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Walking the Line: City Powers in the Fight Against Climate Change

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1. Introduction

When it comes to addressing climate change, cities have a vested interest in mitigation. Over half the world's population lives in cities and that number is projected to increase substantially in the coming decades.[1] Due to their locations and high population densities, cities are expected to be greatly affected by climate change. While coastal regions tend to receive much of the attention, as they are the first to be impacted by rising sea levels, many inland cities are also vulnerable. For example, in 2016 and 2017, Windsor, Ontario saw two once-in-a-century type storms within an 11-month period.[2] The 2017 storm alone flooded 6,116 homes and caused $175 million in damages.[3] Estimates project that Windsor will require over half-a-billion dollars to renovate and build sewer infrastructure to respond to floods in the future.[4] Many communities throughout British Columbia experienced similar challenges in 2021, as the province faced a "heat dome" with forest fires occurring at a rate the province had never before seen, only to be hit by flooding just a few months later.[5] But while cities are particularly vulnerable to the effects of climate change, they are also responsible for approximately 70 percent of global energy related greenhouse gas emissions (GHGs)[6], meaning there is significant potential to cut global emissions through urban initiatives. This is the challenge to Canadian cities: walking the delicate balance between taking meaningful action on climate change while staying within their legislative purview.

The purpose of this paper is to:

1. Review how city jurisdiction to legislate environmental issues related to climate change meshes with provincial and federal regulatory powers in Canada; and

2. Outline legal mechanisms Canadian cities can use to advance sustainability goals through regulation.

2. General Overview of City Authority to Regulate Environmental Matters

When it comes to understanding the scope of city authority to address environmental issues in Canada, the starting point is found under the Constitutional division of powers. The federal and provincial governments are given jurisdiction over various issues as outlined under sections 91 and 92 of the Constitution respectively. Cities in turn are commonly referred to as "creatures of statute", as they are given their powers from the provincial government.[7] What a city can do is intimately tied to what a province can do, and what the province lets them do or tells them to do. As Chief Justice McLachlin explained in *Catalyst Paper Corp. v North Cowichan (District)*:

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[1] Kirsten Milhahn, "Cities: a 'cause of and solution to' climate change", September, 2019, UN News Global Perspective Human Stories, <https://news.un.org/en/story/2019/09/1046662>.
[2] Sharath Voleti, *Green Bonds: A Catalyst for Municipal Action Against Climate Change.* Windsor Review of Legal and Social Issues, 2021, Volume 42, p. 97.
[3] *Ibid*, p. 97.
[4] *Ibid*, p. 97.
[5] Saba Aziz, "Fires to Floods: How Extreme Weather has Played out in B.C. in 2021", November 2021, Global News, <https://globalnews.ca/news/8379181/bc-wildfires-floods-2021/>.
[6] Milhahn, *supra* note 1.
[7] Colleen Thrasher and Jeremy Power, *The Power of Prevention: The Extent of Environmental Authority in the Context of Local Government*. Dalhousie Journal of Legal Studies, Volume 28, Article 33, January 1, 2019, p. 142.

> Municipalities do not have direct powers under the Constitution. They possess only those powers that provincial legislatures delegate to them. This means that they must act within the legislative constraints the province has imposed on them. If they do not, their decisions or bylaws may be set aside on judicial review.[8]

Cities must operate within the scope of powers assigned to them by the province and they can only implement laws where they have authority grounded in legislation. Environmental matters are not addressed in the Constitution, making this an area of shared jurisdiction that either the federal or provincial governments may regulate, "either by acting or not acting".[9] By extension, cities may also implement environmental legislation so long as their actions are grounded in their enabling statutes. As the following discussion will show, there has been a gradual shift in city power since the turn of the century, from a prescriptive to a permissive approach to governance.

A. City Authority through Subsidiarity

Assuming a city operates within its jurisdiction, courts have been increasingly inclined to show deference towards city laws in recent years. For example, in *Spraytech*[10] a Quebec municipality passed a bylaw that placed tight restrictions on the use of pesticides within its boundaries. Two companies challenged the bylaw, arguing the town did not have the power to control local pesticide use and that the bylaw conflicted with federal and provincial legislation.[11] The Supreme Court of Canada (SCC) upheld the bylaw, finding that the town had authority to regulate this issue and that the bylaw did not conflict with federal or provincial legislation.[12] In reaching this conclusion, the SCC recognized the principle of subsidiarity, a term used to express support for showing deference towards local government, explaining that:

> …law-making and implementation are often best achieved at a level of government that is not only effective, but also closest to the citizens affected and thus most responsive to their needs, to local distinctiveness, and to population diversity.[13]

This statement was qualified, however, with the court explaining that regardless of how well intended a bylaw may be, and even if the community supports the bylaw to protect local interests, be they in relation to the environment or otherwise, "the means to do it must be found somewhere in the law."[14] In other words, as long as cities stay within their legislative purview, and do not frustrate provincial or federal efforts, courts are prepared to show them a significant amount of deference.

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[8] 2012 SCC 2, at para. 11 [*Catalyst Paper*].
[9] *Friends of the Oldman River Society v. Canada (Minister of Transport)*, 1992 CanLII 110 (SCC), [1992] 1 SCR 3, at p. 65.
[10] *114957 Canada Ltée (Spraytech, Société d'arrosage) v Hudson (Town)*, 2001 SCC 40, [2001] 2 SCR 241 [*Spraytech*].
[11] *Ibid*, at para 40.
[12] *Ibid*, at para 55.
[13] *Ibid*, at paras 3, 53-54.
[14] *Ibid*, at para 48.

Similarly, in *Catalyst Paper Corp,* a matter involving the reasonableness of a municipal taxation bylaw, the court clarified its role on judicial review, explaining that it has narrow powers to set aside municipal bylaws. Municipal councilors must consider a variety of factors when enacting a bylaw. The court's power to set aside a bylaw only arises where a decision is one that "no reasonable body informed by these factors could have taken".[15] The court justified this position by explaining that "courts must respect the responsibility of elected representatives to serve the people who elected them and to whom they are ultimately accountable."[16] Although the judicial review process has undergone some restructuring since the 2019 decision of *Canada (Minister of Citizenship and Immigration) v. Vavilov*[17], in *Vavilov* the SCC re-affirmed its decision in *Catalyst Paper Corp* to avoid interfering with the decisions of elected officials where possible.[18] This further shows the court's willingness to apply deference towards cities as long as they do not operate outside the scope of their jurisdiction.

