

The Community Charter

The Community Charter A Discussion Paper



**BRITISH
COLUMBIA**

**Minister of State
for Community Charter**

October 2001

The Community Charter

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Note

This document presents highlights of the Community Charter, and has been prepared by the Minister of State for Community Charter for the purposes of regional consultations.

The document presents the current thinking about the Community Charter, in the form of proposals, but does not represent decisions made by Community Charter Council appointed under the *Community Charter Council Act*.

The Community Charter

Introduction

The British Columbia government is developing a Community Charter to give communities the powers and resources to make local decisions locally. The Charter seeks to strike an unprecedented partnership between municipalities and the province where municipal councils will look after community governance and the province will address the public interest of British Columbia as a whole. The Charter will build on the *Local Government Act* and reinforce in law that municipalities are an order of government in British Columbia. The Charter will give municipalities greater powers and new freedom to take action and make decisions.

This discussion paper will outline the most significant provisions proposed for the Community Charter. Because the provincial government continues to seek ways to strengthen the local government-provincial government relationship, and gain the full benefit of local input, this paper will be used as part of the consultation process seeking feedback on the content and implications of the Community Charter.

Overview of the Community Charter

The Charter will be based on the principle of respect and recognition for communities and their local governments. It will enable municipalities to become more self-reliant by providing them with greater autonomy, independence, new powers and better financial and other tools for governing communities and delivering services.

It will also create a new accountability framework for citizens to make sure government remains accessible and accountable in every community. Its vision continues to be based on principles of open, accountable and financially responsible municipalities.

The Charter itself will be shorter and easier to read than existing legislation and will eliminate red tape for citizens and municipal councils alike.

Background

Municipalities are an engine of our well being, and provide the government and services that are closest to the people.

The provincial government is responsible for the framework that creates and maintains the system of local government within the province. Since the 1880's, British Columbia provided this framework through the *Municipal Act*, and, more recently, through the *Local Government Act*.

In 1991, the Union of British Columbia Municipalities (UBCM) proposed a Bill of Rights for municipalities. This Bill of Rights sought greater freedom and broader

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powers for municipalities and proposed that municipalities be recognized as an order of government.

In 1995, while in Opposition, the BC Liberals introduced the Community Charter in the form of a private member's bill containing a draft statement of principles, and promised to enshrine municipal rights in legislation.

Although the detailed provisions of the Community Charter have been refined, and will continue to respond to the consultation process, the principles have remained.

Reasons for Reform

True reform is long overdue. Despite gradual changes over time, British Columbia's existing legislation no longer meets municipal needs:

- There are too many limitations on municipal powers.
- Municipalities have too little power and not enough resources to fulfill their responsibilities.
- Municipal authority to raise funds locally is too limited.
- The provincial government is too involved in telling municipalities what they can and cannot do, second-guessing municipal decisions.
- The approval process is time-consuming and costly because of too much red tape.
- The approval process often means local opportunities are lost.
- Steps taken toward evolutionary change have been too slow.

The provincial government is now ready to move beyond the tradition of having local government legislation that is narrow, paternalistic and bound by strict rules. The province has heard the demands of local governments and is ready to provide legislation that suits the unique needs of municipalities in the 21st Century.

The Community Charter Process

As a priority of the provincial government, the Community Charter is on track to become law in the fall of 2002. The first step in this process was taken when the *Community Charter Council Act* was given Royal Assent in August, 2001. The Act created the Community Charter Council to oversee the development of the Community Charter.

The Community Charter Council

The Community Charter Council is a joint provincial-municipal advisory body that will give the provincial government the advice it needs to develop a Community Charter that meets provincial and municipal needs. The *Community Charter Council Act* makes the Council responsible for preparing a report to Cabinet that includes a draft of the Community Charter.

