

A Proposal: Charter City Status for Toronto

**Charter City Toronto
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I. Introduction

If you were to tell Canadians they don't have the right to vote for their local governments, most would laugh. This is Canada, they would say. A democracy, with a Constitution and the Charter of Rights and Freedoms.

Well, we don't. In fact, we don't have the right to local government at all. Every municipality in Canada could be dissolved tomorrow--without notice, consultation, penalty or regret. A unilateral declaration by a province is all it would take. There would be no recourse to the courts, or to anyone else.

How does this make sense?

The reason is the Canadian Constitution itself. Cities are not even mentioned in it. Municipalities are referred to once in the section that says their province has absolute power over them, whether they are hamlets of 10 or megacities of 3,000,000.

This may surprise many Canadians, but the people of Toronto have confronted these grim facts since July 2018, when the Ontario government passed a law to unilaterally strip Toronto of the power to determine its own governing structures.

The law, Bill 5, handed that power to the province. It also slashed the size of Toronto's city council almost in half in the middle of an election campaign without consultation or notice, ignoring the advice of an independent city panel that had consulted the public for three years and revoking decisions that had been duly passed at city council.

When Torontonians protested, the premier threatened to use his majority to wipe out their rights under the Charter of Rights and Freedoms as well.

Bill 5 opened a lot of eyes. It wasn't the first time the province interfered with Toronto's democracy, but this was blatant and chilling. If the province can do this, what else can it do?

Torontonians' outrage at this act of civic vandalism was the spark that lit a thousand conversations—one of which has led to this proposal for a constitutionally-protected City Charter.

But it's not just Bill 5. The province has all kinds of unchecked power over the city and has become increasingly willing to use it.

A provincially appointed body routinely disallows city land-use decisions. This year, the province unilaterally scrapped parts of Toronto's downtown and midtown official plans that had taken years of civic work and consultation to put in place. The changes voided rules on development and left the city with less power to negotiate with developers to improve the city.

The province has now taken control of local transit planning. Control of our education system was taken away years ago. Our city needs provincial permission to hire wardens to direct traffic on city streets--even to change our traffic lights. The province

tells us what taxes we can and can't raise and takes credit for provincial handouts of money that was collected from city taxpayers in the first place. The City of Toronto Act is a list of things the city can't do.

The province duplicates and second-guesses so much of city decision-making it makes you wonder why there is a city government at all.

Many people in Toronto would like to see decisions in our fast-growing and evolving city made differently, in ways that give people a bigger say and reflect a broader spectrum of the city's diverse voices.

They want decision-making relevant to the dense, urban nature of the city and which forcefully addresses city issues such as poverty, guns, youth in crisis, health and mental health issues, the housing shortage and gridlock.

All Torontonians want to build on our city's strengths: our unparalleled human diversity; our robust cultural, business and innovation sectors, and the global perception of Toronto as one of the most desirable places to live and work.

But those things can't happen--that conversation can't even be properly had--in a city that lacks the power to implement those ideas and which remains a powerless "creature of the province".

We believe Toronto needs greater power, autonomy and resources in order to succeed as a global city in the 21st century. We believe the best tool to achieve that is a constitutionally protected City Charter.

The goal of the City Charter movement is to give Toronto—and other cities that want it—the constitutional status that is currently lacking, together with the power, authority and resources Torontonians need in order to make their own decisions about how to build a great city.

Decisions that can't be rendered inoperable with a wave of a provincial finger.

The ideas herein are a proposal, intended to take the conversation about empowering and protecting local government in Toronto to the next level. We submit it in the hopes that it will be widely discussed, massaged and changed to produce a document that has wide public agreement.

We hope all Torontonians will help us make a City Charter for Toronto a reality and entrench it into the highest laws of the land.

