

Appendices



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 NOVA SCOTIA



SUMMARY OF APPENDICES

Attached in the following pages are a number of documents from other jurisdictions or agencies. Each of the documents addresses, at least in part, how that area has dealt with the issue of local government relations with other orders of government. A brief summary of each of the documents follows.

BC Protocol of Recognition

The BC Protocol was one of the first types of provincial-municipal agreements in Canada. Since its acceptance in 1996 the Council which it created has stopped meeting due to frustrations with responsibility changes which occurred later. The Protocol touches on almost all of the typical areas in provincial-municipal relationships: clarity of responsibilities, consultations, adequate resources, and a dispute resolution process. The Protocol is now being used as the basis of BC's "Community Charter" legislation process.

Alberta Provincial/Municipal Charter Agreement

The Provincial/Municipal Charter Agreement was developed by the Alberta Urban Municipalities Association, and does not appear to have been agreed to by the Province of Alberta. Its provisions are nearly identical to the BC Protocol of Recognition but it does include a further definition of what is meant by consultation.

Ontario Memorandum of Understanding

The Ontario Memorandum of Understanding between the Province and the Association of Municipalities of Ontario was signed in December of 2001 for a two year term. The agreement provides for some of the same elements as the BC Protocol, and also specifies review and termination mechanisms. The agreement goes into detail about the creation and composition of an on-going series of meetings.

FCM Draft Model City Charter

This is a draft of model legislation covering all main aspects of a municipality. Two sections are of interest to this process: the preamble in part 1, and the section on intergovernmental relations in part 7. Part 7 deals with two new issues: provincial involvement in matters of municipal jurisdiction, and the ability of a municipality to communicate and negotiate directly with the federal government.



European Charter for Local Self-Government

This charter was adopted by the Council of Europe and ratifying states are asked to respect a certain number of the provisions contained in the charter. The charter contains some of the common relationship provisions such as respect for local authority jurisdiction, adequate resources to carry out duties, and the ability to cooperate with other local authorities.

International Union of Local Authorities World-Wide Declaration of Local Self-Government

The IULA declaration is different from many of the proceeding documents. It specifically identifies local government as the level of government closest to the people, and seems to suggest that as many responsibilities as possible should be delegated to the local government. It requires that the existence of local government be recognized in the constitution and provides local government with the authority to act on any matter that is not exclusively assigned to the provincial or national government.



Protocol of Recognition



Amongst:
Government of British Columbia
and
Union of British Columbia Municipalities
("the parties")

Whereas:

The well being of British Columbia's economy and society is of mutual concern to the parties;

All British Columbians, individually and collectively through their governments, share responsibility for building and sustaining the province on behalf of present and future generations;

There is a need to clarify and define the jurisdiction and responsibilities of the Province and local governments when addressing certain issues, and a need to increase the level of trust and commitment to cooperation;

The provincial and local governments, having distinct legislative authority in their respective fields, are committed to ensuring logically organized and cost-effective performance by both levels of government;

Effective cooperation between the provincial and local governments will lead to certainty and predictability of governmental performance, and promote public confidence and sound planning;

Public policy issues are complex, often transcending political boundaries, and thus require coordinated responses from the parties.

Therefore:

The Province recognizes local government as an independent, responsible and accountable order of government;

The principles established in this Protocol shall form the basis for the relationship between the provincial and local orders of government, to be further expressed through the formulation of individual sub-agreements affecting the responsibilities of the parties.

Principles:

1. Commitment to Action

In the interests of all British Columbia the parties are committed to discharge their responsibilities within their respective areas of jurisdiction, while respecting the jurisdictions of others.

2. Partnership

The parties recognize each other's strengths and capabilities. To maximize efficiency and effectiveness, the parties are committed to cooperate in the spirit of partnership particularly in the harmonization of legislation, regulations, policies, programs and projects.

The objective of both parties is to ensure a clear division of responsibilities which leaves the Province and local governments accountable for specific policies and gives them the authority and financial capacity to effectively perform their roles.

3. Responsibilities and Resources

Any party proposing a significant change in legislation, regulations, policies or programs that affects another party will ensure that a full evaluation is done of the costs and revenues associated with the proposed change.

New responsibilities will not be assigned to another party until issues of funding, liability and resources have been discussed among the parties.

With respect to matters where local governments are responsible, they should have adequate authority and independence to fulfil their responsibilities.

4. Flexibility

Legislation, regulations, policies or programs should respect the varying needs and circumstances of local governments in different parts of the province.

5. Notification and Consultation

In the spirit of fairness, openness and good faith any proposed significant change in legislation, regulations, standards, policies or programs will be preceded by appropriate consultation among the affected parties, including timely notification of the proposed change.

6. Information Sharing

The Province and local governments will cooperate in the development and distribution of information required for effective discharge of this agreement.

7. Dispute Resolution

In the spirit of partnership and efficient use of public resources, the parties agree to pursue alternate methods of dispute resolution wherever necessary and practical, ensuring the rapid resolution of disagreements.

Implementation:

The parties will cooperate in implementing this agreement through sub-agreements consistent with the above principles.

Provincial Local Governments Joint Council

The parties agree to establish a Joint Council composed of the Minister of Municipal Affairs and Housing, three other Ministers and the Officers of the UBCM.

The purposes of the Joint Council are to promote the review of existing legislation, regulations, policies or programs relating to local government, and to discuss the implementation of this agreement or sub-agreements.

Review of the Protocol

The parties shall review this protocol within three years of its adoption.

Administration of the Protocol

The lead contacts for administering this protocol are the:

- Minister of Municipal Affairs and Housing
- President of the Union of British Columbia Municipalities

Commitment:

IN WITNESS OF AN AGREEMENT to adhere to the terms established in this Protocol, the parties have executed this Protocol at Penticton, British Columbia, this 18th day of September, 1996.

SIGNED on behalf of the PROVINCE OF BRITISH COLUMBIA by:

*Original signed by
Glen Clark*

Premier
Province of British Columbia

*Original signed by
Dan Miller*

Minister of Municipal Affairs and Housing

**SIGNED on behalf of the UNION OF BRITISH COLUMBIA
MUNICIPALITIES by:**

*Original signed by
Joanne Monaghan*

President

Alberta Urban Municipalities Association -
PROVINCIAL/MUNICIPAL CHARTER
AGREEMENT

PRINCIPLES:

1. Commitment to Action

In the interests of all Alberta the parties are committed to discharge their responsibilities within their respective areas of jurisdiction, while respecting the jurisdictions of others.