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The council has 12 members: four selected by the UBCM, four selected by the provincial cabinet on the advice of the UBCM to be members at large, three selected by the provincial cabinet to represent provincial interests, and the Minister of State responsible for the Community Charter. Council members are:

Provincial Representatives

- Ted Nebbeling, Minister of State for Community Charter, Chair
- Keith Saddlemyer, management consultant, former provincial DM, former chair Property Assessment Appeal Board
- Ben Marr, retired provincial DM and GVRD manager
- Don Avison, President of University Presidents' Council, former provincial DM

UBCM Representatives

- Jim Abram, UBCM Past-President, Comox Strathcona RD
- Hans Cunningham, UBCM President, Central Kootenay RD
- Patricia Wallace UBCM Vice-President, Kamloops councillor
- Frank Leonard, UBCM Vice-President, Saanich mayor

Members At Large

- Joyce Harder, former UBCM president, former Lillooet mayor
- Marilyn Baker, former UBCM president, former North Vancouver District mayor
- Gerry Furney, Port McNeill mayor
- Helen Sparkes, UBCM Vice-President, New Westminster mayor

Consultations

The Community Charter Council will oversee the consultation process. This process began with consultations and information sessions at the UBCM Convention in Vancouver during September, 2001. It will continue with regional consultation meetings throughout October and November, 2001 (A list of scheduled meetings is attached in Appendix A). In addition, after a white paper is tabled, there will be extensive opportunities for input from local governments and other interested parties.

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Timetable

Regional consultations	October to November, 2001
Interim CCC report to Cabinet	January 15, 2002
Draft Charter tabled in Legislative Assembly in white paper form	February, 2002
Public consultation	March to mid-June, 2002
Final CCC report to Cabinet	July, 2002
Introduction of Community Charter in the Legislative Assembly for enactment	Fall Session, 2002

Phased Legislation

The province is taking a phased approach to reforming local government legislation. Phase One of the Community Charter will deal only with providing more and broader powers to municipalities, strengthening inter-governmental relationships and improving public participation. Not until Phase Two will key issues like regional districts, elections, regional growth strategies, planning and land use, and heritage conservation be addressed.

The province is addressing municipal reform first. The regional district system will be examined within two years during Phase Two of the legislative review. The province hopes to start significant reform for all communities while allowing more time to consult on changes at the regional district level. In addition, the two-phase approach will give regional districts time to adjust to the impacts of legislative changes already in force through the *Local Government Act*.

Despite focussing on municipal reforms in Phase One, regional districts will play a vital role in shaping the Community Charter. Regional districts were presented with information on the Community Charter at the UBCM Convention. They are also included in the planned series of regional consultations taking place in October and November.

Interim Measures: The Local Government Act

The *Local Government Act* will remain in force until the Community Charter is passed. Once the Community Charter has been given Royal Assent, Part 24 of the *Local Government Act* governing regional districts will continue to apply until changed during Phase Two of the Community Charter process. Other provisions not addressed by the Community Charter are:

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- Elections.
- Land use planning.
- Improvement districts.
- Heritage conservation.
- Regional districts.
- Regional growth strategies.

The associated parts of the *Local Government Act* will also remain in force until addressed in Phase Two.

Principles of the Community Charter

In preparing the Community Charter, the Community Charter Council is guided by the following key principles:

- The residents of British Columbia have the right to form autonomous municipalities that provide for the residents' needs for community association.
- Municipalities are recognized as an order of government in British Columbia.
- Municipal governments must be democratically elected, responsible, accountable and accessible.
- Municipal governments must be provided with adequate powers and discretion to address existing and future community needs.
- Municipal governments have authority to determine the public interest of their communities, including authority to determine the level of municipal expenditures and taxation.
- Municipal governments have authority to determine their administrative mechanisms in order to adapt them to community needs and to ensure effective management and delivery of services.
- Municipalities must be able to draw on financial and other resources that are adequate to support community needs.
- Before new responsibilities are assigned to municipalities, there must be provision for resources required to fulfill the responsibilities.
- The provincial government must respect municipal authority in areas of municipal jurisdiction.
- The provincial government must respect the varying needs and conditions of different municipalities in different areas of British Columbia when taking actions that directly and specifically affect municipalities.
- The provincial government must notify and consult with municipal governments before it takes actions that directly and specifically affect municipalities and when addressing inter-provincial, national or international issues or agreements that affect them in that way. The provincial government and municipalities will attempt to resolve conflicts by consultation, negotiation, facilitation and, if necessary, formal dispute resolution.