B. Concurrent Jurisdiction

The above analysis demonstrates that generally speaking, there is concurrent jurisdiction between the province and its cities. This interpretation is supported by Supreme Court jurisprudence from the early 2000s.[19] The courts have emphasized that where possible, both provincial and city laws will be upheld assuming the city can support its actions in law and there is no conflict. For example, in 1997 La Forest J. wrote in *R v. Hydro-Québec* that "the protection of the environment is a major challenge of our time. It is an international problem, one that requires action by *governments at all levels*"[20], which includes the municipal level of government. This statement, with the emphasis added, was subsequently quoted by L'Heureux-Dube J in *Spraytech.*[21] With that said, a city's ultimate scope of authority will vary from one jurisdiction to the next depending on how the enabling legislation has been drafted. If there is no statute either permitting or forbidding municipal action, cities *may* be able to act assuming they do not "displace or frustrate"[22] another level of government's actions.

A review of caselaw will demonstrate how cities are legally authorized to operate alongside other levels of government more clearly. In *Greater Vancouver (Regional District) v. Darvonda Nurseries Ltd.*[23], the Region's District Director set a higher threshold for air quality standards for agricultural operations than were prescribed in provincial legislation. The plaintiff company argued it was exempt from the bylaw because it had followed the provincial standard. The British Columbia Supreme Court rejected this argument, finding that the provincial legislation was not a "code of practice", and as such, the province intended to give the District authority to regulate the discharge of air emissions within its boundaries differently than in the rest of the province.[24] Nothing in the provincial standard specifically restricted the District from imposing a more stringent standard than the province, and it was possible for the plaintiff to

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[15] *Catalyst Paper Corp. v. North Cowichan (District)*, 2012 SCC 2, at para 24.
[16] *Ibid*, at para 19.
[17] 2019 SCC 65 [*Vavilov*].
[18] *Koebisch v Rocky View (County)*, 2021 ABCA 265, at paras 18, citing *Vavilov*, *Ibid.*
[19] See for example *Spraytech, supra* note 10; *Nanaimo (City) v. Rascal Trucking Ltd.*, 2000 SCC 13; *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, 2004 SCC 19.
[20] *R v. Hydro-Québec*, 1997 CanLII 318 (SCC), [1997] 3 SCR 213, at para 127.
[21] *Spraytech*, *supra* note 10 at para 3.
[22] *Ibid* at para 35.
[23] 2008 BCSC 1251 [*Darvonda*].
[24] *Ibid*, at paras 83-84, 104-105.

comply with both the provincial and municipal standards.[25] For these reasons, the District's higher air quality standards were upheld. It is noteworthy, however, that this case implies that if the provincial legislation was a "code of practice", the municipal bylaw would have been rendered invalid.

In *Merzetti v. City of Saint John*[26], Mr. Merzetti violated the municipal setback requirements under the bylaw after building his property too close to the shoreline. Mr. Merzetti argued that the city bylaw conflicted with the province's *Clean Water Act.* The court rejected this argument, and at para 32 cited Justice L'Heureux-Dubé, who in *Spraytech* approvingly quotes McLachlin J's dissent in *Shell Canada Products Ltd. v. Vancouver (City)*[27] to assert that:

> …courts must respect the responsibility of elected municipal bodies to serve the people who elected them and exercise caution to avoid substituting their views of what is best for the citizens for those of municipal councils. Barring clear demonstration that a municipal decision was beyond its powers, courts should not so hold. In cases where powers are not expressly conferred but may be implied, courts must be prepared to adopt the "benevolent construction"…and confer the powers by reasonable implication.[28] [Emphasis by L'Heureux-Dubé, J.]

The court ultimately dismissed Mr. Merzetti's appeal, finding there was no conflict between the city bylaw and provincial legislation. This decision reiterates the SCC reasoning that municipal powers include more than just those powers that are expressly stated in law, it also includes powers that are "necessarily or fairly implied by the expressed power in the statute."[29] While implied powers have their limitations, this decision clearly demonstrates that courts are prepared to make meaningful efforts to show deference towards local government.

By contrast, in some instances federal or provincial statutes will specifically bar a city from acting or require express consent from the higher level of government before a city can act. In these instances, municipalities cannot rely on *Spraytech* to expand their powers where they otherwise might succeed. For example, in *Canadian Plastic Bag Association v. Victoria (City)*[30] the city of Victoria adopted a plastic bag ban that was subsequently challenged by the Canadian Plastic Bag Association on the basis that section 9 of the province's Community Charter required provincial permission to enact municipal laws relating to the environment. The City's position, that the bylaw related to a business matter rather than an environmental issue, was rejected by the British Columbia Court of Appeal, who found that the bylaw was in pith and substance concerned with environmental regulation. As such, the bylaw was repealed, and the city was required to obtain consent from the province before the bylaw could be reenacted.

This decision may come as a surprise to some given that BC is often credited as being one of the more progressive jurisdictions in the country when it comes to environmental regulation and enforcement. Consider

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[25] *Ibid*, at para 114.
[26] 2005 NBCA 16 [*Merzetti*].
[27] 1994 CanLII 115 (SCC).
[28] *Merzetti*, *supra* note 26 at para 32, citing *Shell Canada Products Ltd. v. Vancouver (City)*, 1994 CanLII 115 (SCC), [1994] 1 S.C.R. 231 at 244.
[29] *Ibid*, at para 34, citing *Spraytech*, *supra* note 10, at para 18.
[30] 2019 BCCA 254.

for example, the fact that in 2008 BC became the first jurisdiction in North America to adopt a carbon tax.[31] By contrast, Saskatchewan, which has objectively taken a less ambitious approach to environmental regulation, may have inadvertently made it easier for its municipalities to regulate matters relating to the environment, as least in certain circumstances. For example, in 2020, Regina's plastic bag ban bylaw, *The Plastic Checkout Bag Ban Bylaw, 2020,* came into force without needing to obtain permission from the province. This was possible because Saskatchewan does not have a Community Charter like BC's that mandates provincial approval for environmental regulation. Instead, the city grounded the bylaw under its general power to regulate matters relating to nuisances.[32]

Another aspect of the Regina bag ban is that the bylaw has remained in place despite the federal government having since implemented its own legislation banning a variety of plastic items including plastic grocery bags at retail businesses and restaurants. While Regina's bylaw has not been challenged on this ground, there is good reason to believe the bylaw can continue to operate concurrently with the federal law. It is possible to comply with both laws so it is unlikely that a court would find the bylaw frustrates federal legislation.

