \$2 000:
- (a) the person sits on the board while disqualified or subject to disqualification;

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- (b) the person contravenes a provision of this Act;
 - (c) the person contravenes a by-law.
- (3) In addition to a person being subject to a penalty under subsection (2), the person is also liable to an action brought by the board for any damages caused by the person.
- (4) No action for damages sustained as a result of a contravention described in subsection (2) (b) and (c) is suspended or affected by any prosecution or conviction under this section.
- (5) In a prosecution for an offence against a by-law or a contravention of a provision of this Act, the justice or court may impose all or part of the penalties applicable in relation to the offence, together with the costs of prosecution.

17 *Section 22 is repealed.*

18 *Sections 23 and 24 are repealed and the following substituted:*

Power to perform work at expense of person in default

- 23** The authority of the board 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 board may
- (a) fulfill the requirement at the expense of the person, and
 - (b) recover, from the person, the costs incurred as a debt.

Charges imposed recoverable as debt

- 24** The charges imposed by the board under the authority of section 14 are a debt recoverable by action brought by the board in any court of competent jurisdiction.

19 *The following section is added:*

Power to make regulations

- 26** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) applying specified regulations, or provisions of regulations, that are made under provisions of a statute that are adopted in this Act;
 - (b) in relation to applying the regulations, or provisions of regulations, under paragraph (a), modifying those regulations if the Lieutenant Governor in Council considers it necessary or advisable.

PART 3 – LOCAL GOVERNMENT ACT AMENDMENTS

20 *Section 176 (3) (f) of the Local Government Act, R.S.B.C. 2015, c. 1, is repealed.*

21 *Section 275 is amended*

(a) *by renumbering the section as section 275 (1),*

(b) *in subsection (1) by striking out “or” at the end of paragraph (a), adding “, or” at the end of paragraph (b) and by adding the following paragraph:*

(c) *providing capital financing for high-speed internet service to an area without access to high-speed internet service. , and*

(c) *by adding the following subsection:*

(2) *In this section, “high-speed internet service” has the meaning prescribed by regulation.*

PART 4 – RESORT MUNICIPALITY OF WHISTLER ACT AMENDMENTS

22 *Sections 9 and 10 (1) (e) of the Resort Municipality of Whistler Act, R.S.B.C. 1996, c. 407, are repealed.*

23 *Section 11 is repealed.*

PART 5 – VANCOUVER CHARTER AMENDMENTS

24 *Section 136 (3) (d.2) of the Vancouver Charter, S.B.C. 1953, c. 55, is repealed.*

25 *Section 565.2 (2) (d) of the Vancouver Charter, S.B.C. 1953, c. 55, is amended by striking out “rents that may be charged and the rates at which rents may be increased over time,” and substituting “rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time,”.*

Commencement

26 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 22 and 23	By regulation of the Lieutenant Governor in Council