

**TO:** CITY MANAGER 1999 June 15

**FROM:** DIRECTOR PLANNING AND BUILDING Our File: 01.250

**SUBJECT:** 1999 UBCM RESOLUTIONS - UPDATE

**PURPOSE:** To present for Council's consideration a resolution for submission to the 1999 UBCM Convention resolution process, and to provide an update of active resolutions previously submitted by Council.

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**RECOMMENDATION:**

1. **THAT** Council approve the submission of the resolution contained in Section 2.0 of this report to the 1999 UBCM Convention.
2. **THAT** a copy of this report be forwarded to the UBCM, Suite 15, 10551 Shellbridge Way, Richmond, B.C., V6X 2W9.

**REPORT**

**1.0 INTRODUCTION**

Each year, resolutions are considered for submission to the UBCM Convention to request amendments to the Municipal Act, Provincial legislation or other legislation and policies.

This report presents a resolution to be considered at the 1999 UBCM Convention, and updates the status of those resolutions previously endorsed by Council and submitted to the UBCM which are still active, but not yet the subject of Provincial legislation.

**2.0 RESOLUTION FOR THE 1999 UBCM CONVENTION**

Earlier this year, Council requested that the a resolution on *Continuously Sounding Car Alarms* be prepared for consideration by Council for inclusion in the upcoming resolutions process at 1999 UBCM Convention. Council requested that the resolution seek amendments to the Municipal Act to provide the authority to tow from public streets motor vehicles whose alarms sound continuously. The report to Council on this subject from the Officer in Charge, Burnaby RCMP Detachment, referenced a similar 1993 amendment to the City of Vancouver Charter which gave the City of Vancouver specific authority to deem a vehicle to be unlawfully left on a street if the vehicle has a security system that is operating in contravention of a bylaw, or a horn that is audibly sounding for a period of more than 10 minutes.

In accordance with this request, the following resolution is proposed for submission to the 1999 UBCM Convention:

***“CONTINUOUSLY SOUNDING CAR ALARMS***

***WHEREAS*** municipalities undertake to regulate and reduce the generation of unwanted or irritating levels of sound to protect the quiet, peace, rest, enjoyment and comfort of persons in our communities;

***AND WHEREAS*** municipalities have experienced increasing levels of unwanted and irritating noise from unattended and continuously sounding car alarms which can not be effectively addressed under existing Municipal Act powers to regulate nuisances on public streets;

***THEREFORE BE IT RESOLVED*** that the Province be requested to amend the Municipal Act to give municipalities the power to impound and tow from public streets any motor vehicle that has an alarm/security system that is operating in contravention of a bylaw, or a horn that is audibly sounding for a period of more than ten minutes.”

**3.0 STATUS OF ACTIVE PAST RESOLUTIONS**

The following updates the status of those resolutions previously adopted by Council and forwarded to the UBCM resolution process which are still active but not yet the subject of Provincial legislation.

**1999 Resolution**

Council has forwarded one resolution this year to the UBCM for inclusion in the 1999 Resolutions Book. The resolution on the ***Provincial Task Force on Property Classification*** has been received by the UBCM and will be included in the Resolutions Book for the 1999 Convention. This resolution requests the Province to ensure that any proposed changes to the *prescribed classes of property regulation* not impact municipal property tax revenues nor deter the rate of mixed use development.

**1998 Resolutions**

**3.1 Increased Penalties for Stream Contamination**

This resolution requested the Province to amend existing legislation under the provision of the Offence Act to allow local government to impose a maximum fine of up to \$100,000 for a person(s) who is found guilty of fouling or contaminating a stream. The implementation of this resolution would assist local government in its efforts to protect local streams by further discouraging the illegal dumping of toxic substances into local storm drains and waterways.