Chartered Cities

While the above noted caselaw helps provide a general framework for the scope of city authority, it is important to remember that not all cities are created equal. Large metropolitan centers have the ability to advance sustainability goals in areas where they are the primary regulator. In many cases, this has been credited to their chartered status. City Charters are unique pieces of legislation that provinces issue to particularly large cities with specific needs. City Charters essentially provide special legal carve outs because it is recognized that larger communities need extra powers to govern their populations. This does not mean that the city derives all powers from the special law. Rather, city Charters stand out because they are excluded from the effect of general law empowering city government elsewhere in the province.[33] A look at some of Canada's chartered cities will help clarify how this legal mechanism is applied in practice.

i. Toronto

The City of Toronto is a chartered city, incorporated and empowered under the *City of Toronto Act, 2006*. This is a special statute because it applies only to the City of Toronto. Toronto is still subject to many laws that all other Ontario municipalities are governed by in areas such as public health, land-use planning, building standards, and so forth. The *City of Toronto Act* simply prevents the City of Toronto from being subject to Ontario's general *Municipal Act, 2001*.[34]At the time of its enactment in 2006, the *City of Toronto Act* differed from the *Municipal Act* in several ways. However, many of the unique powers originally given to Toronto have since been incorporated into the general municipal law, including spheres of jurisdiction, statement of purpose, and natural person powers provisions.[35] The city does still enjoy some unique privileges, including the abilities

[31] The Government of British Columbia, "British Columbia's Carbon Tax", 2022, <https://www2.gov.bc.ca/gov/content/environment/climate-change/clean-economy/carbon-tax?keyword=carbon&keyword=tax>.
[32] *The Cities Act*, c. C-11.1, S.S., 2002, s. 8(d).
[33] Zack Taylor and Alec Dobson, *Power and Purpose: Canadian Municipal Law in Transition.* IMFG Papers on Municipal Finance and Governance, University of Toronto, No. 47, 2020, p. 55.
[34] *Ibid*, p. 55.
[35] *Ibid*, p. 56.

to levy taxes not available to other municipalities, and set limitations on borrowing.[36] For the purposes of addressing environmental matters, there is still concurrent jurisdiction between Toronto and the province of Ontario. While the city may have more latitude than other Ontario municipalities, it must still operate within its legislated scope of authority.

ii. Calgary and Edmonton

In Alberta, the government amended the *Municipal Government Act* in 2015 to allow city charters for Calgary and Edmonton, which have had a sweeping effect. The *Municipal Government Act* still applies to these cities, but the City Charters shift authority from the province to the city over areas that directly impact residents. The City Charters state that they may exempt these cities from any law, confer authority not currently in law, and allow the city, by bylaw, to "modify or replace…a provision of this Act or any other enactment".[37] Additionally, any inconsistencies between the charter and provincial law are resolved in favour of the charter, and the charters also establish a number of new powers, including authority to enact new forms of statutory land-use regulation, define their own subdivision approval standards, levy supplementary assessments on property that has changed from farm to another use, and impose stricter building code standards to meet environmental and energy code objectives.[38]

Notably, both Calgary and Edmonton are required to establish Climate Change Mitigation and Adaptation Plans, demonstrating the province's intent to give these cities a high degree of autonomy over climate related matters. This list is by no means comprehensive, showing just how far-reaching charters can be to help empower large municipalities regulate environmental concerns at the local level.

iii. Vancouver

Like Calgary and Edmonton, Vancouver's chartered status under the *Vancouver Charter* confers many authorities on the city that are not enjoyed by other municipalities in the province, including:

- the ability to borrow on its own authority without approval by the Municipal Finance Authority, a provincial agency that issues debt on behalf of all other municipalities in the province;
- the power to establish its own building code and impose requirements without provincial oversight;
- the power to prohibit businesses or business activities; and
- the ability to impose specialized development cost levies (City of Surrey 2007).[39]

One can readily see how, for example, the power to establish its own building code can give a city a major advantage in reducing its carbon footprint by implementing higher efficiency standards for new builds than exist elsewhere in the province. For example, a commonly used standard for eco-friendly buildings is offered by the Canada Green Building Council, which provides LEED (Leadership in Energy and

[36] *Ibid*, p. 56-57.
[37] *Ibid*, p. 58, citing the Alberta *Municipal Government Act*, RSA, 2000, c. M-26, s. 141.5(3).
[38] *Ibid*, p. 59.
[39] *Ibid*, p. 55-56.

Environmental Design) certification for green buildings. Toronto has adopted the Green Development Standard, which is LEED-based. Vancouver utilizes the Green Building Strategy that it implemented in 2005, which includes directions to develop zoning bylaws to enhance environmental performance in building design.[40] Calgary has also implemented its own Sustainable Building Policy, which it adopted in 2004.

Charterless Cities

By contrast, charterless cities will be largely beholden to their respective provinces with respect to building codes. Saskatchewan cities could not, for example, require that all new builds meet the LEED certification standard without ministerial approval as this is a legislative requirement.[41] The Ministry for each province generally provides a coordinating role between municipal and provincial interests. This is accomplished by ensuring that provincial interests are incorporated within a city's local management tools such as zoning bylaws, preventing city bylaws from conflicting with provincial interests, and ensuring city interests are considered or incorporated within provincial initiatives. Ministers also play an important role in authorizing the adoption of official community plans ("OCPs"), and zoning bylaws for cities, forcing cities to operate within the boundaries set by the province for their local bylaws and regulations to be adopted.

To provide an example, in 2022 the City of Regina attempted to incorporate several drainage regulations into its *Building Bylaw*[42]. These amendments were reviewed by the province and rejected on the basis that they did not relate to safety, and only safety related items are meant to be in the *Building Bylaw*. Despite this setback, the City was able to create a work around by incorporating the drainage amendments into *The Wastewater and Storm Water Bylaw, 2016*[43]. The interesting thing about this approach is that, while the province most likely would have approved the amendments under the second bylaw, the City did not need provincial consent to do so as it was able to rely on its general bylaw powers provided under *The Cities Act*.[44] This example is an important reminder that the means can be a greater barrier than the ends when it comes to implementing new laws.