II. The Case for a City Charter

Toronto is a diverse, wealthy, fast-growing city striving to be inclusive, innovative, modern and forward-looking. It's a global city competing internationally in many fields including culture, the arts, sports, health sciences, business and technology. It

provides an environment and quality of life which attracts sophisticated, educated and innovative talent from around the world.

One in ten Canadians lives in Toronto, the fourth-largest city in North America; more populous than Canada's four smallest provinces combined. The people of Toronto have the brains, talent, ambition and love for the city to successfully run their own affairs.

The city of Toronto has been democratically governed since its establishment 33 years before Confederation. It values local decision-making. The status and powers allocated to cities in the 1867 Canadian Constitution are antique and inadequate to the demands of the 21st Century. These constitutional arrangements render the city a powerless 'creature of the province', unable to confidently chart its own future and vulnerable to frequent unilateral, arbitrary and capricious interference from the province in its affairs.

A city which governs itself and whose Council members are accountable for the decisions they make is a more efficient city. Eliminating duplicate levels of approvals and achieving clarity over who makes decisions will be a significant benefit for the business community, which values regulatory simplicity and certainty.

Toronto recognizes that partnership with Ontario and Canada is vital to its success and embraces its responsibility to fairly share its wealth with its neighbouring cities, the province and the country.

The city is a major economic driver within Canada contributing some \$200 billion annually to Ontario and Canada's GDP. City taxpayers contribute some \$13 billion dollars a year more in tax dollars to the province than it receives back through contributions to the city's budget. In a typical year, the city of Toronto gets back a mere 10 per cent of the taxes its residents send to the two more senior levels of government.

These current financial arrangements, together with long-term provincial downloading, have rendered Toronto unable to pay its bills, address a massive infrastructure deficit, or plan its future with any confidence.

Benefits of a City Charter

Redefining the power and fiscal relationship between the city and the province will produce significant benefits for City Council, for residents, and for those doing business in and with the city .

A more equitable relationship, with clearly separated authority, exclusive jurisdictions for the city, and clear rules on shared jurisdiction, will reduce inter-governmental friction, streamline decision-making, eliminate duplication, produce tax savings and clear the decks for partnership and co-operation between Toronto and Ontario on matters that are truly of mutual interest.

Removing unnecessary provincial permissions and oversight will free the city to experiment, innovate and find creative solutions to city design, including issues of congestion, density, affordability, livability and sustainability.

Centering control of civic affairs at the local level will encourage greater public participation and decisions that reflect local values and needs.

Establishing city access to stable, predictable multi-year revenues will facilitate more effective forward planning and spending. New revenue tools will give the city the ability to raise sufficient funds to pay for necessary programs and services and ensure that growth pays for growth. Allocating a greater share of the income and sales taxes contributed by its residents to the city will restore balance and fairness to its financial relationship with the province.

A constitutionally protected City Charter outlining Toronto's authority, governance and taxation powers, amendable only with the city's consent, will give the city status, stability and protection commensurate with its position.

Accordingly:

The city and the province should, through public consultation, negotiation and joint legislation, create a City Charter for the Toronto which:

Establishes a more equal relationship between the city and the province, empowers local democracy and protects the city from undue provincial interference in city affairs.

Establishes exclusive city jurisdiction, and removes provincial oversight, over all municipal functions not specifically allocated to the province, including city governance, land use planning and appeals, streets, housing, local transit, public health, and education up to Grade 12.

Establishes clear roles for the city, province and federal government, including protected funding arrangements, in areas of overlapping or shared jurisdiction such as health, human services (including social services and child care), immigrant settlement and policing.

Establishes a new, stable fiscal regime whose aim is to give the city control of resources commensurate to its responsibilities, allowing Toronto to keep a greater share of the taxes currently paid by city residents to higher levels of government. It will give the city access to new, progressive revenue sources, such as income and sales tax, and to new financing tools such as municipal bonds.

The province and the federal government should enact a single-province amendment under Section 43 of the Canadian Constitution that enables City Charter status for Toronto that requires the city's consent for any changes to the charter.