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Together, such principles will combine to guide the Community Charter so that municipalities have more autonomy, broader powers, and more financial flexibility. The need for provincial approvals will be greatly reduced and red tape will be cut – allowing municipalities to do their job more effectively.

Broader Powers

The Community Charter will be founded on the key principle that municipalities must be recognized as an ‘order of government’ within British Columbia. This principle has been a demand of the UBCM since it published its watershed policy paper, *Local Government and the Constitutions*, in 1991. With this recognition, the provincial government is going as far as it can – in the absence of constitutional change at the federal level – to respect the important role of local governments in British Columbia, and to base its reform of local government legislation on that role.

Natural Person Powers

Currently, municipalities are corporations provided with broadly worded corporate powers (*LGA* s.176), including powers to:

- make agreements,
- provide assistance,
- acquire, hold, manage and dispose of property,
- delegate powers,
- incorporate corporations,
- establish commissions.

These corporate powers are subject to some requirements, including limitations on the making of agreements, providing assistance, land disposition, delegation and incorporating corporations.

The Community Charter proposes that municipalities be granted the powers of a ‘natural person of full capacity’. Pioneered in Alberta, this method of drafting legislation does away with itemizing corporate powers. Today, some provinces have adopted the natural person power approach, while others take a corporate powers approach. Natural person powers do not confer or expand any regulatory or taxing powers since *natural persons* don’t have any such authority.

Generally, natural person powers do not give municipalities more jurisdiction than they normally have: such powers merely increase the corporate capacity in relation to powers that have already been delegated. From a policy viewpoint, greater corporate powers are generally balanced by greater ‘shareholder remedies’, such as public participation, accountability and transparency rules. When considering natural person powers, the Community Charter Council will be giving careful thought to the kinds of requirements that may be needed.

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Broad Service Powers

The Community Charter proposes to give municipalities general authority to act within broad areas of responsibility. This reverses the traditional approach to municipal powers that legislated powers one by one in a rigid manner. The scope of municipal action could be defined broadly to include such things as:

- peace, order and good government,
- health and well-being of persons,
- safety and protection of persons and property.

Where local bylaws might overlap an area occupied by provincial or federal law, the ‘consistency rule’ would apply: a municipal bylaw is allowed if it does not force a person obeying it to violate a law of another level of government. The consistency rule also applies to regulatory powers, as described below.

The Community Charter proposes to give municipalities broad powers to deliver services. Unlike narrow, prescriptive powers, the powers proposed for the Community Charter would allow municipalities to do business more effectively and with greater flexibility. If these powers are adopted, municipalities ought to be able to deliver traditional services, like recreation, in new ways. They will also be able to consider new service opportunities in areas like economic development and safety. These broad powers and adaptable service delivery options should enable municipal councillors to consider which services to provide and how to deliver them. It will be up to municipal councils to decide what services a municipality needs and how they will be provided and financed.

Regulatory Powers

Unlike the traditional approach to regulatory powers, the Community Charter proposes to broaden the regulatory powers of municipalities. Municipal jurisdiction could be expanded, but, if so, the ‘consistency rule’ would be maintained. This rule holds that a municipal bylaw is permissible if, when following it, an affected person is not made to violate any law set by another level of government. For example, if a municipal bylaw *requires* an action that a provincial regulation *prohibits*, then the municipal bylaw would be inconsistent with the provincial regulation because obeying one law necessarily involves breaking the other law.

Providing broader regulatory capacity would allow municipalities to define where and how they want to act in a particular area. This opens municipalities up to acting on new matters now not possible under existing legislation. As an example, the current legislation provides municipal authority to regulate animals in six different sections, itemizing specific authorities one by one.

