

**Consultation Agreement Between
Ministry of Health Services
Ministry of Community, Aboriginal and Women's Services
Union of British Columbia Municipalities**

Contents

- A. Agreement on Consultation
 - 1. Definitions
 - 2. Purpose of the Consultation Agreement
 - 3. Consultation body
 - 4. Consultation process
 - 5. Consultation principles
- B. Agreement on bringing Bylaws into Effect
 - 6. Introduction
 - 6.1 Bylaws requiring deposit
 - 6.2 Bylaws requiring approval
 - 7. Submitting a proposed bylaw to the Ministry of Health Services
- C. Terms and administration of this Agreement
 - 8. Term of the Agreement
 - 9. Administration of the Agreement
 - 10. Commitment

A. Agreement on Consultation

WHEREAS section 277 of the *Community Charter* provides for the minister responsible and the Union of British Columbia Municipalities (UBCM) to enter into consultation agreements on any matter that affects local government or the Province;

AND WHEREAS the Minister of Health Services is the minister responsible for the protection of Public Health and access to Health Services, and the Minister of Community, Aboriginal and Women's Services is the minister responsible for the *Community Charter*;

AND WHEREAS section 9(1) of the *Community Charter* establishes that municipal bylaws in relation to the protection of Public Health are subject to the requirements for concurrent regulatory authority. Under section 8(3)(i), municipalities may enact public health bylaws, and section 9(4) provides that a ministerial regulation may provide restrictions and conditions on that municipal authority;

AND WHEREAS the parties to this agreement share a desire to maintain the effectiveness of the Ministerial Regulation respecting public health bylaws;

THEREFORE THE PARTIES AGREE that pursuant to section 277 of the *Community Charter* this Consultation Agreement sets out the consultation requirements for monitoring, reviewing and amending a Ministerial Regulation enacted under s. 9(4) of the *Community Charter*.

1. Definitions

For purposes of this Agreement:

Public Health means the protection, promotion or preservation of the health of individuals, or the maintenance of sanitary conditions within a local government's jurisdiction.

Health Services means services provided by health professionals and the facilities in which those services are delivered to the public.

Health Authority means a Regional Health Board as defined in the *Health Authorities Act*.

2. Purpose of the Consultation Agreement

The purpose of this Consultation Agreement is to establish an effective intergovernmental mechanism to share information regarding the operation of the Public Health Bylaws Regulation. The Agreement establishes the framework by which the parties monitor, review and amend the Ministerial Regulation over time. The Agreement also sets out the process by which local government bylaws covered by the regulation will be deposited or approved, and then brought into force.

3. Consultation Body

The Union of British Columbia Municipalities' Health and/or Environment Committee shall conduct consultations between the Ministry of Health Services and UBCM regarding the Public Health Bylaws Regulation. The committee may also consider requests to amend this Agreement. The Health Committee will manage any necessary referrals process to the Environment Committee.

4. Consultation Process

From time to time the Minister of Health Services will forward to the consultation bodies (the Health and/or Environment Committees) all proposals received from municipal governments to amend the Ministerial Regulation or the bylaw approval protocol. The Committees may meet to review these proposals and report to the Ministers responsible and UBCM Executive with any recommendations for amending the Ministerial Regulation or this Agreement.

5. Consultation Principles

5.1 The Committees and Ministries will be guided in their work by the principles of governance and municipal-provincial relations as provided for in Part 1 of the *Community Charter*.

In relation to this agreement the parties further agree that:

- local matters should be managed locally to the maximum extent possible;
- the provincial interest in matters that extend beyond the local community must be recognized;
- protection of Public Health should be paramount;
- provincial and local roles in regulating with respect to the Public Health should be clear;
- implementation of regulations should be efficient and cost effective; and
- in any regulatory scheme, residents should be treated fairly.

5.2 The Committees shall consider and evaluate any amendments to the Ministerial Regulation or this Agreement in the context of these principles.

B. Agreement on Bringing Bylaws into Effect

6. Introduction

Under the Public Health Bylaws Regulation, a bylaw created by a local government that intends to regulate matters related to Public Health, or access to health services in the community, may be subject to certain restrictions or conditions before it has legal effect.

Bylaws may not be created under the regulation that contradict, or are less stringent than Provincial or Federal Health Legislation, for example, a bylaw created related to sanitation of food premises. Nor can bylaws be created under the regulation where another provincial authority has jurisdiction, for example involving pesticide use, or outdoor burning as it relates to air quality.

Bylaws may, however, regulate in matters of local jurisdiction so long as both Federal and Provincial provisions can be met. This regulation is not intended to cover local bylaws authorized by other provisions of the *Community Charter* or any other enactments or statutes unless there is a clear Public Health implication.

The Committees agree not to recommend any changes to the Ministerial Regulation that would in any way allow a local bylaw to be enacted that is less stringent than, or in contradiction to any Provincial or Federal Health enactment.

