

TO: CITY MANAGER

2003 MAY 05

FROM: CITY CLERK

**SUBJECT: BILL 14 - COMMUNITY CHARTER**

PURPOSE: The purpose of this report is to advise Council of the changes in Bill 14 (the Community Charter) as a result of the consultation process and outlines actions that will be required once the Community Charter comes into force in early 2004.

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RECOMMENDATION:

1. THAT this report be received for information.

**REPORT**

Bill 14 - the Community Charter was recently introduced into the house and has received first reading. It is anticipated second reading will be granted shortly. The Community Charter as introduced differs somewhat from the document previously circulated for public input. This report outlines those differences and indicates some of the actions that will be required once the Charter comes into effect early in 2004.

**PART 1- PRINCIPLES, PURPOSES AND INTERPRETATION**

The “no downloading” principle of municipal-provincial relations in s. 2(2) has been strengthened. It previously referred to “new responsibilities” assigned by the Province to municipalities. It now states “the Provincial government must not assign responsibilities to municipalities unless there is provision for resources required to fulfil the responsibilities.”

**PART 2 - MUNICIPAL PURPOSES AND POWERS**

Under s. 8 (the “fundamental powers” provision) Council may now only “regulate and impose requirements” in respect of signs. The first draft of the Charter provided that Council could “prohibit” signs as well. Also, in relation to the regulation of business under s. 8, Council’s powers have been narrowed to “regulate in relation to business” from the previous “regulate and impose requirements in relation to business.” However, with a specific power to set terms and conditions in business licences this change of wording may have little practical effect.

There is a new s. 8(8) that requires a municipality to make available on request a statement respecting Council’s reasons for adopting a bylaw under its fundamental power to regulate within the 15 spheres of authority enumerated in s. 8(3), (4) and (5).

A fifth area of concurrent authority with the Province has been added to Section 9 - bylaws in relation to wildlife (the latter to be prescribed by regulation.)

### **PART 3 - ADDITIONAL POWERS AND LIMITS ON POWERS**

The provisions dealing with the regulation of carriers has been removed from the Charter. The current provisions in the *Local Government Act* will be left in effect until the relationship of this authority with the authority of the Motor Carrier Commission has been resolved.

The new s.47 makes it clear that the power to regulate animals includes the power to establish classes of animals based on sex, age, size or breed.

The somewhat confusing provision in the first Charter draft (s.56a) relating to bylaws "that would have the effect of prohibiting a business" has been removed.

### **PART 4 - PUBLIC PARTICIPATION AND COUNCIL ACCOUNTABILITY**

The categories of issues that may be discussed in a closed meeting have been expanded to include updates from Council representatives to Treaty Advisory Committees and matters for discussion that are related to an investigation by the Ombudsman. The power to apply for a cabinet regulation to add a category for consideration in a closed meeting has been withdrawn.

The requirement to prepare an annual report remains in the Charter. The report must include the audited annual financial statements, the amount of foregone property taxes relative to each tax exemption awarded, a report respecting municipal services and operations for the previous year, the addition of a "progress report" respecting the previous year in relation to the objectives and measures established for that year, a declaration of any disqualifications and a statement of municipal objectives and the measures that will be used to determine progress on those objectives for the current and next year.

The Charter clarifies the annual report must be made available at least 14 days prior to the annual meeting and the annual meeting may be held as part of a regular open council meeting. The public must be provided with the opportunity to make submissions and ask questions at the meeting during which the report is considered. The annual meeting must be advertised in two issues of a locally circulating newspaper.

The Charter also clarifies the requirement to provide public access to municipal records and that access includes copies of those documents. The documents listed include the financial disclosure statements of both Council members and nominees. Previously the documents were permitted to be viewed, but not copied.

The conflict of interest requirements for elected officials were substantially broadened in the initial draft of the Charter. There have been minor changes to the final draft by adding mandatory reporting of a contract between a municipality and a council member or a former council member up to six months out of office. Breach of this reporting provision may result in disqualification of a council member to the next local government election. These contracts must also be included in the annual report.

## **PART 5 - MUNICIPAL GOVERNMENT AND PROCEDURES**

This section outlines the roles and responsibilities of the Mayor and Councillors and sets out the options available with respect to Council procedures.

The Mayor's powers have been clarified to include "to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;". City of Burnaby municipal officers are the City Manager, City Clerk and Treasurer.