2. Partnership

The parties recognize each other's strengths and capabilities. To maximize efficiency and effectiveness, the parties are committed to cooperate in the spirit of partnership particularly in harmonizing legislation, regulations, policies, programs and projects.

The objective of both parties is to ensure a clear division of responsibilities which leaves the Province and municipal governments accountable for specific policies and gives them the authority and financial capacity to effectively perform their roles.

3. Responsibilities and Resources

Any party proposing a change in legislation, regulations, policies or programs that affects another party will ensure that a consultation is done in a timely manner to allow for a full evaluation of the impacts, costs and revenues associated with the proposed change.

New responsibilities will not be assigned to another party until issues of funding, liability and resources have been discussed and resolved among the parties.

With respect to matters where municipal governments are responsible, they should have adequate authority, resources and independence to fulfil their responsibilities.

4. Flexibility

Legislation, regulations, policies or programs should respect the varying needs and circumstances of municipal governments in different parts of the province.

5. Notification and Consultation

In the spirit of fairness, openness and good faith any proposed change in legislation, regulations, standards, policies or programs will be preceded by proper consultation and an appropriate notification period.

Appropriate Notification:

- Recognizes that one party (being municipalities) will require sufficient time to gather information and opinions to develop a proper consensus.
- Requires the setting of fair timelines to which both parties must agree.

6. Information Sharing

The Province and municipal governments will cooperate in the development and distribution of information required for effective discharge of this agreement.

7. Dispute Resolution

In the spirit of partnership and efficient use of public resources, the parties agree to pursue alternate methods of dispute resolution wherever necessary and practical, ensuring the rapid resolution of disagreements.

8. The Alberta Act

In the spirit of good faith the province agrees to seek and obtain the appropriate changes to the Alberta Act to enshrine the essence and clauses of this agreement into Federal law.

IMPLEMENTATION:

The parties will cooperate in implementing this agreement through amendments to the ALBERTA ACT and through sub-agreements consistent with the above principles.



FINAL DRAFT

MEMORANDUM OF UNDERSTANDING

between the

Association of Municipalities of Ontario

and the

Province of Ontario

as represented by the

Minister of Municipal Affairs and Housing

(referred to as the parties)

Whereas:

The well being of Ontario's economy and society and ensuring vibrant, healthy communities for Ontarians is of mutual concern to the parties;

The Province of Ontario (Province) wishes to work with Ontario municipalities to promote a strong, barrier-free economy and strong communities with a clean, healthy environment;

All Ontarians, individually and collectively, share responsibility for building and sustaining the province on behalf of present and future generations;

Effective cooperation between the Province and municipalities enhances certainty and predictability of governmental performance, and promotes public confidence and sound planning;

Public policy issues are complex and thus require coordinated responses from the parties;
and

Bill 111 (*Municipal Act, 2001*) provides that the Province endorses the principle of regular consultation between the Province and municipalities in relation to matters of mutual interest.

Therefore:

The Province recognizes municipalities as responsible and accountable governments with respect to matters within their jurisdiction, and this Memorandum sets out the principles and procedures regarding consultation between the Province and the Association of Municipalities of Ontario (AMO); and

Consultation with AMO under the terms of this Memorandum does not preclude the Province from conducting other consultations directly with the municipal sector.

Principles:

1. Respect for Area of Jurisdiction

1.1 The parties shall endeavour to discharge their responsibilities within this Memorandum, while respecting each party's area of jurisdiction.

2. Commitment

- 2.1 The Province is committed to cooperating with municipalities in considering new legislation or regulations that will have a municipal impact.
- 2.2 The Province and municipalities share a common goal of ensuring a clear understanding of responsibilities so that the Province and municipalities are accountable for specific policies and effective performance of their respective roles.
- 2.3 This Memorandum builds on the strong relationship between the Province and municipalities and formalizes the Province's support for the principle of consultation with the municipal sector.

3. Prior Consultation

- 3.1 The objective of consultation with AMO is to receive input on proposals and to identify impacts that would arise from a proposed statutory or regulatory change and its implementation.
- 3.2 In the spirit of fairness, openness and good faith, any proposed change in legislation or regulations that, in the Province's opinion, will have a significant financial impact on the current municipal budget year or on the current municipal budget planning cycle will be accompanied by prior consultation.

4. Responsibilities

- 4.1 On matters subject to consultation under the terms of this Memorandum, the Province shall provide a rationale for the proposed change in legislation or regulations to enable discussion of issues related to the assignment of new and/or expanded responsibilities to the municipal sector.

5. Exclusions

- 5.1 Emergency situations, matters subject to public interest immunity and matters in the Provincial budget, budget papers and budget bills are excluded from the application of this Memorandum.

6. Failure to Comply

- 6.1 Failure of the parties to comply with this Memorandum does not affect the validity of any action taken by the parties or give rise to any rights or remedies by the parties.

7. Information Sharing

- 7.1 The parties shall cooperate in the development and distribution of information required for effective implementation of this Memorandum. Confidentiality of information will be respected, as described in Schedule A.

Implementation:

8. Cooperation

- 8.1 The parties will cooperate in implementing this Memorandum consistent with the above principles.

9. Term

- 9.1 This Memorandum takes effect on January 1, 2002 and expires on December 31, 2004.

9.2 Notwithstanding subparagraph 9.1, a party may terminate this Memorandum at any time, without cause, upon ten (10) days written notice.

10. Renewal

10.1 This Memorandum may be renewed three years after its commencement if both parties agree.

11. Review of the Memorandum of Understanding

11.1 This Memorandum will be reviewed by the parties one year after adoption, or at any other time mutually agreed upon by the parties. Amendments to the Memorandum may be made with the agreement of both parties.

12. Entirety

12.1 All terms and conditions of the Schedules are incorporated into this Memorandum except where they are inconsistent with this Memorandum in which case the terms of the Memorandum shall take priority.

13. Administration of the Memorandum of Understanding

13.1 The lead contacts for administering this Memorandum are:

- ▶ Director of the Urban Affairs and Stakeholder Relations Branch of the Ministry of Municipal Affairs and Housing as the designate of the Minister of Municipal Affairs and Housing; and

- ▶ Executive Director of AMO as the designate of the President of AMO.