6.1 Bylaws Requiring Deposit

In the context of the Public Health Bylaws Regulation, the term “deposit” means that a copy of the bylaw is to be forwarded to the minister for record keeping purposes. This is a less onerous process than was previously required under the *Local Government Act*.

Bylaws requiring **deposit** are those which deal with the following subject matter:

- the protection promotion, or preservation of the health of individuals, and
- the maintenance of sanitary conditions in the municipality.

Rationale

The deposit of these types of bylaws with the minister will allow Ministry staff to monitor standards set by municipalities and identify best practices, while at the same time providing local autonomy regarding these matters. The Ministry may in turn track the types of health related bylaws throughout BC and recommend codes of practice for subjects frequently regulated.

Bylaws requiring deposit include those municipal bylaws that regulate some aspect of public health that go beyond powers provided in local government legislation., Also requiring deposit are bylaws which refer to responsibilities of health authorities provided in other legislation, however bylaws may not add additional responsibilities to Health authorities without seeking approval under part 6.2 of this document.

The following process is agreed to:

- At any time prior to 3rd reading of the bylaw, the municipality will consult with the contact designated by the local health authority. This may be done at any time prior to adoption, but is recommended to take place early on in the process.
- After third reading, a copy of the bylaw, together with evidence that consultation with the health authority has taken place will be forwarded by the municipality to the Minister of Health Services for deposit. Once received, confirmation of deposit from the minister's office will be sent to the municipality within 10 working days.
- A Council may not legally adopt the bylaw until it has been deposited with the Minister, and consultation with the health authority has taken place.

6.2 Bylaws Requiring Approval

In order to have legal effect, the Minister of Health Services must **approve** bylaws which contain provisions relating to the following matters:

- the restriction, or potential restriction, of any individual's access to health services;
- any matter that may have resource implications for regional health boards, the Nisga'a Nation or the Provincial Health Services Authority;
- any matter containing elements of bylaws requiring approval combined with elements of bylaws requiring deposit.

Rationale

The province has an interest in overseeing any bylaw that may restrict access to health services. If a bylaw requires action to be taken by a health authority, Nisga'a Nation or the Provincial Health Services Authority it must be ensured that the health authority has the resources to carry out additional responsibilities as contemplated by the bylaw.

The following process is agreed to:

- At any time prior to 3rd reading of the bylaw, the municipality will consult with the designated contact from the local health authority, and if the bylaw affects the Nisga'a Nation or the Provincial Health Services Authority, consult with these bodies as well. This may be done at any time prior to adoption, but is recommended to take place early on in the process.
- After third reading, a copy of the bylaw, together with evidence that consultation with the health authority has taken place, will be forwarded by the municipality to the Minister of Health Services for approval. The municipality may choose to submit a draft to the minister prior to third reading to flag possible issues early on, which may speed up the approval process when the final draft is submitted.
- Once received by the minister's office, proposed bylaws the regulation will be reviewed to determine:
 - If the local government has the statutory authority to enact the bylaw, or If it conflicts with another enactment;
 - If proper process has been followed;
 - If adequate consultation has taken place with the designated contact from the local health authority;
 - If the health authority is to be responsible, or partially responsible for enforcement of the proposed bylaw, whether appropriate and sufficient health authority resources are available for administration of the bylaw; and
 - If the bylaw may unreasonably affect individuals' access to health services.
- Once the review is complete, the Minister may approve the bylaw in whole, require amendment to the bylaw prior to approval, or reject the bylaw. The Minister will respond to the bylaw approval request within 30 working days of receiving the request for approval.
- A Council may not legally adopt the bylaw until it has been approved by the Minister, and consultation with the health authority has been undertaken as per the above.

7. Submitting a Proposed Bylaw to the Ministry of Health Services

Proposed bylaws requiring deposit or approval by the Minister prior to adoption are to be submitted to:

Health Protection Planning Division
Ministry of Health Services
1515 Blanshard Street, 4th Floor
Victoria BC V8W 3C8

Phone: (250) 952-1469
Fax: (250) 952-1713

C. Terms and Administration of this Agreement

8. Term of the Agreement

The parties may agree to amend or terminate this Agreement at any time. This Agreement will be reviewed every three years from the date of signing.

9. Administration of the Agreement

The key contacts for administering this Agreement are:

- Assistant Deputy Minister, Population Health and Wellness, Ministry of Health Services;
- Assistant Deputy Minister, Local Government Department, Ministry of Community, Aboriginal and Women’s Services; and
- Executive Director, Union of British Columbia Municipalities.

10. Commitment

In Witness of an Agreement to adhere to the terms established in this Consultation Agreement, the parties have executed this Agreement at Richmond, British Columbia, this th day of 2004.

SIGNED on behalf of the Province Of British Columbia by:

[original signed by]

[original signed by]

Honourable Colin Hansen
Minister of Health Services

Honourable Murray Coell
Minister of Community, Aboriginal & Women’s Services

SIGNED on behalf of the Union of British Columbia Municipalities by:

[original signed by]

[original signed by]

Mayor Frank Leonard
President

Chair Susan Gimse
Chair, Health Committee