

## DRAFT RESOLUTION

Re: Resolution to UBCM - Development Permits for Institutional Uses

**WHEREAS** there is currently no prescribed legislation that defines an ability for a local government to make requirements regarding the character of development, including landscaping, and the form, exterior design and finish of buildings and structures that are to be constructed for institutional uses;

**AND WHEREAS** the lack of that prescribed legislation has lead to institutional buildings that are not acceptable to local government and that are inappropriate and uncomplimentary to the communities in which they are located;

**BE IT THEREFORE RESOLVED THAT** the Union of British Columbia Municipalities be requested to lobby the Ministry of Community, Aboriginal & Women's Services for amendments to the Local Government Act to prescribe that local government may include institutional uses within community plan and make requirements, by way of mandatory development permit, regarding the character of development, including landscaping, and the form, exterior design and finish of buildings and structures that are to be constructed for institutional uses, with the exception of institutional buildings and structures that are under the direct control of a senior level of government.

### BACKGROUND:

City of Kelowna Municipal Council has requested Planning and Corporate Services staff to draft a resolution to forward to the next meeting of UBCM. The resolution is to address the issue of institutional uses being exempt from control of form and character by way of current legislation that, by way of omission, does not allow municipalities to require a development permit for institutional uses. For reference, the limitation on when a development permit may be required to address general form and character is found under Section 879(1)(e) of the Local Government Act as listed below;

879(1) For the purposes of Section 920\*, a community plan may designate areas for one or more of the following:...

- (e) establishment of objectives and the provision of guidelines for the form and character of commercial, industrial or multi-family residential development.

\* Section 920 prescribes the specific regulations for Development Permits.

Since the Local Government Act is prescriptive legislation, a municipality cannot do anything that is not prescribed by the Act. Therefore, since the Act does not prescribe a method for requiring development permits for institution uses, a municipality has no legal authority to require them. Council also raised the issue that there is no definition of institutional uses in the Local Government Act.

Based on the above information and previous discussions with Council, staff recommend City of Kelowna Municipal Council forward the above resolution to UBCM for their consideration.

Date: March 22, 2004  
File: 0230-20