III. The Charter Proposal

For more than 30 years there has been discussion about how cities in Canada can gain more authority and the powers and freedom necessary to govern their own affairs.

City Charters from other jurisdictions have been suggested as models from which ideas might be taken – Los Angeles, San Francisco and Chicago, for example. California alone has more than 100 Charter Cities with dedicated municipal powers, including the broad power of taxation, and a high level of autonomy from state governments.

At different times, some Canadian cities have been given special powers by provincial legislation, but these special powers have been subject to limitations: the exercise of powers granted is subject to ongoing provincial approval and the province can unilaterally change or repeal those powers with no requirement to consult the city.

Another issue is that many programs cities depend upon are cost-shared with the provincial government. Whenever that government decides to reduce its share of funding, programs delivered at the municipal level suffer. Since city governments typically have very limited revenue powers, they are often unable to find the money to continue those programs and residents lose out.

Our charter proposal attempts to overcome those limitations in three ways. First, we propose to remove provincial oversight and control over what are essentially municipal functions. Second, we propose a constitutional amendment to protect the powers and arrangements contained in the charter. Third, we propose entrenching some permanent funding arrangements in the charter.

A City Charter is essentially an agreement between the city and the provincial government outlining the powers and authorities of the city, some of which are exclusive to the city and some of which are shared with the province.

Our proposal covers four broad areas: Governance, Power and Authorities, Resources, and Constitutional Protection.

A. Governance

The City of Toronto Act (2006), gave the city the power to establish its own form of governance, subject to review by the Ontario Municipal Board. The province revoked that power in 2018 with legislation that unilaterally reduced the number of city councilors from 47 to 25, in addition to changing the ward system.

A charter should restore those powers to the city and remove the provincial power of review. To ensure that City Council is not self-serving in setting out forms and structures and that the public interest is primary, Council decisions on governance should be reviewed by an independent agency appointed by City Council.

a) The city should have the power to adopt decision-making procedures and structures which ensure fair representation of the many diverse voices, minorities, and communities in the city, which enhance residents' involvement in decisions about their communities, and which enshrine and enact principles of equity.

b) The city should have the exclusive authority to decide the form and structure of its government, including the composition of city council and ward boundaries, the

mayor's office, the city bureaucracy, agencies, boards and commissions, community councils, and other such bodies as it finds appropriate. Council should have the power to decide on approval mechanisms, including innovative ones designed to enhance citizen involvement, such as deliberative democracy and referendums.

c) Changes to the ward system and City Council should be reviewed by an independent, city-appointed body. Its decision, after a fair hearing, will be reported to Council for a final determination. City Council should be given the exclusive authority to establish and fund this independent body.

d) The city should have the exclusive authority to conduct municipal elections, including regulation of campaign donations and finance, voting age and eligibility, including the ability to extend the vote to residents who are not citizens. Again, these rules should be subject to review by an independent, city-appointed body, and reported to Council for a final determination.

e) The city should have broad powers to pass bylaws respecting all aspects of city life, and establish penalties for contraventions.

f) The city should be required to establish an effective integrity and accountability regime including a Members Code of Conduct, an Integrity Commissioner, Auditor General, Lobbyist Registry, and Ombudsman.

g) The city should be permitted to delegate decision-making, including quasi-judicial and legislative functions, to committees of council, staff, boards, community councils and other such bodies it thinks appropriate.

h) The city should work and co-operate with many other governments. It should be authorized to exercise any of its powers or perform any of its functions and may participate in the financing of its efforts, jointly or in cooperation, by contract or otherwise, with one or more other municipalities, regions, other governmental bodies, the Province of Ontario and the government of Canada.

B. Powers and Authority

This outlines the proposed powers and authorities that seem appropriate for the city of Toronto. This is a draft set of proposals and can be changed and amended as public discussion proceeds.