The Ministry of Environment, Lands and Parks has advised the UBCM that fines of up to \$1 million are provided for under the Waste Management Act for the unauthorized discharge of waste into the environment with prosecutions normally initiated by the Ministry. They further advise that municipalities may impose additional restrictions on discharges to storm sewers by bylaw under the Municipal Act, and set limits for bylaw fines under the terms of the Offence Act. Staff will undertake to review the ability of the City to assess higher fines under the terms of the Offence Act to determine whether it may be possible to achieve the intent of the resolution under current legislation.

**3.2 (B36/B57) Traffic Safety And School Children**  
(Flashing Light School Zone Signs)

This resolution was submitted to the 1997 UBCM Convention to support a change to the Motor Vehicle Act to allow for the use of flashing light school zone signs modelled on those in use in Blaine, Washington.

The resolution was not endorsed at the 1997 Convention and was referred back to the City for amendment. The UBCM staff suggested that the resolution may have been too specific and a more general wording may garner greater support amongst members. To this end, the Traffic Safety Committee re-submitted an amended resolution which Council endorsed and forwarded to the UBCM in 1998.

This resolution was considered and endorsed by delegates at the 1998 Convention. In response to the resolution, the UBCM has advised that ICBC has begun to develop a strategy to examine road safety measures around schools. Once established, it is anticipated that this program will provide municipalities with the appropriate means to further address traffic safety issues in school zones.

**3.3 (B37/C28) Traffic Safety Enforcement**

In 1998 February, Council forwarded this resolution to the UBCM requesting that the Province appropriately share traffic fine revenue with municipalities to enable municipalities to maintain an appropriate level of traffic policing to maximize traffic safety benefits while potentially enhancing traffic revenues as a by-product of enforcement.

The UBCM has advised that this has been a long-standing issue for local government and the subject of previous resolutions in 1987, 1990 and 1993. The Ministry of Municipal Affairs announced in 1998 December that the Province would share a portion of fine revenues with local governments. The Minister has committed to sharing \$13.2 million among communities with policing responsibilities in 1999. In the case of Burnaby, a preliminary estimate of the potential traffic fine revenue

allotment was calculated at \$620,256. In April of this year, the Minister indicated that a formula has been established to determine the precise overall allocation. Staff expect to receive more information on the allocation formula and the resulting traffic fine revenue in the fall of 1999.

**3.4 (B49) Legislative and Policy Changes to Address the Sexual Exploitation of Children and Youth in the Sex Trade**

This resolution arose from recommendations contained in the report of the City's Task Force on the Exploitation and Prostitution of Children and Youth. The resolution requested the Attorney General of British Columbia to strike a working committee to review existing Federal and Provincial legislation, including Sections 212, 280, 281 and 810 of the Criminal Code of Canada, and various Provincial policies relating to court procedures. The resolution also requested the AG to lobby for or implement the changes necessary to ensure effective prosecution of those persons who are sexually exploiting children and youth in the sex trade, and to maintain the safety and well-being of sexually exploited children and youth throughout their involvement with the criminal justice system.

The Attorney General has established a committee on prostitution to develop inter-ministerial responses to issues related to prostitution and the sexual exploitation of children and youth in B.C. This Committee is reviewing the suggestions outlined in the City's resolution.

At the federal level, amendments have been made to the Criminal Code of Canada, effective May 1, 1999, to address prostitution-related issues. Section 212(4) has been amended and Section 212(5) deleted in order to make it easier to prosecute those obtaining, for consideration, the sexual services of a young person or communicating for that purpose. Section 183 has been amended to allow police to obtain judicial authorization to use electronic surveillance for the interception of private communications in respect of procuring and certain bawdy-house related offenses.

**3.5 (B50) Resources to Support Sexually Exploited Children and Youth and Those At-Risk for Sexual Exploitation**

This resolution also arose from recommendations contained in the report of the City's Task Force on the Exploitation and Prostitution of Children and Youth. This resolution requested the Province to proclaim Section 9 of the Provincial Child, Family and Community Services (CFCS) Act to enable the Ministry for Children and Families to enter into agreements with youth who have left home, in order to provide them with services and financial resources, without the necessity for the youth to come under the guardianship of the State, thus assisting the youth to avoid the risks associated with street life.