The broadest definition of ‘regulation’ includes several things. Regulation includes the power to authorize, control, inspect, limit and restrict the actions of the person,

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property or thing being regulated. Significantly, it also includes the power to *prohibit* and the power to *impose requirements* in relation to persons, property, things and activities. These are strong powers that, in most provinces, are subject to statutory restrictions and limitations, or are specifically itemized. The Community Charter Council will examine which statutory restrictions and limitations may be required on the power to regulate. One of the key considerations for the Council will be clarifying and balancing municipal versus provincial interests, where these intersect.

Under the proposed Community Charter, municipalities could have the power to vary regulations by class and set terms and conditions considered appropriate. Municipalities could also be authorized to develop a comprehensive system of licenses, permits and approvals.

Under the Community Charter proposal, municipalities could – at their discretion, but subject to the consistency rule and any statutory restrictions or limitations – use the proposed new regulatory powers to:

- Impose residential sprinkler requirements.
- Set local speed limits lower than provincial limits.
- Impose building maintenance requirements on property owners.
- Control pawnshops.
- Customise regulatory tools to promote economic development or other reasons.
- Top-up pesticide regulations.

Clearly, the question of how to deal best with the extent of the powers of regulation, prohibition and imposing requirements is an area for legislative development. The Community Charter proposes that the power to prohibit would be limited – for example, it would *not* apply in relation to businesses and business activities. Prohibition authority, the power to regulate and the power to impose requirements may be subject to further refinements based on the advice of the Community Charter Council.

Municipal Bylaw Courts

Currently in British Columbia, municipalities enforce their bylaws through the provincial court system via Municipal Ticket Information (MTI) or a municipal bylaw violation notice ('long form'). Unfortunately, the costs of prosecution are often too high for municipalities. As well, the volume of cases appearing before the courts cause municipal cases to be set aside for other provincial court priorities, such as criminal matters. Municipalities face the ongoing problem of not being able to enforce bylaws designed to assist and enhance their communities. Citizens, too, suffer from a lack of access to the provincial courts for municipal matters. MTI's represent the most recent attempt by the provincial government to provide better municipal bylaw enforcement. However, MTI's must be personally served and increase the cost of processing parking tickets – the vast majority of municipal bylaw violations.

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The Community Charter proposes to enable municipalities to enter into agreements with other municipalities and/or regional districts to establish municipal courts. One possible form these courts could take is that of the pilot ‘municipal bylaw courts’ that have been in place in British Columbia for the past decade. In Kelowna, Prince George and Kamloops, a Judicial Justice of the Peace (JJP) has authority to hear all municipal bylaw matters. This has provided these municipalities with better access to the provincial court. Throughout the rest of BC, JJP’s may only deal with tickets for matters like parking. Only Provincial Court Judges may hear actions commenced by long form. There may be other models that can meet municipalities’ needs as well as those of the judiciary and province. The Community Charter Council will be considering a range of local, provincial and judicial issues, including access to courts, fine / penalty collection, costs, and judicial independence.

Road and Park Title

Currently, municipalities have the right of possession of every highway within municipal boundaries. Even though municipalities have this right of possession, legal title to these highways rests with the provincial government. This means that a complicated, inter-governmental process must be completed before closing and disposing of a road. This creates difficulties for the municipalities in achieving some of their objectives, like supporting an affordable housing project or creating a park.

The Community Charter proposes to transfer the soil and freehold title to all roads within municipalities from the province to municipalities, with the exception of highways:

- through or in provincial parks,
- over First Nations reserves,
- under federal jurisdiction,
- on public rights of way on private land, and
- classified as arterial highways.

The real property would be vested in fee simple, as is now the case in Vancouver and New Westminster. This proposed change would remove the requirement for provincial approval of road abandonment, with the exception of roads that might affect provincial highways. Transfer of title is not intended to affect the integrity of the provincial highway system. The new rules would allow municipalities to sell any unused portion of a highway directly to a developer for housing construction, following notice. Municipalities could also include title to a portion of road as part of a consideration in a public-private partnership to develop a municipal site, following notice.

