

# Community Charter

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## Concurrent Regulatory Authority

[Section 9](#) of the *Community Charter* establishes the concept of concurrent regulatory authority. The legislation recognizes that in five spheres, municipalities and the province have a shared interest in regulating activities.

The *Community Charter* concurrent authority provisions apply to bylaws that deal with:

- Public health;
- Protection of the natural environment;
- Wildlife;
- Building standards; and
- Prohibition of soil deposit or removal.

Municipalities are provided with powers to adopt bylaws in the spheres of concurrent authority. However, this municipal authority is subject to provincial involvement. The *Community Charter's* concurrent authority provisions also apply to regional districts for three of the five spheres (i.e., building standards, public health, and prohibition of soil deposit or removal).

### What to consider

Under the *Community Charter's* concurrent authority provisions, any new municipal bylaw or amendment to an existing bylaw that relates to one of the five spheres of concurrent authority will require some level of provincial participation. Bylaws related to the five spheres of concurrent authority must:

- comply with a minister's regulation;
- comply with an agreement between the minister and municipality/regional district; or
- be approved by the minister responsible.

Four ministers are designated as responsible for the five spheres of concurrent authority (see diagram). The appointed Minister has primary responsibility for the matters covered in the respective sphere.



### How to proceed

Before adopting a bylaw, each council/regional board will want to determine if the matter under consideration falls under the concurrent spheres of authority, and whether they require appropriate approval.

By regulation, the minister responsible may define the scope of the provincial interest regarding a particular sphere of concurrent authority. If a bylaw is in accordance with the relevant minister's regulation, the bylaw may be adopted without having to obtain ministerial approval. So, the council/regional board will want to determine if there is a regulation in place that is relevant to the matter they are considering.

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### Regulations in Relation to Concurrent Authority

[Section 9](#) of the *Community Charter* provides that a minister's regulation may: establish the matters in relation to which municipalities may exercise their concurrent regulatory authority; provide that the exercise of that authority is subject to certain restrictions and conditions; or specify those matters which are subject to the minister's approval.

The following regulations have been developed regarding concurrent authority:

- **Buildings and Other Structures Bylaws Regulation** [[B.C. Reg. 86/2004](#)]

The Buildings and other Structures Bylaws Regulation clarifies the types of structures that local governments may regulate autonomously, such as those buildings or structures exempted from the BC Building Code.

The regulation provides that bylaws that establish technical building standards that are different from the standards established by the BC Building Code will require approval by the Minister responsible. A council/regional board is also restricted from extending or changing the application of the BC Building Code, as specified in the regulation.


- **Public Health Bylaws Regulation** [[B.C. Reg. 42/2004](#)]

The Public Health Bylaws Regulation requires that a council/regional board must consult with the regional health board or the Medical Health Officer responsible for public health matters within the municipality before any health related bylaw can be adopted.

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This regulation also provides that bylaws relating to the protection, promotion or preservation of the health of individuals, or the maintenance of sanitary conditions within the municipality must be deposited with the Minister responsible. A bylaw that restricts or has the

potential to restrict an individual's access to health services or that may impact health authority resources will require the Minister's approval.

A [Consultation Agreement](#)  (49 KB) among the Ministry of Health, the Union of British Columbia Municipalities, and the Ministry of Community Services establishes an effective intergovernmental mechanism to share information regarding the operation of the Public Health Bylaws Regulation. The Agreement outlines the framework by which the parties monitor, review and amend the ministerial regulation over time, and establishes an open and manageable process for discussing the emerging interest of both the provincial and local governments in public health. The Consultation Agreement also sets out the process by which local government bylaws covered by the regulation will be deposited or approved, and then brought into force.


- **Spheres of Concurrent Jurisdiction - Environment and Wildlife Regulation [\[B.C. Reg. 144/2004\]](#)**

The Environment and Wildlife regulation establishes the types of bylaws that may be adopted in the concurrent spheres of protection of the natural environment and wildlife. The regulation provides that a council may regulate and prohibit activities affecting waterways, as well as regulate, prohibit and impose requirements in relation to the sale of wild flowers. Under this regulation, municipalities are also granted new authorities to regulate, prohibit and impose requirements in relation to:

- the application of pesticides for certain purposes;
- the control and eradication of some alien invasive species; and
- the control of some wildlife species.

The regulation does contain some specific restrictions on municipal powers in relation to the application of pesticides.

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A [Consultation Agreement](#)  (74 KB) among the Ministry of Environment, the Union of BC Municipalities and the Ministry of Community Services establishes an effective intergovernmental mechanism to provide advice and recommendations on the content of the Environment and Wildlife Regulation. The Agreement sets out the framework by which the parties monitor, review and amend the ministerial regulation over time. The Consultation Agreement also specifies areas in which municipal regulatory authority will not be provided. These are areas of provincial interest, such as waste management, air quality management, and wildlife and fish recreation.

### **Soil Removal and Deposit**

Currently, there are no regulations being developed in relation to the prohibition of soil removal or deposit. Municipal bylaws prohibiting soil removal or prohibiting the deposit of soil or other material, making reference to the quality of the soil or to contamination, will continue to require approval of the minister responsible.

For more information on the concurrent regulations and the ministerial approval processes, use the related link or contact information below.

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Minister Responsible	Sphere of Concurrent Authority	Applies to bylaws under section	Applies to Regional Districts	Ministry Contact Information and Links
Housing & Social Development	Building Standards	8(3)(l)		Building & Safety Policy Branch E-mail: <a href="mailto:Building.Safety@gov.bc.ca">Building.Safety@gov.bc.ca</a> Website:

Energy, Mines and Petroleum Resources	Removal of soil and other material	8(3)(m)	?	<a href="#">Building &amp; Safety Policy Branch</a> Bill Adair, Senior Advisor, Mining & Minerals Land Use Land Use Coordination Branch (250) 952-0426 E-mail: <a href="mailto:Bill.Adair@gov.bc.ca">Bill.Adair@gov.bc.ca</a>
Healthy Living & Sport	Public health	8(3)(i)	?	Health Protection Branch (250) 952-1469
Environment	Protection of the natural environment	8(3)(j)	?	Jennifer Vigano 250 387-9643 E-mail: <a href="mailto:Jennifer.Vigano@gov.bc.ca">Jennifer.Vigano@gov.bc.ca</a>
	Animals in relation to wildlife	8(3)(k)	?	
	Deposit of soil and other material	8(3)(m)	?	<a href="#">Ministry Approval of Local Government Soil Deposit Bylaws</a> (PDF, 264KB)