1. General Principles

The powers outlined in the charter should be interpreted broadly, not in a limited fashion. The powers may be exercised by the city without provincial approval.

All powers given to the city in the charter should be subject to all provincial and federal legislation of general province-wide application. However, if that legislation is contrary to the city charter, the charter should prevail. The city should be entitled to increase or enhance any standards set by the province or the federal government.

Various powers are set out in the City of Toronto Act and/or the Municipal Act. The city should continue to have such powers as set out in that legislation (and any other applicable legislation) and where there is a conflict between that legislation and the charter, the charter should prevail.

There may be situations where powers over some aspect of city life has never been allocated to either government, particularly if the subject is a new one, not previously contemplated. In those cases, providing it is within the municipal sphere, the city should be permitted to exercise the powers it deems appropriate to address the matter.

There are bound to be disputes about the meaning of some sections of the charter, or about activities of the province or the city, to which either party may object. The charter should define a dispute resolution process. If the disagreement persists, the parties should resort not to the courts, but to the Arbitration Act, which sets out a fair process to settle disputes.

Exclusive and Shared Jurisdiction

The charter clearly defines the jurisdictions in which the city acts exclusively, without provincial oversight or approval, as well as those shared jurisdictions where the city and province co-operate and each contributes resources. Generally, any matter within the municipal sphere of activities that is not allocated to the province in the charter, should be deemed to be the exclusive jurisdiction of the city.

As a starting point, jurisdictions already allotted to the city under the City of Toronto Act (for example: Parks and Recreation, Water and Waste Services, Parking, Municipal Licenses and Standards, Economic Development, Urban Forestry) should formally become the exclusive jurisdiction of the city not subject to provincial oversight, override or repeal.

In addition, the city should exercise exclusive jurisdiction over: City Governance, Land Use Planning, Streets, Housing, Local Transit and Education.

Where the city exercises shared jurisdiction over certain areas with the province, such as Health, Human Services (including Child Care and Social Services), Immigrant Settlement and Policing, the roles of the respective players and funding arrangements should be clearly defined.

Each of the main jurisdictions is described in more detail below:

2. Land Use Planning

Land use planning concerns all aspects of property development – rezoning, Official Plans, land severance, committee of adjustment and others. Currently, most land use matters require approval by a provincial body, so that City Council is not in the position of being able to make final decisions. Ontario is one of the few provinces that does not allocate land use responsibilities solely to municipalities.

a) The city should have the exclusive power to deny, approve, or place restrictions on any land use planning application including Official Plans, zoning and rezoning, subdivisions, minor and major variances, and severance consents, without requiring the approval of any provincial body.

b) To ensure Council decisions are appropriate and in keeping with the public interest, land use decisions should be reviewed by an independent, city-appointed body and its decision, after a fair hearing, will be reported to Council for a final determination. The city should be given the authority to establish and fund such an independent body.

c) The city should be given the exclusive authority to establish and enforce development and intensification conditions such as minimum and maximum densities, heights, development charges, brown-field development goals, and controls to protect heritage and cultural features of structures and areas.

3. Streets

Many of the regulations and restrictions the city wishes to place on streets – stoplights, or the use of traffic wardens, for example – require provincial approval. This creates unnecessary duplication and expense and there's no reason to think that provincial officials would have a better handle on local traffic conditions than local officials.

The city should have the exclusive power to regulate the sidewalks, lanes, bicycle lanes, streets, roadways and non-provincial highways within its boundaries, including road design and construction, speed limits, traffic calming, congestion and climate change strategies, signals and signage, tolls, cameras, road closures, vehicle restrictions and all other traffic measures.