There are many other ways cities can incorporate urban planning powers into their environmental strategy, even where they do not enjoy chartered status. For example, Saskatchewan cities are governed by *The Planning and Development Act, 2007* ("*PDA*"), which requires cities to implement an official community plan ("OCP") that includes the regulation of several areas that overlap with environmental concerns, including:

- sustainable current and future land use and development in the city;
- the management of lands subject to natural hazards, such as flooding, slumping and slope instability;
- the management of environmentally sensitive lands;
- source water protection; and

[40] Frederick Coburn and Gabrielle K. Kramer, *Canadian Law Book: Toxic Real Estate Manual.* 2021 Thomson Reuters Canada Limited, Toronto, Ont. Accessed on Westlaw, May 27, 2022, Chapter 2: s. VIII, 2:40.
[41] See *The Construction Codes Act*, c. 9, S.S., 2021, s. 17.
[42] City of Regina, bylaw no. 2003-7.
[43] City of Regina, bylaw no. 2016-24.
[44] See *The Cities Act, supra* note 32, s. 8.

- the co-ordination of land use, future growth patterns, and public works with adjacent municipalities.[45]

The OCP may also address the co-ordination of municipal programs concerned with development including policy statements relating to the physical, environmental, economic, social, or cultural development of the city that council considers advisable.[46] Cities are also given authority to issue building permits under the *PDA* that help ensure new developments follow municipal planning within the city. Along with this, cities have authority to enact bylaws that can be of further assistance. These powers can be used to prioritize a sustainability objective.

While the OCP must receive ministerial approval, the Minister's main objective is to ensure legislative consistency, including that the OCP is consistent with the statements of provincial interest, which are laid out in legislation. The statements of provincial interest tend to be quite broad, however, and there is ample room to incorporate environmental initiatives into the OCP without creating conflict. For example, Regina's OCP prioritizes several environmental considerations, including promoting more energy-efficient new construction, encouraging green building design, and sustainable transportation.[47]

Another factor to consider is that some cities, such as Regina and Saskatoon, are approving authorities. This status is issued by an order in council from the provincial government. Approving authorities must still obtain provincial approval to enact zoning bylaws. However, once a zoning bylaw is in place, they can amend it without obtaining further provincial approval. Communities that do not enjoy this status will need to work more closely with their respective province to implement zoning bylaw amendments.

To summarize, existing jurisprudence provides a strong basis to conclude that there is concurrent jurisdiction between the province and cities for matters of general power. City powers will reach their limits where they frustrate provincial or federal initiatives, where legislation requires provincial oversight and approval, or where cities cannot ground their actions in law.

C. Independent Jurisdiction

Given Canada's constitutional structure, even if a province gives its cities independent jurisdiction over a particular issue, independence is somewhat tenuous because the province can retract these powers at any time. This was recently demonstrated in the case of *Toronto (City) v. Ontario (Attorney General)*[48], where the Supreme Court found that it was constitutional for the Ontario government to cut the number of Toronto councilors from 47 to 25 without needing to consult the city. One would think that cities have independent control over how they structure their councils, but the Supreme Court has rejected this idea, reiterating that "subject to the Charter, the province has 'absolute and unfettered legal power' to legislate with respect to municipalities".[49]

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[45] *The Planning and Development Act*, c. P-13.2, S.S., 2007, at s. 32(2).
[46] *Ibid*, at s. 32(3).
[47] City of Regina, *Design Regina: Official Community Plan*, Schedule "A" to Bylaw No. 2013-48, 2013, pp. 34-35.
[48] 2021 SCC 34.
[49] *Ibid*, at para 79, citing Ontario *English Catholic Teachers' Assn. v. Ontario (Attorney General)*, 2001 SCC 15, at para 58.

With that said, in practice, there are some specific areas that cities have been given wide latitude to regulate in which the province is unlikely to ever interfere. For example, under section 12 of *The Cities Act* for Saskatchewan, cities are given control of streets within the municipality. It would be unconventional for the province to interfere with a city's parking bylaws, given it is a specific matter of local concern. All the same, even this highly localized power remains "subject to any Act" in Saskatchewan.[50] Courts have reiterated this position, noting that while municipalities may have natural person powers and broad powers to pass bylaws, "one must always look to the statute for authority".[51]

The underlying implication of this analysis is that cities should aim to work collaboratively with their respective provinces for the strongest and most effective operations. For day-to-day matters of a localized nature, assuming cities can find a basis in their enabling legislation, they can operate under the assumption that they have independent jurisdiction, and they can implement laws in these areas without consulting the province. At the same time, if provincial-municipal communication breaks down and a city goes too far in a direction the province does not approve of, rest assured that the city can quickly be brought back in line.

D. The Basis for Bolder City Action on the Environment

Bearing all of this in mind, city action on the environment is a balancing act that requires cities to work with their respective provinces. Even though cities may appear to have significant limitations placed on them, there is room for bolder action, particularly in the environmental context. This does not mean recklessly acting outside one's scope of authority or claiming powers that are nowhere to be found in legislation. Rather, using the powers that have already been given to cities, local governments simply need to commit to advancing a sustainability objective.[52] There are multiple reasons why cities can and should take bolder environmental action than they currently are in many cases.

First, city powers are primarily about land use.[53] Whether a city is addressing zoning laws, water management, transportation, or sewage and wastewater, many of its policies are intimately tied to the land. Even city taxes are allocated based on the size, location, use, and quality of the land one owns. This is significant because in many cases, by enforcing laws that regulate how land is used and managed, these policies will simultaneously impact the environment. As Howard Epstein explains:

> …in their day-to-day decisions about land use planning, municipalities make decisions that affect the establishment of residential subdivisions and thus pressure on aquifers; they also make decisions that affect transportation use and thus of necessity emissions from vehicles; a municipality that allows sprawl thereby allows more vehicle traffic and thereby allows more air pollution and GHG emissions.[54]

[50] *The Cities Act*, *supra* note 32, s. 12.
[51] *Thorpe v. Kindersley (Town)*, 2021 SKQB 211, at para 35.
[52] Howard Epstein, Subsidiarity at Work – The Legal Context for Sustainability Initiatives at the Local Government Level: How an environmental agenda could be advanced by Canadian municipalities, Municipal and Planning Law Reports (Articles), 2009, 63 MPLR-ART 56, at p. 8.
[53] *Ibid*, at p. 4.
[54] *Ibid*, at p. 3.