14. Meetings

- 14.1 In furtherance of the objectives of consultation, meetings between the parties shall be held on a regular basis, in such manner as described in Schedule B.
- 14.2 Meetings can be called by either party at the convenience of the other party and will include the Minister and/or the Director of the Urban Affairs and Stakeholder Relations Branch of the Ministry of Municipal Affairs and Housing (MMAH) and the President and/or the Executive Director of AMO.
- 14.3 The scheduling of the meetings, including their frequency, location, timing and identity of participants, is to be mutually agreed to by the parties in conjunction with prior approval of the meeting agenda. In developing a meeting agenda, AMO may suggest specific priority issues or proposed policy or legislative initiatives for discussion.
- 14.4 In advance of any meeting, the Province can request inclusion of municipal sector representatives beyond the membership of AMO and AMO can request inclusion of Provincial representatives in addition to staff of MMAH, which both parties shall endeavour to accommodate.
- 14.5 Consultation may take place at any time between the Province and AMO outside of the meetings referred to in subparagraph 14.1 and may be considered consultation for the purposes of this Memorandum.

IN WITNESS WHEREOF to make best efforts to adhere to the terms established in this Memorandum, the parties have executed this Memorandum.

**HER MAJESTY THE QUEEN in right
of Ontario as represented by the
Minister of Municipal Affairs and
Housing**

Witness
Name:
Title:

Hon. Chris Hodgson
Minister, Ministry of Municipal
Affairs and Housing

Date

**Association of Municipalities of
Ontario**

Witness
Name:
Title:

Ann Mulvale
President, Association of
Municipalities of Ontario

Date

I have authority to bind the Corporation.

SCHEDULE A

1. Confidentiality

- 1.1 For the purposes of this section, "confidential information" means all information or material of the Province and AMO that is of a proprietary or confidential nature, regardless whether it is identified as proprietary or confidential or not.
- 1.2 The parties shall treat as confidential and safeguard, either during or after the term of this Memorandum, any confidential information acquired by or produced through the performance of this Memorandum and shall not use or disclose to any person, firm, corporation or municipality, either directly or indirectly, any such information without first obtaining the written permission of the other party.
- 1.3 AMO understands and agrees that this Memorandum and any materials or information provided to the Province through the performance of this Memorandum may be subject to disclosure by the Province pursuant to the *Freedom of Information and Protection of Privacy Act* (R.S.O. 1990, c.F.31).
- 1.4 Nothing in this Memorandum affects the application or operation of the *Freedom of Information and Protection of Privacy Act*.

SCHEDULE B

1. Attendance at Meetings

Core Participants

Minister of Municipal Affairs and Housing and/or Director, Urban Affairs and Stakeholder Relations Branch, MMAH
President of AMO and/or Executive Director of AMO

Other Potential Participants

Staff of the Minister of Municipal Affairs and Housing
Deputy Minister, MMAH
Assistant Deputy Minister, Local Government Division, MMAH
Other Assistant Deputy Minister(s), MMAH
Manager, Urban Affairs and Stakeholder Relations Branch, MMAH
Other MMAH staff

Minister(s) and staff from ministries other than MMAH

Chair of the County Caucus, AMO
Chair of the Large Urban Caucus, AMO
Chairs of the Northern Caucus (NOMA and FONOM), AMO
Chair of the Regional Caucus, AMO
Chair of the Rural Caucus (ROMA), AMO
Chair of the Small Urban Caucus (OSUM), AMO
Chair of the Toronto Caucus, AMO
Director of Policy and Government Relations, AMO
Other AMO staff

Chair of the Large Urban Mayors' Caucus of Ontario (LUMCO)
Chair of the Regional Chairs of Ontario and Single Tier Mayors
Chair of the Association française des municipalités de l'Ontario (AFMO)

2. Meeting Schedule

The first meeting to be held by the end of March 2002. Future dates to be jointly determined by the parties.

3. Meeting Locations

Meetings may alternate between MMAH and AMO offices.

4. Agenda Setting Procedures

MMAH and AMO staff to discuss draft agenda in advance of meeting. Agenda to be finalized, approved by both parties and distributed two (2) weeks prior to meeting.

5. Process for Recording Decision Points

Decision points at each meeting to be recorded by host staff at meeting location, to be approved by both parties and distributed to the MMAH and AMO contacts.

FCM - Model Framework for a City Charter

Introduction

A municipal Charter is a legal instrument that establishes the institutional framework of a municipal government and the scope and (geographic) jurisdiction of its authority.

A municipal Charter defines many of the rights, responsibilities and resources of a municipal government. In so doing, a City Charter structures a municipal government's relationship with local residents and other orders of government – the constituencies from whom it receives its legitimacy and financial support.

A modern municipal Charter should help government officials, the courts and the general public to answer the following questions about the city to which it applies:

- (i) What types of powers is the municipality entitled to exercise?
- (ii) Where (i.e. location) is the municipal government able to exercise its authority?
- (iii) What are the municipality's essential decision-making structures and procedures?
- (iv) From whom and how does the municipality receive its political legitimacy, legal authority, and financial resources? To whom and how are municipal officials held accountable?

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Part 1: Preamble

A municipal Charter may begin with a preamble. The function of the preamble is to:

- Lend shape and coherence to the Charter statute by specifying the core concepts and assumptions upon which it is based.
- Provide direction to public officials, the courts and the general public on how to interpret the Charter.

Examples of essential concepts and assumptions that could be included in the preamble of a Charter include:

1. **Citizens accord legitimacy to municipal government (among other ways) by paying taxes to support local services and voting in local elections. It is therefore appropriate for the Province to regard municipalities as an autonomous and accountable order of government.**

The Charter might require the Province to relate to the City as if it were an autonomous, accountable order of government. The implications of this principle could be specified in further detail in other parts of the Charter.

2. **Citizens expect municipal, provincial and federal government officials to co-ordinate their efforts so as to improve the efficiency and effectiveness of government action. It is therefore appropriate for the Province to:**
 - (I) **Consult with the City before taking decisions that directly impact the City, and**
 - (II) **Allow the City to negotiate directly with the Federal government.**

Recognising the City as an accountable and autonomous government, the Charter could enshrine the City's right to be consulted before provincial authorities take any actions (or develop policies) with a direct and significant impact on the City.

3. **Citizens cannot give full expression to their preferences or hold elected representatives accountable if their government has neither the financial resources nor the legislative authority to fulfil its responsibilities.**

The Charter could require the Provincial government to provide the City with financial resources and autonomy (i.e. authority and decision-making discretion) in line with its responsibilities.