As a result of previous amendments, title to municipal parkland dedicated to the public by subdivision plan after January, 2001, is vested in the municipality.

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The Community Charter proposes to transfer the title to municipal parkland provided by subdivision *before* January, 2001, to municipalities, since title still rests with the Crown.

Municipalities will continue to have the power to dispose of parkland either by selling it or by exchanging it for other land suitable for a park. As before, proceeds will have to be placed in a parkland acquisition reserve fund. In addition, before moving park boundaries or disposing of parkland, the Community Charter proposes to make assent of the electors a requirement.

Role of Mayor and Council

The Community Charter proposes to change the assigned duties and powers of mayors. Existing powers will continue, and the mayor will continue to be the chief executive officer of the municipality. But the mayor would have a new duty of initiating policies, programs and bylaws and would be required to lead the process for setting priorities and objectives. The mayor's role in suspending officers and employees will be clarified.

To improve the stability and continuity of municipal governance, the Community Charter proposes to make it mandatory for municipalities to designate a councillor to act in place of the mayor when the mayor is absent.

The Community Charter proposes, for the first time, to set out the roles of council members and specify a number of new requirements for council. These new requirements include requiring participation in council meetings and keeping information in confidence, with penalties for a breach of confidentiality. The legislation proposes to clarify reconsideration of matters, including that the power of reconsideration extends to the council. As well, the role of the Chief Administrative Officer (CAO) will be explained in relation to the mayor and council, and in relation to other officers and employees.

Some important considerations will underlie the actual legislative draft. A critical one is how the role of the CAO is best clarified. The legislation could allow councils to define the duties of a CAO, or it could prescribe the duties in order to provide a level of consistency across the province.

Finances

Like other orders of government, municipalities face demands for more and better services in a time of fiscal restraint. Currently, municipalities rely primarily on property tax revenues to fund and maintain an acceptable level of service. As demands for new and better services increase, so too must the municipal ability to draw on financial and other resources that meet community needs. Municipalities need more flexibility to design local service models and tap revenue sources to meet

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their unique local priorities. Local self-sufficiency is critical to the kind of local self-determination the Community Charter is meant to support.

Revenues

The Community Charter proposes to introduce new flexibility such as the power to earn revenues from water, sewage and sewage treatment services.

It also proposes that municipalities be able to apply to put in place new ways to raise revenues, such as amusement taxes, tourism enhancement taxes, or revenue programs that have worked in other jurisdictions. In their application concerning new powers, municipalities would need to show that their revenue ideas are necessary and workable, and that they will not create a net loss to provincial revenue.

This is not an entirely new concept. For example, a municipality in British Columbia can now apply to the provincial Consumer Taxation Branch to levy, on its behalf, a two per cent tax on accommodation sold within their whole jurisdiction or defined areas in addition to the eight per cent tax normally collected. The extra tax collected is remitted to the municipality and is to be used to finance and operate new tourism facilities or tourism promotion.

In addition, the Community Charter proposes to expand the power to create and finance services within defined geographic areas using any type of tax, fee or charge. This is the kind of authority regional districts have enjoyed for years. Under Part 19 of the *Local Government Act* (Local Improvements and Specified Areas), there are some fairly archaic provisions for providing services to smaller geographic areas of municipalities. The Charter concept of geographic areas for service delivery could also encompass business improvement areas, but, if so, its provisions would be simpler and more straight-forward. The Community Charter proposes to have a single process for all small-area services, with a broad range of cost recovery and regulatory powers.