Given the close connection between land and the environment, there is an opportunity for cities to place greater emphasis on environmental sustainability in their decisions. For example, urban sprawl is expanding in many cities, despite the impacts of car dependent communities on local emissions. Choosing to recognize the environmental implications of this work and incorporate solutions into city planning will not only help improve sustainability, but also help save money and enhance efficiencies by addressing these overlapping interests. These decisions do not occur in a vacuum. Prioritizing density is a political decision that requires support from residents. It also needs to be part of an integrated approach. A city that promotes density but does not offer an effective transit system is likely to face pushback from society in other ways. Cities that are serious about addressing climate change will need to work through these issues to ensure decisions mesh with the larger community vision. That being said, where cities are able to muster the resolve to tackle the climate crisis, they should be emboldened by the fact that many of their delegated powers deal with land use, which inevitably has environmental implications. Cities can put forward a sustainability objective with confidence knowing they have been delegated powers to operate in this area, even if there are limits to their authority.

Second, both land use and the environment tend to be future focused. Land use is concerned with a community's ongoing evolution, while environmental law is concerned with environmental assessment, a process used to determine potential damage before it is too late.[55] Bolder environmental action is justified at the municipal level because cities must look to the future of their communities in any event, and sustainability needs to be prioritized as part of this discussion, given it is a "central, and pressing, framework."[56] Cities that do not prioritize environmental sustainability risk being unable to survive.

Water management of the Colorado River is a perfect example to demonstrate this point. For decades communities from this area have overused the natural resource and are now finding that it could reach "dead pool" in as little as two years, defined as when the water level is "too low to flow through the dams downstream to the communities and farmers that need it."[57] This predicament did not happen by accident. Communities throughout this region have known about this scarce resource for years and chose not to implement sustainable regulations, not because it was beyond the scope of their authority, but because they did not want to place limitations on their existing lifestyles.[58] Municipal politicians and regulators will now be tasked with making some difficult decisions around meeting ongoing consumption needs while protecting the longevity of their water supply. Canadian cities are faced with similar decisions on a regular basis, and the ability to prioritize sustainability falls within their authority for a great number of issues.

Third, bolder environmental action at the city level is appropriate because courts have upheld the exercise of such powers on multiple occasions, suggesting that city power over sustainability matters are greater than most local governments tend to appreciate. The scientific community has been unequivocal about the threats posed by climate change for many years. The International Panel on Climate Change (IPCC) has

[55] *Ibid*, at p. 6.
[56] *Ibid*, at p. 10.
[57] Ella Nilsen and Rachel Ramirez, "The brink of disaster: 2023 is a critical year for the Colorado River as reservoirs sink toward 'dead pool'", CNN, December 30, 2022, <https://www.cnn.com/2022/12/30/us/colorado-river-lake-mead-drought-2023-climate/index.html>.
[58] *Ibid.*

explained that to avoid the most damaging effects of climate change, "deep, rapid and sustained global greenhouse gas emissions reductions" are required.[59] Failing to do so means crossing the tipping point, the threshold at which the damaging effects of climate change will become irreversible and have the potential to continue compounding far into the future.

Canadian courts have accepted these findings as fact. In *References re Greenhouse Gas Pollution Pricing Act*[60], the SCC recognized that Canada has been heating at twice the global average since the mid-twentieth century, and is expected to continue to rise faster than that rate.[61] The SCC further noted that Canada is vulnerable to a host of issues as the effects of climate change amplify, including "floods and forest fires, changes in precipitation levels, degradation of soil and water resources, increased frequency and severity of heat waves, sea level rise, and the spread of potentially life-threatening vector-borne diseases".[62] Given these and many other concerns, the SCC has recognized that climate change poses an "existential challenge" to the future of humanity that "cannot be ignored".[63] It should come as no surprise then, that we have been told by the courts that the protection of the environment is one of the major challenges of our time.[64] We have also been told by the courts that the powers of all levels of government should be interpreted in ways that allow them to deal with the environment.[65] While city governments must still operate within the scope of their legislative authority, this line of jurisprudence demonstrates that the legal system is prepared to support environmental efforts at the local level.

3. Using Legislative Authority to Advance Sustainability Goals

So, what does a sustainable objective look like at the city level in practice? There are many opportunities for cities to address climate change through local regulation. When considering what powers a city needs to accomplish this work, one must determine what regulations one wishes to implement. The following discussion will consider a few of the strategies cities can implement using a variety of legal mechanisms to promote environmentally sustainable communities.

i. City Density and Mixed Use Walkable Communities

Density is a great starting point for cities to take climate action while staying within their legislative purview. While an issue like city density may appear trivial, studies show an integrated approach pays dividends for those who make it a priority by reducing reliance on vehicles and improving access to goods and services through alternative transportation means and increased walkability.

[59] Jacob Koshy, "U.N. panel calls for rapid action against climate change to secure a livable future", the hindu, March 20, 2023, <https://www.thehindu.com/sci-tech/energy-and-environment/un-panel-calls-for-rapid-action-against-climate-change-to-secure-a-liveable-future/article66642640.ece>.
[60] 2021 SCC 11.
[61] *Ibid*, at para 10.
[62] *Ibid*, at para 10.
[63] *Ibid*, at para 167.
[64] Epstein, *supra* note 48, at p. 10.
[65] *Ibid*, at p. 10.

Research from the London School of Economics has found that "even a modest blend of pro-density housing and transit policies" could cut the emissions of large global cities by a third by 2030.[66] Peter Calthorpe, who led a state-wide urban design effort in California, *Vision California*, calculates that through urban densification alone, the United States could achieve half the carbon reductions needed, by 2050, to do its share in holding global temperature rise to two degrees Celsius.[67] There are also health benefits related to a reduction in pollution. A World Health Organization study found that one-third of deaths from stroke, lung cancer and heart disease are due to air pollution, much of which comes from energy use related to transportation.[68] Those in pedestrian-friendly neighbourhoods also tend to live more active lifestyles, which are proven to have other health and social benefits.[69]

Beyond the environmental and health benefits, walkable communities that incorporate density offer the potential for economic growth. In pretty much any urban center across North America, mixed-use, walkable neighbourhoods—that is, locations where buildings combine residential and commercial uses, and offer streets where walking is safe and enjoyable, that people are drawn to visit on foot, and where fast and extensive car traffic is not the top priority—are among the most economically profitable parts of the city. Not only are walkable communities able to produce more tax value per acre than auto-oriented places, but they are also more affordable to maintain than their car-centric counterparts.[70] They do not carry the same costs that come with paving wide roads for vehicles, for example, or the added expenses of running and maintaining utilities like water, sewage and waste management to sprawling suburbs.[71]

Studies have also shown a correlation between the most walkable cities and both higher education and metropolitan GDP per capita.[72] A 2016 study of the 30 largest U.S. metropolitans found that the six highest ranked communities had an average GDP per capita of $72,110 as opposed to the ten lowest ranked metros, which had an average GDP per capita of $48,313.[73] These most walkable urban metros enjoy a 49% premium in GDP per capita, which is the same premium Germany has over economically poorly performing Russia, Latvia, and Croatia.[74] Walkable neighbourhoods also benefit the economy because people naturally tend to spend more money at businesses when they are easily accessed using transit or walking. A report by Elizabeth Bent and Krute Singha of the San Francisco County Transportation Authority found that while walkers spend less than the average car driver per trip, transit users and walkers frequented businesses more often per month, which resulted in higher spending overall.[75]Cities that are serious about addressing climate change will have a difficult time ignoring mixed-use walkable communities given it couples a viable method to reduce city emissions with the ability to increase community health and vibrancy while helping to grow the economy.