Part 2: City Purposes

The “City Purposes” section of a Charter describes, in broad outline, the function and responsibilities of a municipality. A city’s purposes will usually map closely onto its “spheres of jurisdiction” since it makes no sense to assign a purpose to a governmental entity that lacks the authority required to achieve this purpose. Accordingly, a charter could include a sub-section on “spheres of jurisdiction” within this section or simply refer to “spheres of jurisdiction” instead of “city purposes”.

It is both possible, and potentially useful, to make a distinction between the intrinsic and instrumental purposes of a municipal government. The former consists of broadly recognised “ends-in-themselves”, which any level of government could legitimately lay claim to pursue. The latter set of purposes could be considered essential “means-to-these-ends” – that is, the set of activities that a city government must carry out in order to fulfil its intrinsic purposes.

Intrinsic purposes of a City might include providing for:

- Democratic expression of the citizen’s values, priorities and beliefs
- Peace, order and good government;
- The health and (economic and social) well-being of current and future generations of City residents
- The safety and protection of persons and property

Instrumental purposes of a City might include:

- Stewardship of the City’s (financial, human, social and physical) assets
- Stewardship of the City’s natural environment
- Ensuring the integrity of the process and mechanism by which binding collective decisions are made and enforced
- Representing the City’s interests to non-residents and other governmental and corporate bodies outside the city
- Ensuring the impartial, efficient and effective application of municipal laws and regulations
- Supporting the active participation of all individuals and groups in the public life and politics of the City

Part 3: General Provisions

“General Provisions” of a municipal Charter can be used to define key characteristics of the municipality and its local government, and to provide further guidelines to public officials and the courts on how the Charter itself ought to be interpreted.

Examples of key characteristics that could be defined in this section include:

- (i) The nature of the City itself. (e.g. *The inhabitants of the City of ___ are incorporated as a body corporate in the governmental entity know as the City of ____*).
- (ii) The name of the decision-making body entitled to exercise authority on the City’s behalf. (e.g. *The powers, duties and functions of the City are performed or exercised by its Council*).
- (iii) The relationship between one decision-making session and the next. (e.g. *Anything initiated in one term of Council may be continued or completed in a subsequent term of Council*).
- (iv) The territorial boundaries of the municipality and the corresponding area over which it has jurisdiction. (e.g. *Except as otherwise provided in this Charter, the City and its council may only perform or exercise their powers, duties and functions within the city boundaries, as specified in Schedule 1*).

To provide additional guidance to courts, public officials and the general public on how it ought to be interpreted, a municipal Charter could:

- (v) Establish a city’s right to define its own priorities and exercise full discretion within its spheres of jurisdiction or while pursuing activities that are consistent with municipal purposes. (e.g. *The City has the right to determine the local public interest and to act within its spheres of jurisdiction without interference from the Provincial legislature, unless provincial or federal statute expressly prohibits such actions*).
- (vi) Recommend that the Charter’s provisions be interpreted broadly.
- (vii) Recommend that a general power specified in the Charter not be interpreted as being limited by a specific power or vice versa.
- (viii) Sketch out a dispute resolution process to be used by City and provincial officials if any future disagreements arise over the meaning of the Charter.

Part 4: Democratic Control, Access and Accountability

A modern municipal Charter is likely to reflect the core democratic values of public participation and accountability. Provisions designed to safeguard these values may be bundled together in a distinct “Democratic Control, Access and Accountability” section or woven throughout various parts of the Charter.

The provisions of this section aim to limit abuses of power by public officials and to ensure that a municipal government remains responsive to the concerns and interests of the local electorate and residents.

Important aspects of municipal governance that could be addressed in a Charter with an eye toward enhancing accountability include:

- (i) Local design, assent and amendment of the Charter
- (ii) Elections for Council and mayor
- (iii) Community engagement
- (iv) Open meetings, access to information, public notice and hearings
- (v) Reporting and performance measurement
- (vi) Conflict of interest policy

Local design, assent and amendment of the Charter

Design: A draft Charter could be developed through one of two scenarios. A province could decide to draft by itself a Charter that it deems to be in the best interests of a municipality. Alternatively, a Province could pass enabling legislation or otherwise permit a city council and/or its residents to draft their own Charter.

Assent: Irrespective of whether provincial officials or local residents design the Charter, the assent of local residents and/or City council could be required before it comes into effect. In such cases, a Charter (or its enabling legislation) would need to specify an appropriate mechanism for determining whether Council and/or the electors support the proposed statute. In particular, the authors of a Charter must consider whether a simple majority or some other threshold of support (e.g. a super-majority of 2/3) constitutes the requisite “approval”.

Amendment: A Charter could include an amending provision that allows either the Council and/or electors to recommend to the responsible Provincial minister that changes be made to the Charter.

Elections for council and mayor

To ensure that Council members remain responsive to residents’ concerns a Charter can include provisions requiring local elections to be held on a regular basis (e.g. every 3 or 4 years) and for any Council seat vacated in mid-term. Alternatively, a Charter could subject itself to Provincial

statutes that specify the rules, schedules and procedures that are to be followed with respect to local elections.

A Charter could also subject a city to provincial campaign finance legislation (if such exists) or require a city council to develop a campaign finance by-law within a specified period of time.

Community engagement

A Charter can provide voters (and other residents and businesses subject to Council decisions) with various means to become more directly involved in local decision-making. A range of community engagement mechanisms could be supported in a Charter, including:

- Public consultation requirements and procedures
- Petitions
- Non-binding referenda
- Binding referenda

Open meetings, public notification, access to information and public hearings

To provide the public with an opportunity to fully and fairly evaluate the process (and arguments) by which Council reaches decisions, a Charter may require all meetings of Council or its committees to be open to the public. The conditions under which a Council or committee meeting may be closed to the public and/or officers or employees of the City could be specified of the Charter.

To further enhance the transparency of municipal government, a Charter could also require that:

- (i) By-laws be enacted in a public meeting
- (ii) The “open meeting” provisions of the Charter apply to all committees, commissions, advisory bodies and entities exercising City or Council powers
- (iii) Council state (either by resolution or in a public notice) the reason for going “in camera”

A Charter could also insist upon and articulate specific standards for public notification and public access to municipal records. This could be done by detailing practices in the Charter itself or by referring to existing Provincial legislation.

Similarly, a Charter could require and/or authorise Council to develop a bylaw specifying a procedure and requirements for public hearings.