Liabilities and Borrowing

Currently, municipalities cannot incur a liability unless they are empowered by statute. In most cases, the total liabilities that may be incurred are limited by the value of municipal assets and the size of the tax base. Voter approval, either by referendum or by counter-petition, is generally needed for any liabilities greater than five years. The approval of the Inspector of Municipalities is required for most borrowing. All long-term borrowing must be undertaken through the Municipal Finance Authority, and all municipalities and regional districts are ultimately liable for the repayment of an individual local government's debt. These limitations sometimes make it difficult for municipalities to respond quickly to financial opportunities because of the costs and delays of procedural restrictions. However, these same limitations are the underpinning of the very sound system for capital finance already in place, through

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the Municipal Finance Authority, for British Columbia local governments. The Community Charter will maintain the integrity of this system.

Adjusting the role of the voters in decisions surrounding the creation of long-term liabilities is a key issue requiring careful thought by Community Charter Council. Clearly, voters want – and the MFA system demands – that voter approval be part of the decision making process for all significant decisions. But what is ‘significant’? The question is surprisingly tricky to answer.

Understanding the idea of *materiality* is a key to redesigning the system for voter approval. All involved in municipal issues agree that voters should approve significant decisions through referenda. Most agree that it ought to be possible for less significant decisions to be made by councils without direct voter involvement. There are two possible ways to establish the line between the two, that is, to define materiality:

- One approach is similar to s.231 of Alberta’s municipal statute that enables electors to petition for an assent vote – the ‘direct democracy’ approach which seeks voter input on the question of materiality.
- The other approach is to prescribe a threshold level, above which a referendum would be required – the ‘statutory threshold’ approach that provides more certainty over which spending proposals fall outside of the referendum requirement.

The Community Charter Council will compare and contrast the two different approaches.

Whatever the outcome of Council’s deliberations, these new powers should allow municipalities more flexibility in structuring financing opportunities that maximize municipal abilities to find local solutions to local issues. They also must preserve the integrity of the existing Municipal Finance Authority-based system for long-term finance and maintain the strong credit rating of municipalities within British Columbia. Maintaining all the key existing features of the long-term finance system is a key Community Charter deliverable.

The Community Charter proposes that municipalities must notify the public before adopting a borrowing bylaw. Borrowing will be restricted to loans that do not exceed the ‘probable life’ of the asset, or 30 years, whichever is less. As well, funds that have been borrowed must be used for the purpose and in the manner described in the borrowing bylaw. Under the Charter proposal, a statutory official like the Inspector of Municipalities must still approve all borrowing. This is a key foundation for the strong local government credit rating.

In addition, the Community Charter proposes that municipalities have the power to lend money and guarantee the repayment of loans to municipally controlled

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corporations, non-profit agencies, public authorities and persons providing services. All activity under this provision, as well as any liabilities incurred under agreements such as public-private partnerships, would be included in the calculation of municipal liability limits, to ensure there is no perception of an increase in the local government credit risk.

Tax Exemptions

The Community Charter proposes to retain statutory tax exemptions as set out in the existing legislation. However, the Community Charter proposes to allow the possibility of new exemptions that have not previously been used. One of the areas under consideration is the notion of providing tax relief to business enterprises, either to stimulate new economic activity or as a hedge against threatened job loss. This is not a completely new concept: during the recession of the 1980's, municipalities had the power to offer tax exemptions of 50 to 100 per cent to promote economic development. A provincial school tax exemption of 50 per cent also applied. Municipalities also had the authority to reduce the business license fee and development cost charges applying to eligible businesses for up to five years. These exemptions were used to kick-start an economic recovery, not to engage in long-term inter-municipal competition for business.

The Community Charter Council will examine the merits of introducing similar flexibility through the Community Charter. The 1980's program serves as one model of how these exemptions might proceed. The Council will consider matters such as whether to repeal the existing rule that prevents local government from aiding industrial, commercial or business undertakings, and what kinds of assistance are appropriate. It will also consider whether municipally determined exemptions should trigger automatic reductions in provincial school tax payable.

Provincial-Local Government Relationship

The vision of the Community Charter is that local governments should have the freedom and resources they need to do their jobs better. By continuing to recognize municipalities as an order of government within British Columbia, the Community Charter will support municipalities to reach their goal of more autonomy and self-reliance. More powers, better tools and more access to financial and other resources will reduce the dependence of municipalities on the provincial government, creating a more equal relationship. The Community Charter seeks to reinforce a new attitude of partnership.