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[66] Daniel Aldana Cohen, Climate Justice and the Right to the City, Penn Institute for Urban Research, February 2018, at p. 5.
[67] *Ibid*, at p. 5.
[68] ABC News, "Cities of the Future: How developers are working to reverse the health and climate impacts of urban sprawl", March 14, 2019, <https://abcnews.go.com/Technology/cities-future-developers-working-reverse-health-climate-impacts/story?id=61661573>.
[69] Becky P.Y. Loo, Walking Towards a Happy City, Journal of Transport Geography, 2021, at p. 9.
[70] Rachel Quednau, "Best of 2018: Why Walkable Streets are More Economically Productive", Strong Towns, December 4, 2018, <https://www.strongtowns.org/journal/2018/1/16/why-walkable-streets-are-more-economically-productive-3bzg5>.
[71] *Ibid.*
[72] Christopher B. Leinberger, "Urbanizing the Suburbs: The Major Development Trend of the Next Generation", in Suburban Remix: Creating the Next Generation of Urban Places, edited by Jason Beske and David Dixon, Island Press, Washington DC, 2018, at p. 27.
[73] *Ibid*, at p. 28.
[74] *Ibid*, at p. 28.
[75] Quednau, *supra* note 67.

Zoning Bylaws

Having laid out a preliminary case for density and mixed-use walkable communities, it is worth discussing how cities can incorporate these designs into their existing communities. Zoning is a local matter that addresses a variety of issues like height, density, and parking, all of which carry relevant environmental considerations. For many cities, they have spent the past several decades designing their communities around cars rather than people, which makes it challenging to change course. The good news is that cities are delegated significant powers over zoning, meaning they have the authority to place greater emphasis on walkable communities and increased density if they so choose.

In many cases, cities have set up their zoning regulations so that it is illegal to build walkable communities. For example, modern suburb regulations typically require streets to be between 10 to 15 meters wide to meet engineering requirements, which are designed around cars. But in walkable suburbs, narrow roads with a six-metre width, which acts as a two-lane road with only one lane of street parking are commonplace. These reduced lane widths work because there are fewer cars on the road. By reducing the size of the street, density is prioritized making the area more walkable. Street setback bylaws that require properties to have a large front yard and mandatory two off street parking spaces create similar issues. Walkable neighbourhoods do not need to meet these requirements because alternate modes of transportation are available, and density is needed to achieve walkability.

Modern suburbs also regularly use winding streets that incorporate cul-de-sacs with large distances between blocks, meaning that pedestrians as well as drivers need to take a circuitous route to reach their destination, making walking unviable. By contrast, walkable suburbs are typically built on a grid so there are multiple paths that can be taken to get to any location. One-way streets may also be used to discourage through traffic. The result of these planning changes is that alternative modes of transportation like walking and biking become more sensible than driving as the route may be more direct.

Another trait of car centric suburbs is that they are zoned so that residential neighbourhoods are separated from commercial uses. This means that there are no amenities within walking distance in a suburb, thereby forcing one to drive for everything, whether to buy a few extra groceries or stop in at a local coffee shop. Allowing a greater degree of mixed use that incorporates commercial and residential in the same areas offers significant potential to increase alternative modes of transportation for day-to-day needs.

In addition to prohibiting mixed use neighbourhoods, modern suburbs also commonly zone exclusively for single family homes, meaning alternative styles of residential living such as detached and semi-detached houses, apartments, and townhomes are not an option in these areas. Many of these alternative residential living options are designed to be smaller, and therefore use less space, which means that by prohibiting them, density and walkability are compromised. Even where modern suburbs are not zoned exclusively for single family homes, it is likely that these alternative styles of residential living will still be disqualified because the lot sizes of walkable communities are too small for car centric suburbs, coming in at as little as 1,500 square feet. By contrast, in modern suburbs, minimum lot sizes of 7,000 square feet are common and can even be set higher than this.

Whether dealing with a Chartered city that enjoys broad powers to implement zoning bylaws with minimal provincial oversight, an approving authority that has powers to amend zoning bylaws without obtaining ministerial approval, or a smaller city that works more closely with its respective province, there is a lot of opportunity for cities to incorporate these planning designs into their communities.

Transit

Along with zoning bylaws, walkable communities should be designed to promote alternative modes of transportation. Cities can facilitate the switch by incentivizing alternative transit options. Safe biking infrastructure and reliable city transit are examples of this in practice. Most people will not choose to ride a bike over driving their car because of environmental concerns, but they are much more likely to switch if cycling infrastructure is safe and convenient. Subsidizing the cost of transit is another option to incentivize alternatives to driving a car. A growing number of communities have even gone so far as to offer fare free transit. For example, in Olympia, Washington, fare free transit was used to increase public ridership by 60,000 people, equivalent to a 20% increase in one month.[76] Admittedly, these ideas step out of the legal realm and into the world of policy, meaning that council must lead the transition. While these suggestions are ambitious, cities should be encouraged by the fact that there are many policy decisions they can implement in conjunction with their legal powers, including zoning bylaws, to promote sustainable community designs.

Walkable Communities in Practice

While car-centric zoning bylaws tend to be the norm in North America, there are several cities that have consciously chosen to prioritize density and pedestrian friendly zoning regulations. Milton, Ontario, for example, a community of 84,000, about an hour's drive from Toronto, has blended traditional subdivision layout townhouses that can reach densities of up to 41 units per acre.[77] They have also made significant improvements to their bike infrastructure to help promote alternative modes of transportation.[78] Cornell, a neighbourhood in the city of Markham, located in the northern Greater Toronto Area (GTA), is another notable success. Cornell has been pushing for increased density since the 1990s, and has achieved a pedestrian friendly environment through the use of narrow streets, garages at the backs of houses, and plenty of greenspace to create a walkable atmosphere.[79] The neighbourhood has also managed to increase density to more than 30 jobs and residents per acre through the use of mixed-use buildings, including multistory properties designed for commercial uses on the ground floor with residential living spaces in apartments above.[80] These examples help to show that a transition back to walkable communities can happen even where cities have not made this a priority for many years.