In response to this request, during 1998, the Province established pilot projects on youth agreements in six British Columbia municipalities. The evaluation of those pilot projects will provide information on the effectiveness and potential costs of implementing youth agreements.

**1997 Resolutions**

**3.6 (A21/C68) 100% Smoke Free Environment**

This resolution urged the Provincial government through the Ministry of Health to take responsibility for the introduction of legislation to ensure a 100% smoke free environment in all public places, including pubs, bars, restaurants, casinos and bingo halls. At the 1997 UBCM convention, there were a number of resolutions submitted relating to smoking regulation. While the Burnaby resolution was not considered, a similar resolution was endorsed and forwarded to the provincial government.

In response, the provincial government has established an inter-agency steering committee on environmental tobacco smoke composed of representatives from WCB, UBCM and the Ministry of Health. The purpose of the committee is to facilitate the coordinated introduction and promotion of environmental tobacco smoke measures across public and occupational health jurisdictions at the provincial and municipal level.

As of 1998 April, workers in most BC workplaces have been protected from secondhand tobacco smoke by new WCB health and safety standards. On January 1, 2000 these requirements will also apply to Restaurants, bars, game rooms, bingo halls, sporting arenas and extended-care facilities. The inter-agency steering committee is still meeting regularly to pursue other activities related to this issue.

**3.7 (B27) Age of Consent for Sexual Activity**

This resolution urges the Federal Government to amend the Criminal Code of Canada to raise the age of consent for sexual activity between a young person and an adult from 14 years to at least 16 years of age. It was submitted by Burnaby to the Federation of Canadian Municipalities (FCM) in 1997 February for consideration at the 1997 FCM convention. To further focus attention on this matter, the resolution was also submitted to the 1997 UBCM resolution process. The resolution was endorsed at the Convention and forwarded to the FCM for consideration at their annual conference in June.

The Federal government continues to review this request for a change to the age of consent from 14 to 16 years. The federal Minister responsible has indicated that the Department of Justice is developing a consultation paper on child abuse, neglect and exploitation and that the issue of the age of consent will form part of the paper.

### **3.8 Liability for local governments**

- (C45) Amend Sections 694 & 290 of the Municipal Act to Include Inspectors
- (C46) Time Period Limits for Liability
- (C47) Several Liability and Insurance Requirements
- (C48) Advancement of Building Industry Education and Certification Standards
- (C50) Designation of Liability

These resolutions arose from a 1997 January 13 report to Council from the Director Planning and Building regarding the status of initiatives to reduce the City's potential exposure to construction-related liability claims. The report was prepared at the request of Council as a result of a claim pertaining to the failure of a post tension structure to perform as designed.

The report identified a number of areas of concern and concluded that the City should continue to utilize the options provided in the Municipal Act to reduce the potential exposure to liability claims. The resolutions addressed outstanding areas of concern identified in the report regarding joint and several liability, accountability commensurate with responsibility, qualifications, education, warranty and insurance.

These resolutions were not individually considered at the Convention, but were included within the discussion of an updated Liability Action Plan at the 1997 Convention. The UBCM continues to raise these issues with the Provincial Government, and are now working to reduce liability with respect to responsibilities under the Home Owner Protection Act.

### **1995 Resolutions**

#### **3.9 (B10) Authority to Designate Buildings as Unsafe for Occupancy**

This resolution requested that the Province enable municipalities, through the building inspector, to evacuate a building or portion of a building which the inspector considers to present an imminent or serious danger to life or property.