The Community Charter proposes a shift from an emphasis on giving provincial approval to an emphasis on providing high quality advice and assistance to local governments. Provisions in the Community Charter will enhance consultation mechanisms for everything affecting municipalities, including changes to any legislation affecting municipalities and jurisdictional issues.

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Consultation

The Community Charter proposes to provide a requirement making consultation mandatory when the province intends to take actions that affect local governments directly. For example, there could be an expectation for provincial consultation with municipalities whenever the province wants to change legislation that might have a direct impact on specific communities. By requiring consultation, the Community Charter would make sure that provincial initiatives meet local needs. This would create a more cooperative provincial-local government relationship that reduces tensions and disputes. The establishment of the Community Charter Council, which has members selected by both the provincial government and the UBCM, illustrates the kind of shared decision-making that could be supported by the Community Charter. The Community Charter Council will be considering a range of options for promoting productive, efficient consultation opportunities.

Dispute Resolution

The Community Charter recognizes that disputes between municipalities and another local government, the province or a public authority will sometimes occur. In the past, these disputes have been decided either through arbitration or the courts, processes that have been costly, time-consuming and adversarial. Within the existing legislation, alternative dispute resolution (ADR) tools, such as mediation, facilitation and interest-based negotiation, are available only for disputes arising from regional growth strategies and regional district service conflicts.

The Community Charter emphasizes inter-governmental consultations that try to avoid disputes before they happen. It proposes to expand ADR options to any inter-governmental dispute. It would retain powerful, built-in incentives to resolve conflicts without going to formal dispute resolution processes such as arbitration. These provisions would save disputing parties time and money but will not prevent them from having access to arbitration or the courts if ADR methods fail. As well, it would encourage non-binding dispute resolution methods that are efficient, cost-effective and beneficial for building long-term, positive and productive relationships.

Offloading

Municipalities have long been concerned about ‘offloading’, for instance, being required to take on new duties. Concerns about municipalities being saddled this way with new responsibilities focus on how they will be able to afford such responsibilities (provision of resources) and the lack of due process in the offloading decision (consultation). In making its recommendations on the Community Charter, the Community Charter Council is guided by the principle that the required resources must be provided to fulfill responsibilities before new responsibilities are assigned to municipalities. The Council will be considering how to make this principle into a workable and effective requirement. It will fully consider the nature of consultations that would be required of the provincial government.

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Amalgamation

The Community Charter proposes to make sure there is no forced amalgamation of one or more municipalities. The legislation could, for instance, require that electors in each municipality give their approval before municipalities can be amalgamated.

Public Participation, Access and Accountability

The Community Charter proposes many clauses that will support open, transparent government at the municipal level. A corporate model of accountability would improve the effectiveness and accountability of municipal governments by streamlining decision-making processes. A key benefit of using this model is that municipalities would be able to make decisions efficiently while remaining open to public scrutiny.

Elector Assent

Under existing legislation, elector assent is required either by referendum or counter-petition for issues like making long-term financial commitments or providing a long-term tax exemption. Currently, votes are required for decisions like changing the size of the municipal council, stopping municipal sewer and water services, and fluoridating water.

The Community Charter Council will be considering a move to a more corporate model of accountability by ending counter-petitions and eliminating referenda for a range of issues.

Some assent requirements would remain under the Charter proposal: assent will still be required for decisions that would affect the Municipal Finance Authority (MFA) and its “triple-A” rating. This restriction has been put in place because the MFA credit rating is built on the joint and several liability of all of its members. The use of elector assent and the provincial approval of borrowing are part of the framework that reduces the risk of defaults on loans that would negatively affect the credit rating for all municipalities in British Columbia.