4. Housing

The city has a great interest in housing supply and conditions, including temporary housing, housing the homeless, social and affordable housing, and rental housing. It's not clear that the city currently has the power to exercise control over all these matters. The funding of social and affordable housing can be done through cost-sharing programs or, preferably, when the city secures the needed revenue tools, through its own financial resources.

a) The city should have the exclusive power to provide and regulate affordable and social housing, including setting rent/income levels.

b) The city should have the power to enter into cost-sharing arrangements with private and public agencies, other municipalities, Ontario and Canada for the provision of social and affordable housing.

c) The city should have the power to enter into agreements, including loans and mortgages, with various parties regarding the provision of social and affordable housing and to require certain levels of social and affordable housing be achieved in developments.

d) The city should have the exclusive authority to provide temporary housing accommodation for immigrants and refugees, and for the homeless.

e) The city should have the authority to control the demolition and conversion of rental housing, to control residential tenancies, to establish rent controls and to regulate short-term rentals.

5. Local Transit

Since the early 1920s, the city has always been a leader in public transit serving city and neighbouring residents. In the late 1940s it undertook the construction of Canada's first subway without provincial subsidies, using the surpluses produced by the transit system during the Second World War. Transit fares provide the majority of the TTC's revenue base, unlike other North American cities which receive much higher levels of government subsidies.

Despite the lack of support, the Toronto Transit Commission has often been voted as the best transit system in North America, an accolade bestowed as recently as 2017.

Funding problems have hobbled the transit system as it was expanded to serve the lower density suburban areas of Metro Toronto from the mid-1970s. At that time, the city was supported by provincial subsidies for both operating and capital expenditures. But those arrangements meant the province had a major say in how transit would be structured and designed in the city, and often their demands did not advance the cause of good public transit or reflect Toronto's priorities.

More recently, the province has decided that it will take over parts of the transit system. Serious questions have been asked about what the province's plans entail and whether this change will be of any benefit to transit riders in the city. The system today integrates subways, buses, streetcars and LRTs into a fully-integrated network, providing advantages that could be lost if the system were to be split between multiple owners.

The best people to decide Toronto's transit needs are transit users, city officials and city politicians accountable to city voters, not provincial officials and politicians, many of whom do not live in Toronto or use the TTC.

a) The city should have the exclusive authority to provide and regulate public transit in the city. This should include Wheel-Trans, buses, streetcars, light rail transit, subways, other transit conveyances and ancillary properties including Union Station (which the city owns.)

b) The city should have the authority to enter into agreements with other municipalities and/or transit agencies in the GTA, the province and Canada to provide and improve service, share costs, and to create a seamless regional transit system.

6. Health

Health policy and spending are matter of great importance to governments, particularly

local governments.

The Romanow Commission in 2002 recommended that much more attention be given to preventing illness and injury in order to reduce the need for hospitals and emergency medical treatments. The province has made moves to provide a more local health focus by coordinating services at the local level and strengthening local decision-making through the Local Health Initiative Network (LHINs).

LHINs were given control over all health expenditures at the local level, including hospitals, and were governed by provincially appointed boards. The province is now moving back to a more centralized health governance system without important local input and decision-making. The province has also announced its intention to substantially reduce allocations to public health matters, even though a robust public health system is thought to be the optimal way to contain health expenditures through improving social factors which lead to good health outcomes.

It is recognized that some health matters involve shared jurisdictions in decision-making and expenditures.

- a) The city should have exclusive powers and functions similar to those granted to a Local Health Integration Network.
- b) The city should have the authority to enter into agreements with the province for coordinating health issues and spending within the city.
- c) The city should have exclusive responsibility for public health within the city.

7. Education

Until 20 years ago, education in the city was entirely funded from the property tax system, giving local school boards considerable flexibility in creating and operating programs to educate children within the city. The provincial government then took over all responsibility for funding education by seizing the property tax allocation for education purposes.

The result has been a provincial standardization of services and funding which has not served the city well: schools are falling into disrepair, and surplus school properties are not readily available for community purposes. Programs the school boards would like to fund are often cancelled when school boards are unable to find the needed money. The province dictates class sizes that are often seen as inappropriate. Trustees are grossly underpaid for their work.