[76] Abigail Johnson Hess, "Americans spend over 15% of their budgets on transportation costs—these US cities are trying to make it free". CNBC, March 2020, < https://www.cnbc.com/2020/03/02/free-public-transportation-is-a-reality-in-100-citiesheres-why.html>.
[77] Harold Madi and Simon O'Byrne, "North York Center: An Example of Canada's Urbanizing Suburbs, in Suburban Remix: Creating the Next Generation of Urban Places, edited by Jason Beske and David Dixon, Island Press, Washington DC, 2018, at p. 173.
[78] *Ibid*, at 176.
[79] *Ibid*, at p. 176.
[80] *Ibid*, at p. 176.

ii. Procurement Rules

Local governments can also align procurement rules with sustainable energy targets. Although these rules must be consistent with the guidelines established by the federal and provincial governments, there are many opportunities to integrate environmental action into operations while staying within a city's legislative purview. For example, Saskatoon's procurement guidelines state that the city seeks the best value, rather than the lowest price in the procurement of civic goods. Their framework specifically considers companies that offer the best balance of economic, environmental, and social sustainability.[81]

While it is easy to include environmental care as a priority in a procurement policy, it can be challenging to determine how to assess the performance of third-party companies in practice. The GHG Protocol corporate standard has been adopted by companies globally as a uniform metric for measuring an organization's emissions reductions. The GHG Protocol breaks emissions into three categories, scope 1, 2 and 3 emissions. Scope 1 emissions refer to a company's direct emissions from company-owned and controlled resources such as fuels, heating sources, industrial processes, on-site manufacturing and so forth. Scope 2 emissions measure a company's indirect emissions from the generation of purchased energy from a utility provider, or in other words, emissions derived from the consumption of purchased electricity, steam, heat, and cooling. Scope 3 emissions are the most challenging to reduce, as they include all indirect emissions, other than scope 2 emissions, that occur in the value chain of the reporting company, including both upstream and downstream emissions. In other words, all emissions that can be linked to the company's operations fall under scope 3.[82]

Many companies, both in Canada and around the world, have committed to the GHG Protocol to help bring their reduction goals in line with the net-zero 2050 commitment. Canadian Business for Social Responsibility (CBSR) has made it easy to access emissions reductions targets for Canadian companies, by operating Canada's Net-Zero Leaderboard, which reports on the climate change commitments various Canadian companies have made. This includes details on whether a company has adopted a target to achieve net-zero emissions by 2050 or sooner, whether they have committed to scope 1, 2 and 3 emissions reductions within this timeframe, whether they have any interim targets, and whether they have adopted a science-based target initiative to guide their actions.[83] For example, CN Rail has committed to scope 1, 2, and 3 emissions reductions and has adopted a target to keep warming at or below 1.5 degrees, while Canada Post has committed to scope 1 and 2 reductions only, and has a less aggressive target to keep warming well below 2 degrees.[84]

While these metrics are helpful, most cities will find that they have their limits. City procurement is often highly localized, and there may only be a small handful of companies available to do the work the city is looking to procure. If local companies have not factored environmental sustainability into their business operations, the city is left with little option but to rely solely on traditional metrics like price and experience.

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[81] City of Saskatoon, "City of Saskatoon Council Policy: Purchasing Policy", Item 8.2.1 - Standing Policy Committee on Finance Report, December 2018.
[82] Greenhouse Gas Protocol, "Standards", World Resources Institute, Washington D.C., 2016, <https://ghgprotocol.org/standards>.
[83] CBSR, "Net-Zero Leaderboard: The Definitive Source of Information on Canadian Climate Targets", <https://cbsr.ca/net-zero-leaderboard/>.
[84] *Ibid.*

All the same, cities can use the data provided by CBSR to inform their procurement processes where possible. As environmental industry standards continue to improve, companies at all levels will experience increased pressure to find ways to reduce emissions through their work. Cities can use procurement to incentivize this transition. While environmental factors will be weighed along with a host of other considerations, if weighed appropriately, companies taking less ambitious climate action will find it challenging to stand out against their ecofriendly competitors.

Guidelines around the procurement of goods can also help city sustainability efforts. For example, cities can choose to transition bus fleets from fossil fuel-based vehicles to zero emissions vehicles (ZEVs) with the use of procurement policies. Saskatoon recently completed a pilot project which revealed that in addition to major emissions savings, although more expensive upfront, electric buses are less expensive than their fossil fuel counterparts in the long run. The city projects this will translate to roughly $470,000 in savings per bus over its total lifespan, or approximately $66 million dollars in savings to convert Saskatoon's entire fleet to ZEVs.[85]

While ZEVs may save money for a city in the long run, the upfront costs can still be an inhibitor. There are many opportunities for cities to secure government funding to address these challenges. For example, the federal government, in conjunction with the Federation of Canadian Municipalities, has introduced the Green Municipal Fund (GMF), which offers grants for sustainable community plans. This program received $950 million in 2019 to scale up its goal of driving cost-saving energy-efficiency across Canada.[86] The Investing in Canada Infrastructure Program (ICIP) is another grant agreement designed to support cost-sharing of infrastructure projects in communities across Canada. While ICIP is not focused exclusively on green projects, there is a lot of opportunity to incorporate environmental sustainability into this initiative. For example, British Columbia has developed the Green Infrastructure - CleanBC Communities Fund (CCF), which is part of the province's strategy to transition towards a low-carbon economy.[87] Canada and BC have committed $134 million towards a third intake of the CCF, allowing them to share the cost of green infrastructure projects across the province.

Given that grant funding comes with various legal conditions, cities will need to confirm that their projects align with funding requirements. Where the opportunity presents itself, cities can combine grant funding with procurement initiatives to further their sustainability objectives and start a discussion about how cities can work with federal and provincial governments to develop programs that support innovative action on climate change.

iii. Environmental Bylaws

Environmental bylaws can also be used to help cities reduce their emissions. Property Assessed Clean Energy (PACE) programs and waste reduction bylaws are a few examples of this in practice.