By eliminating many elector assent requirements, local governments may be able to operate more effectively and efficiently, saving both time and money. Instead of relying on voter assent to allow public input into decision-making, municipalities would be accountable to its citizens through public notice, hearings, annual reports, annual meetings and performance measures. The Community Charter proposes that referenda would continue to be used in the case of significant spending decisions.

Open Meetings

To make sure local governments remain accountable to their citizens, the Community Charter proposes that open meetings of municipal councils, committees and other municipal bodies, like boards of variance and advisory planning commissions, should

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still be required. The Community Charter may also require greater statutory disclosure and consultation. For example, regulatory bylaws will require notice. Community Charter Council will consider the question of whether or not more notices and more public hearings may be required in other areas of municipal activity.

The Community Charter Council will consider whether to provide additional permissive exceptions that allow closed meetings based on the subject matter being considered. Specifically, the Community Charter Council will be considering whether some negotiations can be discussed in private. The goal is to enable municipal councils to perform their administrative duties more efficiently, while remaining suitably accountable to the public.

Open Government Provisions

Under the corporate model of municipal governance, the Community Charter proposes to continue the existing requirement that municipalities develop five-year financial plans based on public consultation. In addition, an annual general meeting and an annual report would also be required. The Community Charter proposes that municipalities should continue to audit their finances and disclose these audits publicly. Any financial irregularities must be reported to the auditor and to the municipal council.

The Community Charter proposes that municipal councils must report on their performance to their citizens, based on flexible guidelines. The guidelines would reflect the wide range of circumstances within the province. For example, performance guidelines could be more elaborate in a large Lower Mainland city than they would be in a smaller village in the Interior.

Redress will still be possible through application to the court, the Ombudsman, or the Privacy Commissioner. No change is proposed in the application of ombudsman or information and privacy legislation to municipalities.

Conflict of Interest Guidelines

To maintain public confidence in fair decision-making, the Community Charter proposes new conflict of interest guidelines. These guidelines would be locally focussed to meet local needs. Specifically, the rules for provincial MLA's will not be imposed on local governments.

The Community Charter proposes to expand and clarify guidelines on conflict of interest for financial interests. The Charter Council will be considering a list of exceptions to identify situations where no conflict exists. These guidelines would apply to members of municipal councils. Exceptions where no conflict exists could include situations such as:

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- Being a volunteer who receives remuneration.
- Holding a municipal debenture.
- Receiving a municipal service under similar conditions to others.
- Remote or insignificant interests.

As well, the Community Charter proposes to set up the first rules ever for receiving gifts and benefits. It is proposed that members will be prohibited from accepting gifts as a result of performing their duties. Exceptions could be made for situations like:

- Compensation authorized by law.
- Campaign contributions.
- Gifts below a set value.

The Community Charter proposes to restrict former council members for a set period from being awarded or granted a contract or benefit. Charter Council will be considering necessary refinements to this principle.

Conclusion

The Community Charter seeks to provide municipal governments with a level of autonomy and self-reliance unprecedented anywhere else in Canada. It points to a new era of partnership and cooperation between local governments and the provincial government and heralds a more equal relationship between these orders of government. Working together to shape the draft legislation for the Community Charter, the province and local governments can make sure the Community Charter addresses existing legislative problems and meets local needs.

The Community Charter

Appendix A: Schedule of Regional Consultations

<i>Date</i>	<i>Community</i>	<i>Location</i>	<i>Host</i>
Saturday, October 20, 2001	Creston	Rotacrest Hall Recreational Centre 230-19 Avenue 11 am-5pm	Association of Kootenay and Boundary Municipalities
Wednesday, October 24, 2001	Kelowna	Best Western Harvey Avenue	Okanagan Mainline Municipal Association
Thursday, October 25, 2001	Courtenay	Coast Westerley 1590 Cliffe Avenue	Association of Vancouver Island and Coastal Communities
Saturday, October 27, 2001	Coquitlam	Executive Plaza Hotel North Road	Lower Mainland Municipal Association
November 15-16, 2001 Dates to be confirmed	Prince George Terrace	TBA	North Central Municipal Association