The city needs to regain control of its education system.

- a) Education responsibilities, including funding and property tax allocations for education, should be in the exclusive control of the city and local school boards. This should apply to pre-school, primary school and secondary school matters.
- b) Local school boards should have the exclusive authority to determine the governance

structure and elections of its boards. To ensure those decisions are appropriate and in keeping with the public interest, they should be reviewed by an independent, city-appointed body established and appointed by the boards and its decision, after a fair hearing, will be reported to the boards for a final determination. The boards should be given the authority to establish and fund such an independent body.

c) Pooling of equalization payments from Toronto's property tax base for education purposes at the provincial level will be a matter of agreement between local boards, the city, and the province, and such agreement will respect the unique needs of educational expenditures in Toronto.

8. Human Services

More than one quarter of children in Toronto live in poverty. There is a serious income distribution problem occurring in the city.

Responsibility for poverty-related issues is shared between the provincial and the federal governments, with the city playing a crucial role in delivering, and sometimes sharing in the cost of, programs that it has no role in developing.

For instance, monthly payments may be appropriate for other municipalities in Ontario, but are much too low to meet the higher cost of living in Toronto. Current arrangements are unnecessarily complex and can result in people falling through the cracks and leaving families impoverished. The most vulnerable were further disadvantaged when the provincial government unilaterally decided to reduce welfare benefits.

The city is in the best position to provide human services at the local level in order to ensure that programs are adequately funded, supported, and coordinated.

It is recognized some human services may involve shared decision-making and shared expenditures.

a) The city should have exclusive jurisdiction of all social services and child care programs in Toronto.

The city will require funding support for these services. It needs to ensure such funding is not arbitrarily reduced. This can occur in one of two ways:

Through the city receiving block funding from the federal and provincial governments equal to the amount spent on those programs in Toronto, to be increased annually according to some fair formula, for example, based upon cost of living increases; or

Through the province determining the amount currently being transferred to the city for these programs, establishing that amount as a municipal revenue source representing a percentage of annual provincial revenue collected by the province, and transferring it annually to the city.

9. Immigrant and Refugee Settlement

More than 75 per cent of the immigrants and refugees coming to Ontario between 2011 and 2016 settled in the Toronto area. As Toronto City Council recently learned, it does not have the resources to ensure that they are adequately housed. There are also strains on programs related to teaching English as a Second Language, job training, and as well as other resettlement needs.

Successful immigrant settlement is important to the health and vibrancy of the city.

It is recognized that these activities involve shared decision-making and shared funding. Given that the city already plays a large role in providing many of the services required by newcomers, such as housing, social assistance and counseling, it makes sense for the city to be the lead and coordinating agency for newcomer settlement.

- a) The city should have the power to enter into agreements with the provincial and federal government to ensure it has the financial tools and ability to help immigrants and refugees to integrate into the city.
- b) The city must be involved with the provincial and federal governments in discussions about immigration, refugee levels and resettlement strategies.

10. Police and Security

Police governance in Toronto is provided by the Toronto Police Service Board, the size of which is constrained by provincial legislation which sets how members will be appointed. The seven-member board has three members appointed by the province. A larger police board would allow for much more diversity in police management and decision-making.

The province makes some small grants for specific policing matters, but almost the entire one billion dollar annual police budget is funded from city sources.

Policing involves shared responsibilities between the city and the province through the provincial Police Services Act. In the interests of ensuring independent oversight of Toronto's police force, the province should continue to play its role in providing such oversight through such institutions as the Special Investigations Unit and the Office of the Independent Police Review Director.

- a) The city should have exclusive power to determine the structure and size of the Police Services Board, including how members are appointed, while ensuring that the province may appoint one-third of the members of the board.