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[85] Jonathan Charlton, "Saskatoon could save $66M if it embraced all-electric bus fleet: report", CTV News, Saskatoon, March 2022, <https://saskatoon.ctvnews.ca/saskatoon-could-save-66m-if-it-embraced-all-electric-bus-fleet-report-1.5804670>.
[86] Infrastructure Canada, "New Green Municipal Fund tool Drives Energy Efficiency", Government of Canada, July 2020, <https://www.canada.ca/en/office-infrastructure/news/2020/07/new-green-municipal-fund-tool-drives-energy-efficiency.html>.
[87] The Government of British Columbia, "Investing in Canada Infrastructure Program - British Columbia - CleanBC Communities Fund", May 2022, < https://www2.gov.bc.ca/gov/content/transportation/funding-engagement-permits/funding-grants/investing-in-canada-infrastructure-program/green-infrastructure/cleanbc-communities-fund>.

PACE Programs

The Clean Energy Improvement Program (CEIP) is a PACE-style program launched by the Alberta government in 2019 that helps people make energy efficient upgrades to their properties without having to put money down. The cost of the upgrade is recovered through the owner's property taxes. The program is voluntary for municipalities and property owners. For municipalities that choose to participate, they must pass a CEIP bylaw and work with Energy Efficiency Alberta to develop and deliver the program to residents. Property owners receive a loan from the municipality to perform approved energy upgrades to their properties, which are then paid off through their property taxes. The amount can be paid off any time with no penalty and any outstanding debt remains with the property in the event the house is sold. CEIP finds its authority in Alberta legislation, namely, *An Act to Enable Clean Energy Improvements.* The regulation enabled under the act provides additional details for municipalities, including the designation of Energy Efficiency Alberta as the program administrator, disclosure requirements, consumer protection, and minimum and maximum allowable improvement values.

Waste Reduction Bylaws

Cities are delegated generous powers to manage waste. This line of reasoning was upheld in the 2002 decision of *Donohue Recycling Inc. v. Toronto (City of)*[88], where the court found that Toronto had broad powers to implement bylaws under the *Municipal Act* (prior to the 2006 *Toronto Act* coming into force), including to regulate how its waste management system was used, and to place conditions on users. In *Burin Peninsula Regional Services Board v. Baker*[89], the Newfoundland Provincial Court reached a similar conclusion, finding that municipalities could mandate waste collection for residents who lived on the town's servicing route.

In Saskatchewan, cities are allowed to pass bylaws relating to public utilities as well as services provided by or on behalf of the City, including establishing fees for providing services[90] Saskatchewan cities may also provide a public utility service either directly or through a controlled corporation or by agreement with any person.[91] Regina has used these powers to pass *The Waste Management Bylaw, 2012* (the *Waste Management Bylaw*) which contains mandatory recycling provisions. Part VI of the *Waste Management Bylaw* sets out the requirement to pay for recycling service through the utility bill. This bylaw was necessary for the city's recycling program to succeed as there were concerns that if the program was not mandated, not enough people would opt in to make it financially viable. As the bylaw was passed using Regina's general bylaw powers under *The Cities Act*, the City did not need to obtain provincial approval for it to come into force. As Regina prepares to roll out a new composting program in September 2023, it will rely on a bylaw amendment to the *Waste Management Bylaw* to mandate this new service.

Vancouver has taken a particularly aggressive approach to waste management, adopting a zero-waste strategy that aims to eliminate waste from all sources in the city by 2040.[92] Only time will tell how close to zero waste

[88] 2002 CanLII 9763(ONSC).
[89] 2021 CanLII 2108 (NLPC).
[90] *The Cities Act, supra* note 32, s. 8.
[91] *Ibid*, s. 17.
[92] City of Vancouver, "Zero Waste 2040", 2022, <https://vancouver.ca/green-vancouver/zero-waste-vancouver.aspx>.

the city ultimately achieves. What we do know is that between 2008 and 2019 the city has accomplished a 30% reduction in waste, in large part thanks to mandatory recycling and composting programs.[93] Whether Canadian cities can achieve zero-waste is open to debate, but even where communities fall short, they are likely to see significant improvements to their waste management systems with the use of bylaws.

i. Final Thoughts

These are just a few examples of the ways cities can regulate themselves to become more environmentally sustainable. The main takeaway that should be gleaned from this discussion is, first and foremost, that there are powers to address climate change and the environment that fall cleanly under city control. Even where provincial approval is required, in most cases provinces leave cities a great deal of discretion to plan and design their communities as they see fit. Initiatives like walkable communities, electric busses, alternative transit, waste diversion, and PACE programs, while ambitious, are not likely to raise concern with provincial authorities. The challenge of implementing these regulations will be political, more so than legal. In practice, this means that lawyers are limited in what they can do to address the issue. There may be opportunities to highlight environmental considerations for a client on a particular project, but ultimately, instruction needs to come from elected officials for these types of policy initiatives to be implemented. That being said, it is encouraging to know that where cities choose to make environmental sustainability a priority, there are many options available to them while still operating within their legislative purview.

4. Conclusion:

Local government has an important role to play in addressing climate change given most the world's carbon is now emitted in cities. While it is true that Canadian cities fall under the jurisdiction of their respective provinces, Canadian jurisprudence increasingly supports showing deference towards cities so long as their actions are grounded in law and do not frustrate provincial or federal government efforts. Although the concept of independent jurisdiction at the municipal level is tenuous, given that municipalities are ultimately subject to provincial authority, in practice cities are given varying degrees of latitude to manage affairs of a local nature. Chartered cities can expect little to no intervention from the provincial government in many local matters. Approving authorities can also accomplish a great deal without needing to consult the province through zoning bylaw amendments and general bylaw powers. There are clear boundaries to each city's authority, however. Familiarizing oneself with local laws and regulations is critical for effective city operations. Failure to do so risks a city finding itself offside with higher levels of government.

Indeed, there are many ways cities can address climate change through local action, even where provincial or federal support is lacking. Urban planning using zoning bylaws, alternative forms of transportation, waste diversion, and environmental procurement policies are a few areas where cities have opportunity to pursue sustainable energy consumption. This revelation is encouraging because it places cities in the unique position of having less legal power to address climate change compared to higher levels of government, but arguably a greater amount of influence. Cities offer a way to showcase the effectiveness of climate action so that bigger jurisdictions can witness its impact firsthand and become motivated to drive action on a larger scale.

[93] *Ibid.*