Annual reporting requirements

To help the public to hold their elected representatives accountable, a Charter could require Council to report or otherwise make available to the public each year the following:

- The City’s budget
- Detailed information about the City’s operations and services
- The City’s latest audited financial statements
- A (required) business plan
- A report on the City’s goals and objectives
- Information about any violations of the City’s conflict of interest policy
- Disclosures made under the financial disclosure provisions of the Charter
- A record of total remuneration, expenses and benefits paid to Council members; and
- A record of gifts received by Council members

Conflict of interest policy

A Charter could help to establish clear standards of professional conduct and integrity by requiring City administrators and elected officials to institute and comply with a “conflict of interest” policy.

Part 5: Powers

The nature and strength of the tools available to a municipality to affect the physical environment and the actions of individuals, business and organisations that operate within its boundaries are defined in the “Powers” section of a Charter.

The two broad categories of powers that would typically be included in this section of the Charter are:

- Governmental powers (e.g. general law- and rule-making authority)
- Natural person powers (i.e. corporate powers)

This section of a municipal Charter could also define a city’s powers with respect to a particular class of objects or public services (e.g. property or highways) or stipulate how a change in circumstances alters a city’s authority (e.g. emergency powers).

A city’s revenue-generating mechanisms are an integral component of its governmental power. However, the significance and complexity of this area means that it is likely to be treated in a separate section of the Charter.

Governmental Powers

Governmental powers granted to a city through a Charter could include some or all of the following:

- Authority to enact bylaws, resolutions and regulations bestowing either positive rights (i.e. entitlement to do or receive something) and negative duties (i.e. requirement to refrain from doing or receiving something) upon individuals, corporations and organisations.
- Authority to enforce by-laws and create punishable offences
- Authority to apply for injunctions
- Authority to expropriate property
- Authority to establish a service or program or undertake activities in pursuit of legitimate City purposes
- Authority to impose fees
- Authority to issue licences and permits
- Authority to delegate or transfer services or authority to another body
- Authority to levy taxes

Regulatory Powers

An essential element of a municipality's governmental power is its regulatory authority, which typically includes the power to prohibit, authorise, control, inspect, limit and restrict the activities of individuals, businesses and organisations.

A Charter can qualify a general grant of regulatory powers in various ways. Provisions that might be used to qualify regulatory powers are listed below:

- A provision that subjects the city's power to regulate to any specific conditions or restrictions specified in the Charter itself or other provincial statutes.
- A provision requiring the Council to enact a bylaw governing the city's regulatory practice, which in turn obliges the municipality to follow various procedures (e.g. public notification) when implementing a regulation in order for it to be deemed valid.

Other provisions in this section could elaborate upon a municipality's authority to grant licenses, permits, approvals, or to develop and require compliance with codes and standards.

Natural person powers

In Canadian law, natural person powers ascribe to an entity (e.g. municipality) the authority to do whatever a person is entitled to do, especially with regards to conducting day-to-day business transactions. For instance, a municipality with unabridged natural person powers has the right to enter into contracts, hire and dismiss employees, and buy and sell land or assets.

An example of a Charter provision bestowing natural person powers on a City might read as follows: *"The City has the power, capacity, rights and privileges of a natural person of full capacity, except to the extent expressly limited or restricted under this Charter"*.

Natural person powers can be grouped into various categories, including:

- Contractual powers (e.g. authority to enter into any form of agreement)
- Commercial powers (e.g. authority to own shares of a corporation or control a corporation)
- Instruments of commerce (e.g. authority enter into a partnership; grant an exclusive right or monopoly; make a loan or grant a mortgage)
- Rights of expression and philanthropy (e.g. authority to give or sell land, goods or services for less than fair market value; establish a foundation; give grants or bonuses for economic development, political purposes or cultural support)
- General powers (e.g. have the capacity to sue and be sued, including the right to sue for defamation or other "personal" torts)

Limitations on a City’s Powers

One of the central objectives of a Charter is to eliminate the need for a province to expressly and specifically delegate powers to municipalities through so-called “laundry-list” legislation. By enacting a City Charter as a provincial statute, a province essentially says to a municipal government: “Within this geographic area, and with regards to these types of activities and purposes, you are free to do decide upon your own course of action. You don’t need to ask us for permission to do every little thing.” In other words, a Charter replaces itemised lists of express powers with general grants of authority.

Nonetheless, a Charter is likely to contain provisions restricting some of these general grants of power (e.g. assigning a municipality some but not all natural person powers) or reserving a province’s right to do so in the future. In addition, a Charter could include one or more “authority-limiting” provisions which apply to all (or most) of the statute:

- A provision that expressly declares policy areas (or a range of activities) over which the Province retains exclusive or primary jurisdiction (e.g. mining and minerals; access to information and protection of privacy; human rights, etc.), even if these activities might reasonably be understood to be “local matters”.
- A provision which establishes the “consistency rule” for determining the validity of a City bylaw. This rule declares that a City bylaw, or a provision of it, is not valid if it is inconsistent with the Charter or a provincial statute, regulation, or order. A bylaw is considered to be inconsistent with a provincial statute if in order to comply with it, a person or organisation must violate a provincial law.
- A “claw-back” provision which anticipates and defines the conditions under which the provincial government is entitled to re-assume authority it has delegated to the City under the Charter. Such conditions might include: (i) meeting with City officials prior to invoking a “claw back”, (ii) a requirement to issue a public report outlining the government’s rationale for reassuming delegated authority, or (iii) a requirement to hold public hearings on the question of whether it is appropriate for the Province to exercise its claw-back authority.

Part 6: Financial Instruments and Revenue Sources

The financial instruments and revenue sources provided to a municipality through a Charter are perhaps the best indication of the degree of autonomy that a Province intends to offer the Charter-recipient. After all, having wide discretion to set priorities and make expenditures is an empty privilege for a municipality with limited revenues or access to financing.

A Charter’s financing provisions are likely to address five broad topics:

- i) Financial planning, management and accountability measures
- ii) Charges and fees for core municipal functions
- iii) Municipal-Provincial fiscal arrangements
- iv) Taxes
- v) Other financial instruments

Financial planning, management and accountability

A Charter may include various financial planning, management and reporting requirements to lessen the likelihood that municipal officials will abuse any of their new (or strengthened) financial powers. Examples of such provisions include:

- A provision requiring a city to prepare a (medium or long-term) financial plan on a regular basis.
- A provision requiring a city council to establish modern, efficient, and/or fair procedures for imposing and collecting taxes and user charges. This provision might refer to “administrative fairness” rules or other relevant definitions set out in the Charter.
- Certain grants of grants of tax-levying authority may be accompanied by various sub-provisions concerning the tax subject’s right of appeal, the frequency of tax assessment (for property tax), or other measures to ensure the municipality exercises its taxing authority in an appropriate, fair and effective manner.