C. Resources: Revenue and Finance

Revenue

Toronto recognizes that, as a strong generator and beneficiary of economic wealth, it

has a responsibility to contribute its financial fair share to Ontario and Canada. Unfortunately, the current situation is not sustainable: with Toronto having access to only about 10 per cent of the taxes it sends to the two senior levels of government.

Given that imbalance, and the public's resistance to the introduction of new taxes, it is not enough to say Toronto should use the few revenue tools available to it under the City of Toronto Act. Such revenue tools are not progressive and simply cannot raise the amount of money required.

A greater share of existing taxation should accrue to Toronto as dedicated, charter-protected municipal revenues. Toronto's share of these taxes should be commensurate with the city's contribution to Ontario and Canada and with the true cost of providing the programs and services as required by law. The city should control (not just be given or have access to) sufficient revenue to properly fund programs and services within its jurisdiction.

Toronto should also have control of sufficient revenue to properly fund its share of shared programs and services. Such an arrangement would provide stable, predictable revenue and reduce the friction of continually negotiating levels of funding, which fluctuate from government to government. To prevent duplication, the city could piggyback onto current provincial collection systems.

Time and again, Toronto has been deprived of important sources of revenue while expectations of service delivery at the local level have increased substantially.

Until 1936, when the province passed the Income Tax Act, Toronto and other Ontario municipalities had statutory authority to levy income taxes. Until 1944, Toronto had the authority to levy corporate taxes. In both cases, when the province removed these authorities, the city was paid a lump sum in compensation. Given current realities it now seems reasonable that these authorities be returned to the city.

Until the creation of the so-called Megacity 20 years ago, the city had control of all the revenue produced by the property tax system, funding both city and Board of Education expenditures. When the province took over the education system, it seized control of about half the city's property taxes for education funding purposes.

The province also has control over many aspects of the property tax system including assessment and the burdens placed on different classes of property, taking much of the important decision-making about property taxes out of the hands of the city. The negative results of this are now being felt by many of Toronto's property owners.

It is important that in the case of shared cost arrangements, the city be protected from unilateral provincial decisions reducing such payments.

a) The city should have direct access to existing progressive revenue sources that grow with the economy, taxes such as sales and income tax to be spent at the discretion of the city. The city should be given a dedicated portion of these existing taxes commensurate to current provincial contributions to the city's operating budget and the power to levy its own additional sales and income taxes if necessary.

b) The city should be given full control of the property tax system including the power to establish assessments, classes of property, and apportionment of tax burdens to different classes of property (such as to protect small business.) The city should control all property taxes raised in the city.

c) Responsibilities or expenditures should only be downloaded to the city from the province with the consent of the city, after adequate notice has been given in the budget cycle and revenues are transferred to city control sufficient to offset any additional costs to the city.

e) Arrangements for the funding of shared responsibilities must be worked out. The city could receive block funding from the federal and provincial governments equal to the amount spent on those programs in Toronto, increased annually according to some fair formula based upon, perhaps, increases in the cost of living.

Or the province could determine the amount transferred to the city for these programs and establish it as a municipal revenue source representing a percentage of annual provincial revenue collected by the province, and transfer it annually to the city.

No matter the form such funding arrangements take, it is essential that these revenues be stable, predictable, and permanent arrangements that can be changed or revoked only with the assent of the city.

Finances

Currently the city requires provincial approval to borrow money, a duplication of effort that is time consuming and costly. As well, some other financial matters require provincial approval.

a) The city should have exclusive authority to manage its financial affairs including borrowing funds, budgeting for a short-term deficit, and tax increment financing with respect to property taxation.

b) The city should have the ability to use new financial tools, including self-financing powers such as municipal bonds, as required.

D. Constitutional Protection

The key to the adoption of any City Charter is constitutional protection. Without such protection, Toronto will continue to be at the mercy of provincial whim.

A City Charter that is merely provincial legislation such as the City of Toronto Act, which can be amended or revoked unilaterally by any provincial government, without notice to, consultation with, or agreement of the city, is useless.