This resolution was endorsed by the UBCM and forwarded to the Provincial Government for comment. The Province has indicated that the resolution is unclear as to the particular circumstances which would warrant giving powers to the building inspector to order and enforce an evacuation of a building because of imminent and serious danger to life or property. Earlier this year, City staff wrote to the Ministry of Municipal Affairs to clarify the information provided in the resolution to assist in its further consideration by the Ministry.

**1994 Resolutions**

**3.10 (B25) Age Classification and Restriction of Video Games**

This resolution requested the classification and regulation of video games based on violence, hatred or sexual exploitation. This resolution was endorsed at the 1994 UBCM Convention and was forwarded to the Provincial Government for consideration.

In response to this resolution, the Provincial Government has worked with the video game industry, and others, to implement a game rating system to provide consumers with information on the age suitability of games, as an alternative to government regulation of the industry. The Attorney General has indicated, however, that the Ministry would be prepared to re-examine the merits of amending legislation should self-regulation by the industry fail.

Given that the simple provision of information on the age suitability of games does not preclude access by young people to those games, staff, based on the resolution endorsed at the 1994 UBCM Convention, intend to write to the UBCM to again request that the Attorney General be urged to re-enter discussions on the administrative and legislative changes proposed and endorsed in the 1994 resolution.

**1993 Resolutions**

**3.11 (C50) Excessive Packaging**

This resolution requested that the Provincial Government enact policies and/or legislation to require manufacturers and distributors of goods and materials to reduce the amount of packaging used for their products. It further requested that the Province also enact policies/legislation whereby all public agencies and corporations give preference to suppliers of goods and materials that employ reduced methods of packaging.

Related to this matter, the provincial government implemented a new deposit-refund system for beverage containers in October 1998. The program will also require brand owners of beverage products to submit plans to show how containers will be at least 95% recyclable or refillable by 2003 March 31, and how containers not currently recyclable or refillable are to be phased out.

**1992 Resolutions**

**3.12 (B8) Disabled Parking Enforcement**

This resolution was submitted in response to concerns regarding the enforcement of illegal parking in disabled parking areas.

In 1996, Bill 10 Motor Vehicle Amendment Act contained legislative changes that offered some assistance in addressing this issue. In addition, the establishment of a Memorandum of Understanding (MOU) on accessibility last year has generated further discussions between the MOU Coordinator, communities and provincial staff on enforcement issues now facing local governments.

In 1997 August, a report was submitted to the provincial government by the Parking Sub Committee under the MOU on Accessibility. The report defines the scope of problems involved in addressing the disabled parking issues and makes recommendations to initiate the required coordinated approach to effectively address this issue. City staff will continue to monitor progress on this issue to identify the appropriate role for the City in the enforcement of illegal parking in disabled parking areas.

**3.13 (B50) Community Care Facilities/Group Homes**

This resolution requested that the Province, notwithstanding the provisions of the Community Care Facility Act, consult with local government regarding plans to establish group homes and other community based residential facilities. As well, it was requested that the Province develop a data base on all licensed residential care facilities and other residential institutional uses throughout BC.

With respect to the first component of the resolution, the Province, in 1996, established a standing Assistant Deputy Ministers' inter-ministerial committee which meets regularly concerning special needs housing. Also, Provincial officials indicate that staff from various funding ministries typically consult with municipal contacts regarding proposed group home developments. These officials further advise that the Province is moving away from group homes as a model of residential care. While group homes will continue to be established, as appropriate, other options will likely be more prevalent in the future (e.g., foster care, small unlicensed resources).

With respect to the second component of the resolution, the Province has established a group home data base administered through the BC Housing Management Commission.



**Other Active Resolutions**

**3.14 (1991-B58) Purchase of Factory Designed Alternate Fuel Vehicles**

This resolution was based on the fact that in British Columbia, factory designed vehicles that utilize alternate fuels are not commercially available and therefore costly retrofits are required. It was proposed that the Province establish a Province wide purchasing pool for these vehicles to urge the automobile industry to produce factory alternate fuel vehicles for the B.C. market.