Charges and fees

A modern municipal Charter can authorise a city to assess development charges and user-fees. Development charges are designed to recoup the capital costs of providing new or expanded buildings with hard, essential services. User fees aim to recover the full administrative and overhead costs of providing a core municipal service, work or facility. With respect to the latter, a key consideration is whether a Charter should allow a city to impose user-fees that are “in the

nature of a tax”. Doing so would permit a city to set rates above the level required to recoup administrative expenses in order to provide for:

- Anticipated capital expenses (e.g. for replacement, future development, extensions, etc.)
- Repair and maintenance, or
- Incentives to encourage the proper use or socially-optimal “consumption” of a service, work or facility (e.g. instituting a variable user fee for use of a city’s sanitary system so as to discourage individuals or firms from depositing harmful or dangerous items in the system)

A Charter could also authorise a municipality to charge fees for non-core services (e.g. such as those provided to a business improvement district) or for the extraordinary use of a particular municipal service or work. These provisions provide a city with the flexibility it needs to address the unique circumstances of certain residential or commercial groups.

Municipal-Provincial fiscal arrangements

Clarifying the inter-governmental fiscal relationship between a city and the Province is one of the central aims of a Charter. Three aspects of this relationship likely to be addressed in a Charter are discussed below:

(i) Transfer of provincial income and sales tax to the City

A Charter could include a provision obliging the Province to transfer to a city a portion of provincial income, sales tax or other type of tax (e.g. gas tax, vehicle registration fee, etc.), as part of either a special commitment to the city or a broader provincial revenue sharing program.

(ii) Payment for services rendered by the City to the province or transfer of tax revenue collected by the Province on the City’s behalf.

A Charter could include provisions that require the Province to issue payment or reimbursement to a municipality arising from various forms of inter-governmental co-operation. For example:

- A provision requiring the Province to reimburse a city for any expenses it incurs for holding in custody at a municipal detention facility individuals who have been charged with Provincial offences.
- A provision establishing a Provincial obligation to transfer to a city all fines and penalties it collects for motor vehicle moving violations committed within the municipality’s boundaries.
- A provision requiring the Province to transfer to a municipality (less an agreed upon administrative fee) the full amount of any tax that it has collected on the city’s behalf.

(iii) Financial guarantees in case of off-loading or service realignment

A Charter could include a provision obliging the Province to allocate adequate, appropriate and sustainable financial resources to a city whenever it requires the municipality to assume responsibility for a provincial program, service or facility.

In addition, a Charter could require the Province to consult with city officials before taking any decision that would result in the city assuming responsibility (voluntarily or involuntarily) for a provincial service, program or facility.

Taxes

A Charter is likely to be very specific about which types of taxes a city is permitted to levy. The set of taxation powers accorded to a municipality in a modern municipal charter would likely reflect some or all of the following principles of taxation:

- (i) *Efficiency*: Ensuring a better fit between the supply and demand for public services by (i) providing a city with the authority to collect taxation revenue from all groups who benefit from the services it provides and/or (ii) access to “buoyant” sources of tax revenue that rise and fall in line with economic cycles.
- (ii) *Equity*: Ensuring that all groups of taxpayers (e.g. owners of commercial, institutional and commercial property) pay their fair share of taxes and/or that residents’ “ability-to-pay” is reflected to some degree in the taxes which they owe to the city.
- (iii) *Cost recovery and conservation*: Certain private decisions and commercial transactions (e.g. choosing to drive a car) impose a cost on society – and a city -- that is not fully reflected in the price that individuals must pay to engage in such activities (e.g. social, economic and health costs of automobile pollution and congestion). A charter could equip a city with the tax revenue it needs to recover these costs (e.g. dedicated share of provincial or federal fuel tax) and/or to discourage the activity which imposes these so-called “negative externalities” in the first place.

A Charter could allow a municipality some flexibility with regards to tax abatement, assignment, collection scheduling and so forth – in other words, the ability to use tax incentives as a policy tool.

Other financing tools and revenue sources

A modern municipal Charter could provide a city with access to innovative (non-traditional) financing and revenue-generation instruments. These tools include:

- franchises
- sale and leaseback arrangements
- utility agreements
- borrowing money from private capital markets, using assets to secure better rates

- borrowing money from a Provincial or Federal loan fund
- issuing bonds (i.e. revenue bonds, general municipal bonds, etc.)
- using tax-incentives to attract, leverage and retain private capital
- tax-incremental financing
- authority to offer loans and grants and to make financial guarantees

While these mechanisms differ in many significant respects, they all provide a city with the capacity to enter into risk-sharing arrangements with outside parties in order to (i) gain access to revenue or capital that would otherwise be unavailable and/or (ii) direct private investment capital to public uses.

Since these instruments are not likely to be well-understood by the public *and* because the level of debt carried by a given city can affect the credit-rating of municipal governments in an entire region, a Charter may limit a city's use of or access to these tools.

Part 7: Intergovernmental Relations

Does the Province consider a municipality to be an accountable, responsible and effective order of government? This question is likely to be addressed in the Intergovernmental Relations provisions of a Charter. Inclusion of the following provisions would be the most direct way for a Province to acknowledge a municipality's political legitimacy.

- A provision which prohibits the Provincial government from arbitrarily interfering in any matter that falls within a city's defined spheres of (exclusive) jurisdiction or municipal purposes.
- A provision which requires the provincial government (or responsible Minister) to *consult* with the City whenever legislative, financing, or policy changes that will impact the City are being developed.
- A provision obliging the Province to allocate adequate, appropriate and sustainable financial resources whenever it requires a city to assume responsibility for a provincial program, service or facility.
- A provision authorising a city to communicate, negotiate and enter into partnership agreements with other governments, including the Federal government and other municipalities, on matters of mutual interest that fall within the city's defined spheres of jurisdiction.
- A provision mandating that the City's bylaws apply to Provincial government entities (including crown corporations and agencies), unless otherwise agreed.