Breach of confidentiality penalties were established in the initial draft of the Charter. They have now been further strengthened so that should a member of council, or former member of council breach confidentiality and the act is not inadvertent, the municipality may recover damages from the person for any loss or damage that may occur.

The Charter clarifies there are only two classes of council meetings; regular and special. The regular meeting may be open or closed depending upon the nature of the matters being discussed. The first regular meeting of a council is the first meeting after a general local election as established in a procedure bylaw.

The Charter as introduced in the House expands the authority to council members and committee members to participate in electronic meetings. This is an optional procedure that Council may provide for in the procedure bylaw.

## **PART 6 - FINANCIAL MANAGEMENT**

The changes to the provisions of Part 6 are minor housekeeping changes that do not move substantively away from the original draft of the Charter.

## **PART 7 - MUNICIPAL REVENUE**

### **Permissive Industrial Tax Exemptions (Section 226)**

The previous draft of the Charter provided the ability to give tax exemptions to Major and Light industries in three circumstances:

- industries new to B.C., or
- existing industries needing financial help to expand (construct an improvement), or
- industries requiring assistance to continue operating.

This section has been replaced with a significantly different "industrial exemption" section not before considered by municipalities. The new section provides the ability to create designated areas within the city that allow tax exemptions for the increased assessed value of the property or improvements that has resulted as a consequence of new construction. The tax exemption can be allowed for up to ten years.

The new section is a significant change in direction from the original proposal and provides a much broader ability to give exemptions to industrial property. Unlike the previously drafted industrial exemption section, it provides the ability to entice industries to re-locate within designated areas of a city in order to take advantage of property tax exemptions. It would appear that a municipality only has to designate a "revitalization" area in its Official Community Plan or its Financial Plan and the exemption provisions could be applied. In Burnaby, these could range from Metrotown to Lake City to the Big Bend.

At the U.B.C.M. workshop on the previous draft charter, the potential for these exemptions to provide inter-municipal competition based on property taxes was characterized as the "race to the bottom". This new section provides municipalities the ability to compete to attract and retain industrial enterprise at the expense of the remaining tax payers and conceivably at the expense of taxpayers in other municipalities. It appears to substantially increase the applicability to the tax exemption provisions in comparison to the previous draft legislation.

The issue of new revenue sources has not been included in the Charter and will be part of a separate process led by the Ministries of Finance and Community Aboriginal and Women's Services.

## **PART 8 - BYLAW ENFORCEMENT AND RELATED MATTERS**

The provisions in the draft Charter dealing with "Challenges to Municipal Proceedings" and "Proceedings Against Municipalities" have been removed. These matters will continue to be governed by the current provision of the Local Government Act.

## **PART 9 - GOVERNMENTAL RELATIONS**

The area of required consultations has been expanded to include consultations with UBCM before a minister introduces an enactment, amendment or repeal of a regulation under property tax rates ; mandatory binding arbitration, or the Local Government Grants Act. Only the UBCM or the Province are able to enforce consultation obligations. An ongoing Charter Council has not been established in Bill 14.

The Act will come into force by regulation of the Lieutenant Governor in Council. It is anticipated this will occur in early January, 2004.

### **IMPLEMENTATION**

The Ministry of Community Aboriginal and Women's Services, the Union of B.C. Municipalities., the Local Government Management Association and various legal firms will be providing training opportunities for both staff and elected officials in advance of the Charter coming into force. This may be of particular interest to council members as the conflict of interest legislation is far more comprehensive in the Community Charter than in the Local Government Act.

City staff will be participating in these programs and information on the elected official programs will be provided to Council as it becomes available.

Initially staff will prepare, for Council's consideration, elements for a new procedure bylaw, performance measurement criteria, progress reports, a process for the annual report including the requisite public access and any new forms or policy matters that become mandatory under the Charter. The Fire Department is currently developing a new Fire Services Bylaw that will incorporate the requirements set out in the Community Charter.

### **CONCLUSION**

Although the Community Charter is working its way through the Provincial Legislature it is still in some respects a work in progress. There will be more information made available over the coming months in anticipation of its coming into force in early January, 2004. Staff will continue to monitor its progress and provide Council with updated information and requirements as they become available.

Respectfully submitted,



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City Clerk

Copy: Deputy City Manager  
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