In 1995 November, the Provincial Government released a policy paper entitled 'Green House Action Plan' that contains a proposal for the promotion and demonstration of fuel efficient and alternative fuelled vehicles. To further assist with this proposal, the Provincial Government has also established vehicle purchase guidelines for vehicle fleets.

At this time, the province is looking into further action on this issue arising out of discussions at the Kyoto Global Climate Conference, and has identified alternative fuel vehicles and the use of the Ballard fuel cell as initiatives it intends to promote. The Province also continues to undertake a number of other broad based initiatives to reduce pollution and improve air quality.

**3.15 (1990-B53) Development Cost Charges for Social Amenities**

This resolution requested an amendment to Section 935 of the Municipal Act to authorize municipalities to collect development cost charges (DCCs) for child care facilities and other social amenities, as deemed necessary by local governments. Similar resolutions were also passed in 1991 and 1994.

Through its participation on the Development Finance Review Committee and other forums, UBCM has made numerous requests to Municipal Affairs to broaden the purposes for which DCCs may be collected. The Ministry of Municipal Affairs is currently undertaking a comprehensive review of the Municipal Act, with assessment of the DCC sections scheduled to occur next year. Given the Ministry's aim of reducing the general restrictiveness of the Act for municipalities, the review may provide an appropriate opportunity for making the requested amendments to the DCC provisions for social amenities.

**3.16 Provision of Compensation to Municipalities for Street Closures**

Endorsed by the UBCM in 1979 and 1983, this issue was brought up for consideration in 1987 at the Premier's Conference on decentralization. The Land Title Amendment Act 1993, eliminates the entitlement of landowners, other than the original subdivider, to annex adjacent dedicated roads without compensation. In

such a case, the purchaser must pay market value. A proposal to assign municipalities title to municipal roads and allow road abandonments at the discretion of Municipal Councils remains in the hands of the Ministry of Municipal Affairs. The Ministry of Municipal Affairs has indicated that they are still looking at legislative changes regarding this issue.

### 3.17 Strata Plans for New and Unoccupied Buildings

This resolution was first sponsored by Burnaby in 1983 and again in 1987 to ensure that municipal bylaws are not made ineffective by excluding municipal approval of strata applications for new and unoccupied buildings.

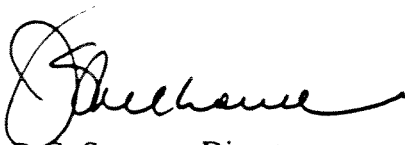
The Ministry of Finance and Corporate Relations circulated in 1994 April a discussion draft of the proposed new Condominium Act. A review of the draft reveals that provision has not been made for municipal approval of strata applications for new and unoccupied buildings. Subsequently, staff submitted a letter to the Ministry of Finance and Corporate Relations requesting inclusion of this item within the Condominium Act revisions. The UBCM has been advised that the consultation is still ongoing with respect to the Condominium Act revisions, and that the issues of concern to Burnaby were resubmitted to the Province and are still before the Ministry.

## 4.0 CONCLUDING COMMENTS

With Council endorsement of the resolution on *Continuously Sounding Car Alarms*, staff will forward the resolution to the UBCM for consideration at the upcoming Convention.

The UBCM deadline for receipt of resolutions is 1999 June 30. Resolutions received after this date are not included in the Resolutions Book for the Convention. Late submissions are reviewed by the UBMC Resolutions Committee to determine whether the resolution should be considered at the Convention under the guidelines for Emergency Resolutions. Late submissions that do not meet the guidelines for consideration as an emergency resolution are brought forward for consideration at the next UBCM Convention.

  
LP\tn

  
D.G. Stenson, Director  
PLANNING AND BUILDING

cc: City Manager                      Director Parks, Recreation and Cultural Services  
Director Engineering              City Solicitor  
Director Finance                    Chief Building Inspector