Part 8: Alteration of the City’s Boundaries

A charter could include a separate section or provision limiting the Province’s ability to unilaterally alter the municipality’s boundaries. A Province’s authority to alter the boundaries of a charter city could be made subject to some or all of the following conditions:

- Preparation and distribution of a feasibility report on the proposed boundary change
- Approval of the City council
- Approval of the electors
- Approval of neighbouring jurisdiction if the proposed boundary would involve amalgamation or annexation of a neighbouring jurisdiction’s territory

Part 9: Governance

A Charter’s governance section defines a municipality’s basic political structure and units of governance. Governance provisions could refer to existing legislation, directly specify, or require Council to develop by-laws related to the following matters:

- The name, number and composition of a municipality’s “rule-making” body (e.g. a Council comprised of 1 mayor and 18 Councillors), whether its members are to be elected at-large or by electors from a specific area (or “ward”) of the municipality, and the boundaries of any electoral “wards”.
- Requirements and exceptions concerning “quorum” and the venues (i.e. meetings) at which the city’s decision-making body may legitimately make decisions
- Roles, responsibilities and terms of office for each category of elected official (e.g. mayor and councillors)
- A Council’s obligation to enact a bylaw establishing rules of procedure for meetings of the Council, committees and other such bodies
- A Council’s obligation to establish a procedure for consolidating, revising and correcting errors in bylaws
- A Council’s authority to establish committees to advise and made recommendations to Council.
- A Council’s authority to establish commissions to advise or make recommendations to Council, or to operate or assist in the operation of the City’s services or assets
- Conditions under which a Council is authorised to delegate its powers, duties or functions to other entities (e.g. committee, officer, employee, community council, corporations, etc.)
- A Council’s authority to establish officer positions, including a Chief Administrative Officer (CAO), clerk, and treasurer.

Part 10: Actions and Proceedings

A Charter could delimit the City’s obligations and rights with respect to a variety of “actions” and “proceedings” integral to its role as a governmental entity. Provisions of this sort might address the following matters:

- The City’s authority to enforce bylaws
- “Rights of action” on bylaws considered to be illegal
- Civil liability issues (e.g. indemnification against proceedings; limitation of liability; joint and several liability; personal liability of City’s public officers; limitation period for action against City; etc.)
- Procedure to be followed for serving “notice” to the City, whether for filing a complaint, initiating a legal proceeding or for other purposes.



European Treaty Series - No. 122

**EUROPEAN CHARTER
OF LOCAL SELF-GOVERNMENT**

Strasbourg, 15.X.1985

Preamble

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which this aim is to be achieved is through agreements in the administrative field;

Considering that the local authorities are one of the main foundations of any democratic regime;

Considering that the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe;

Considering that it is at local level that this right can be most directly exercised;

Convinced that the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen;

Aware that the safeguarding and reinforcement of local self-government in the different European countries is an important contribution to the construction of a Europe based on the principles of democracy and the decentralisation of power;

Asserting that this entails the existence of local authorities endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfilment,

Have agreed as follows:

Article 1

The Parties undertake to consider themselves bound by the following articles in the manner and to the extent prescribed in Article 12 of this Charter.

Part I**Article 2 – Constitutional and legal foundation for local self-government**

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

Article 3 – Concept of local self-government

- 1 Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.

- 2 This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

Article 4 – Scope of local self-government

- 1 The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
- 2 Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
- 3 Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
- 4 Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
- 5 Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
- 6 Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

- 1 Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
- 2 The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

Article 7 – Conditions under which responsibilities at local level are exercised

- 1 The conditions of office of local elected representatives shall provide for free exercise of their functions.

- 2 They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
- 3 Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

Article 8 – Administrative supervision of local authorities' activities

- 1 Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
- 2 Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
- 3 Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

Article 9 – Financial resources of local authorities

- 1 Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
- 2 Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
- 3 Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
- 4 The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
- 5 The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
- 6 Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
- 7 As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
- 8 For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

Article 10 – Local authorities' right to associate

- 1 Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
- 2 The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
- 3 Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

Article 11 – Legal protection of local self-government

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

Part II – Miscellaneous provisions

Article 12 – Undertakings

- 1 Each Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following paragraphs:
 - Article 2,
 - Article 3, paragraphs 1 and 2,
 - Article 4, paragraphs 1, 2 and 4,
 - Article 5,
 - Article 7, paragraph 1,
 - Article 8, paragraph 2,
 - Article 9, paragraphs 1, 2 and 3,
 - Article 10, paragraph 1,
 - Article 11.
- 2 Each Contracting State, when depositing its instrument of ratification, acceptance or approval, shall notify to the Secretary General of the Council of Europe of the paragraphs selected in accordance with the provisions of paragraph 1 of this article.
- 3 Any Party may, at any later time, notify the Secretary General that it considers itself bound by any paragraphs of this Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval of the Party so notifying, and shall have the same effect as from the first day of the month following the expiration of a period of three months after the date of the receipt of the notification by the Secretary General.

Article 13 – Authorities to which the Charter applies

The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary General of the Council of Europe.

Article 14 – Provision of information

Each Party shall forward to the Secretary General of the Council of Europe all relevant information concerning legislative provisions and other measures taken by it for the purposes of complying with the terms of this Charter.

Part III**Article 15 – Signature, ratification and entry into force**

- 1 This Charter shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- 2 This Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Charter in accordance with the provisions of the preceding paragraph.
- 3 In respect of any member State which subsequently expresses its consent to be bound by it, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 16 – Territorial clause

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Charter shall apply.
- 2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Charter to any other territory specified in the declaration. In respect of such territory the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
- 3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

Article 17 – Denunciation

- 1 Any Party may denounce this Charter at any time after the expiration of a period of five years from the date on which the Charter entered into force for it. Six months' notice shall be given to the Secretary General of the Council of Europe. Such denunciation shall not affect the validity of the Charter in respect of the other Parties provided that at all times there are not less than four such Parties.
- 2 Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any paragraph of Part I of the Charter accepted by it provided that the Party remains bound by the number and type of paragraphs stipulated in Article 12, paragraph 1. Any Party which, upon denouncing a paragraph, no longer meets the requirements of Article 12, paragraph 1, shall be considered as also having denounced the Charter itself.

Article 18 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c any date of entry into force of this Charter in accordance with Article 15;
- d any notification received in application of the provisions of Article 12, paragraphs 2 and 3;
- e any notification received in application of the provisions of Article 13;
- f any other act, notification or communication relating to this Charter.

In witness whereof the undersigned, being duly authorised thereto, have signed this Charter.

