

CENTRAL COAST REGIONAL DISTRICT POLICIES

A-31 – Bylaw Development and Reviews

Preamble:

In March 2015, the Central Coast Regional District board of directors approved and endorsed the CCRD Integrated Strategic Plan 2015-2019. Goal 3 – Governance, focuses on the enhancement and strengthening of the region and Goal 3.4.3 is specific to the maintenance and update of CCRD policies and bylaws.

CCRD has a policy addressing the development and review of policies, but it does not currently have a policy for developing or reviewing bylaws.

This policy is to establish a process for the development and review of bylaws for the Central Coast Regional District, that provides a guideline to Administration in the process, and to ensure effectiveness and relevance.

Policy:

1. Introduction

A bylaw is a regulation made by a local government and formalized in a document. Bylaws typically contain a number of component parts such as a number, title, authority, definitions, enactment and penalties for non-compliance.

The Regional District Board of Directors makes the bylaws required for the Regional District to provide services to electoral areas. They also establish bylaws to regulate user fees for those services.

Local government does not have power to do anything except that which provincial legislation provides it with the authority to do. The effect of a local government bylaw is parallel to the effect of provincial legislation.

Powers given by a statute may be limited by another Provincial or Federal statute. Where there is a conflict between a Provincial statute and a local bylaw, the statute prevails. Local bylaws cannot regulate the use of Provincial or Federal lands (or Native Reserves).

2. Bylaw development Procedure

Provincial legislation stipulates when a local government board may act only by bylaw. Section 122(1) of the *Community Charter* states that if an enactment provides that a council is required or empowered to exercise a power by bylaw, that power may only be exercised by bylaw.

When drafting a bylaw it is necessary to be aware of the substantive grounds, as opposed to the procedural defects, that may result in a court setting aside a bylaw. These grounds include unlawful delegation, reference to council/board, repeating the statutory power, the absence of statutory authority, uncertainty and unreasonableness.

For a bylaw to be valid, it must satisfy the following requirements (**Lidstone, 2007¹**):

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- (a) the local government corporation must be validly established;
- (b) the Board must be qualified to act;
- (c) the bylaw must be enacted by the board at a validly constituted meeting;
- (d) there must be a quorum
- (e) statutory conditions precedent must be satisfied (ie does it require approval from a minister, electors; or Lieutenant Governor in Council)
- (f) the bylaw must be enacted within the jurisdiction and authority of the local government;
- (g) the bylaw must not render compliance with a federal or provincial enactment impossible, or prohibited by provincial enactment;
- (h) the bylaw must be enacted in good faith;
- (i) the bylaw must not be unreasonable;
- (j) the bylaw must not be so nebulous as to permit of no definite meaning;
- (k) the bylaw must be published to the extent required;
- (l) the bylaw must be enacted in a meeting open to the public.

3. *Bylaw Review Procedure*

Only the Board may amend or revoke bylaw according to Section 137 of the *Community Charter*.

Review of bylaws and their evaluation should be done on an on-going process. Bylaws will be brought forward to the board of directors for review and relevance on a rotating schedule that will cover all bylaws within the Bylaw Manual, every four (4) years. Bylaws requiring earlier amendments or revocation will be put forward for board consideration, on an as needed basis.

Bylaw updates will be circulated to all directors and personnel or affiliates following adoption by the board of directors, and made available to the general public in accordance with the CCRD Communications and Engagement Plan.

Adopted: September 10, 2015