It would be pointless Toronto to do the considerable work necessary to negotiate and implement long-term powers, authority and funding arrangements if they are not then

protected from the arbitrary actions of a more senior level of government. A deal that can be revoked by one party is no deal at all.

A single-province amendment to the Canadian Constitution (under Section 43) is the proposed vehicle to achieve this protection.

Most Canadians are familiar with the very restrictive formula for amending certain parts of the constitution that apply to the country as a whole. Such changes require the consent of the federal government and the legislatures of seven provinces representing 50 per cent of Canada's population. A single-province amendment, in this case applying only to Ontario, would be easier to achieve as it requires only the consent of the Ontario Legislature and the House of Commons. (The Senate could delay, but not obstruct, such an amendment.)

There have been seven single-province amendments to the Constitution since it was adopted in 1982. Newfoundland passed one in 1997 to establish a secular school system. The same year, Quebec established a language-based school system through a Section 43 amendment. New Brunswick passed one in 1993 to establish equality between the province's French and English-speaking communities.

In the case before us, a constitutional amendment would: a) establish a legal pathway for Toronto (and other Ontario cities) to adopt a City Charter; and b) require the consent of the city for any changes to its charter in the future.

This proposal does not suggest wording for such an amendment. Constitutional scholars differ on the best way to enshrine protection for a City Charter and they should be consulted on the best approach to achieve the principles outlined herein.

Importantly, the City Charter itself would not be entrenched in the Constitution. Doing so would mean any charter change would be a constitutional change, involving the provincial and federal governments, but not the city. Putting the charter in the constitution would in effect double the number of senior governments whose permission Toronto would need to change its own charter.

Leaving the charter as a freestanding document, protected by but not part of the Constitution, provides greater flexibility. Within existing city jurisdiction, Toronto could change the charter on its own. For changes that alter the relationship between the province and the city, both sides would need to agree to such changes.

Some city charters, such as the one adopted by Los Angeles, allow changes only through majority vote of city residents in a referendum. This additional level of charter protection is somewhat foreign to the Canadian practice, but it could be considered, as a way to ensure voters agree to any change, as a way for a sufficient number of citizens to themselves propose a charter amendment, or as a way to solve an impasse between the city and the province.

It's important to note that no constitutional arrangement can be one hundred percent effective at protecting cities from a province determined to interfere. A provincial government, with a compliant federal government, could ultimately override the city

charter through a new amendment to the constitution. But this would take time, and give the city the opportunity to mount a defence. Provincial and federal governments that conspire to thwart the will of a major Canadian city might pay such a political price that this avenue would be confined to infrequent use or never be used at all.

As has become very clear over the past year, the current constitutional arrangement, whereby cities are mere “creatures of the province” without any innate authority of their own, has left Toronto at an unacceptable disadvantage. While Canada’s constitutional rules do not allow for cities to gain co-equal status with a province, a City Charter with constitutional protection would give cities an immeasurably more powerful voice and status in any discussion of municipal affairs.

IV. The Bigger Picture

It has been noted that some city functions spill over Toronto’s boundaries into neighbouring municipalities – transit, human services and the natural environment are three examples. This has highlighted a concern that a charter for the city of Toronto alone is too limited.

This proposal makes it clear that Toronto should have the ability to enter into agreements with other municipalities to deal with such issues.

There is currently no structure within the Greater Toronto Area capable of becoming a charter city beyond the city’s boundaries – we have no choice but to work with the existing municipalities and their boundaries. Other municipalities may be interested in a charter. This proposal could be a model on which they can build.

Whether or not they opt to pursue Charter status, neighbouring municipalities should work closely together to ensure that the issues which cross over municipal boundaries are reasonably addressed.

When Toronto secures a charter, other cities in Ontario, indeed across Canada, can use Toronto’s example to secure a charter for themselves. There is no reason that the adoption of a City Charter should be limited just to Toronto.