Done at Strasbourg, this 15th day of October 1985, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

IULA WORLD WIDE DECLARATION OF LOCAL SELF-GOVERNMENT
adopted by the IULA Council,
Toronto, June 1993

The International Union of Local Authorities (IULA), the worldwide association of local governments, meeting in its 31st World Congress in Toronto on 13-17 June, 1993,

Recalling the Worldwide Declaration of Local Self-Government it adopted and proclaimed at its 27th World Congress in September, 1985, in Rio de Janeiro;

Aware of the tremendous changes in the world's social, political and economic situation since 1985, including the collapse of totalitarian regimes in many parts of the globe and the growing trend toward free and democratic societies in countries long repressed;

In view of the recognition that many global problems, as evidenced in the United Nations Conference on Environment and Development and its follow-up Agenda 21, must be dealt with at the local level; and in light of the growing trend among international bodies to regard local government as effective partners in social and economic development programmes and activities;

Determined that there must be a renewed campaign to promote and promulgate the essential nature of democratic local self-government and its critical role in securing social, economic and political justice for all citizens of every community in the world;

Considering that local government, as an integral part of the national structure, is the level of government closest to the citizens and therefore in the best position both to involve them in the making of decisions concerning their living conditions and to make use of their knowledge and capabilities in the promotion of development;

Recalling the principle, recognised in Article 21 of the Universal Declaration of Human Rights, that the will of the people is the basis of the authority of government;

Welcoming the fact that to date, 19 European Governments have signed, and 15 European Governments have ratified, the European Charter of Local Self-Government which was adopted as a Council of Europe Convention in 1985, and that this charter has been used by several governments of Central and Eastern Europe as a major guideline in the preparation of their new local government legislation;

Considering that it is at the local level that the conditions can best be provided for the creation of a harmonious community to which citizens feel they belong and for which they assume responsibility;

Emphasising that strengthening local government strengthens the entire nation by ensuring more effective and democratic public policies;

Considering that decentralised decision-making reduces congestion at the centre and improves and speeds up governmental action, that it stimulates local initiative, that it unleashes creative and innovative energies, gives vitality to new institutions, and that it increases the likelihood that services and amenities, once established, will be maintained and expanded;

Proclaims the following renewed Worldwide Declaration of Local Self-Government to serve as a standard to which all nations should aspire in their efforts to achieve a more effective democratic process, thereby improving the social and economic well-being of their populations.

Principles of Local Self-Government

Article 1: Constitutional foundation for local self-government

The principle of local self-government shall be recognised in the constitution or in the basic legislation concerning the governmental structures of the country.

Article 2: Concept of local self-government

1. Local self-government denotes the right and the duty of local authorities to regulate and manage public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by individuals and representative bodies freely elected on a periodical basis by equal, universal suffrage, and their chief executives shall be so elected or shall be appointed with the participation of the elected body.

Article 3: The scope of local self-government

1. Public responsibilities shall be exercised by those basic units of local government which are closest to the citizen. They may also be exercised by territorial units at an intermediate or regional level, in accordance with the practice in each country.
2. Local authorities shall have a general right to act on their own initiative with regard to any matter which is not exclusively assigned to any other authority nor specifically excluded from the competence of local government.
3. The basic responsibilities of local authorities as well as the procedures for changing these responsibilities shall be prescribed by the constitution or by statute.
4. Powers given to local authorities shall normally be full and exclusive. In so far as a central or regional authority is empowered by the constitution or by statute to intervene in matters for which responsibility is shared with local authorities, the latter shall retain the right to take initiatives and make decisions.
5. Where powers are delegated to them by a central or regional authority, local authorities shall be given discretion to adapt the implementation of legislation to local conditions.
6. Local authorities shall have a reasonable and effective share in decision-making by other levels of government which has local implications.

Article 4: Protection of existing local authorities

1. If the constitution or national law permits the suspension or dissolution of local councils or the suspension or dismissal of local executives, this shall be done in accordance with due process of law. Their functioning shall be restored within as short a period of time as possible which shall be prescribed by law.
2. Changes in local authority boundaries shall only be made by law and after consultation of the local community or communities concerned, including by means of a referendum where this is permitted by statute.

Article 5: Adequate organisational structures for local government

1. Local authorities shall determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. Conditions of employment and training opportunities for local government employees shall be such as to permit attractive career prospects. Central and/or other higher levels of government shall encourage and facilitate the introduction of career and merit systems in local government.

Article 6: Conditions of office of local elected representatives

1. The conditions of office of local elected representatives must guarantee them the free exercise of their functions.
2. These conditions must provide in particular for appropriate compensation and social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute only.

Article 7: Supervision of local authorities' activities

1. Procedures for the supervision of local authorities shall be instituted only by the constitution or by statute.
2. The supervision of local authorities shall normally aim only at ensuring compliance with the law.

Article 8: The resources of local authorities

1. Local authorities shall be entitled to adequate financial resources of their own, distinct from those of other levels of government and to dispose freely of such revenue within the framework of their powers.
2. The allocation of resources to local authorities shall be in reasonable proportion to the tasks assumed by them. These resources shall be of a regular and recurring nature so as to permit uninterrupted public services and adequate financial planning. Any transfer of new responsibilities shall be accompanied by an allocation of the financial resources required for their fulfilment.

3. A reasonable proportion of financial resources of local authorities shall derive from local taxes, fees and charges of which they shall have the power to determine the rate.
4. Taxes which local authorities shall be entitled to levy, or of which they receive a guaranteed share, shall be of a sufficiently general, buoyant and flexible nature to enable them to keep pace with their responsibilities.
5. The autonomy of financially weaker local authorities requires a system of financial equalisation.
6. The right of local authorities to participate, in an appropriate manner, in framing the rules governing the general apportionment of redistributed resources shall be expressly recognised.
7. The provision of block grants, which are not earmarked for the financing of specific projects or services, shall be promoted. The provision of grants shall not justify any undue intervention in the policies pursued by local authorities within their own jurisdiction.

Article 9: Associations of local authorities

1. Local authorities shall be entitled, in exercising their powers, to form associations for the defence and promotion of their common interests as well as in order to provide certain services to their members.
2. Other levels of government shall consult associations of local authorities when passing legislation affecting local government.

Article 10: International links

1. Local authorities' right of association shall include that of belonging to an international association of local authorities.
2. Local authorities shall also be entitled to maintain links with their counterparts in other countries for the purpose of interchange and cooperation and promoting international understanding.

Article 11: Legal protection of local authorities and their autonomy

Local authorities shall have the right of recourse to a judicial remedy in order to safeguard their autonomy and to ensure compliance with the laws which determine their functions and protect their interests.