

Memo



Date: January 18, 2011
File: 0910-01
To: City Manager
From: R Mayne, Director Corporate Services
Subject: Bylaw Notice Enforcement Process

Recommendation:

THAT Council receives, for information, the Report from the Director, Corporate Services dated January 18, 2011;

AND THAT Bylaw No. 10475, being "Bylaw Notice Enforcement Bylaw 10475" be forwarded for reading consideration.

Purpose:

In September 2009 Council adopted the following resolutions;

THAT Council authorize staff to apply to the Province for inclusion on their list of municipalities authorized to operate under the *Local Government Bylaw Notice Enforcement Act*;

AND THAT Council authorize staff to further investigate partnerships with other Okanagan Local Governments to facilitate implementation of the Bylaw Dispute Adjudication System;

AND FURTHER THAT Council Authorize staff to develop, create and implement the necessary Bylaws required to proceed with the provisions of the Bylaw Dispute Adjudication System resulting in a simple, fair and cost effective method of dealing with minor Bylaw infractions

In April 2010 Council passed the following resolution;

THAT Council authorize the Mayor and City Clerk to execute the Southern Interior Bylaw Notice Dispute Adjudication Registry Agreement

Staff has worked with the partnering Local Governments to establish the Adjudication Registry and now require Council to approve the necessary bylaws for the purpose of establishing the position of the screening officers and the establishment of the Bylaw Notice Enforcement Bylaw. Staff are also rescinding the Municipal Ticket Information Bylaw and presenting a new Bylaw for Council consideration.

A handwritten signature in the bottom right corner of the page.

Background:

Previously, anyone wishing to dispute a bylaw violation such as a parking ticket was required to appear in BC Provincial Court which is an expensive and time-consuming process for the disputant, the Provincial Court System and the local municipality.

Staff has investigated partnerships with other Okanagan local governments to facilitate implementation of the Bylaw Dispute Adjudication System with the intent of delivering a simple, fair and cost effective method of enforcement of minor Bylaw infractions.

The cost sharing initiative agreement will commence on February 1, 2011 and be between the following nine local governments:

City of Kelowna	District of West Kelowna	District of Peachland
City of Penticton	District of Lake Country	Regional District of Okanagan Similkameen
City of Vernon	District of Summerland	Town of Oliver

RATIONALE

By implementing a joint adjudication system, the local governments involved ensure that most bylaw matters are resolved through a streamlined process. This new system saves taxpayer dollars and allows provincial and municipal resources to be used more efficiently and effectively. As well, those challenging tickets issued for Bylaw Notice infractions will receive enhanced service.

SOUTHERN INTERIOR BYLAW NOTICE ADJUDICATION

The system is authorized by the Province of BC to operate as a dispute resolution forum for handling bylaw offence ticket disputes. While there is one combined system for all nine of the participating local governments, each maintains their own bylaws, penalties and policies with respect to compliance with the bylaws. The Bylaw Notice Dispute Adjudication System allows municipalities to deal with bylaw ticket disputes for infractions at the local level more effectively than through the Provincial Court system and offers a more streamlined process for paying and collecting fines.

Residents who receive a bylaw offence notice will have the opportunity to dispute violations via a screening officer, or out of court via a provincially appointed adjudicator who will hear all disputes. The adjudication calendar and bookings for all municipalities will be managed by Kelowna City Hall bylaw staff.

FINE VALUES

Attached to this report is the Bylaw Notice Enforcement Bylaw. The recommended fine values are consistent with the previous MTI Bylaw with the exception of where the MTI Bylaw dealing with obstruction of a Bylaw Officer or Staff member varied between the various bylaws. The purpose of having an obstruction provision is to help ensure voluntary compliance by supporting the role staff plays in obtaining compliance with Council's bylaws. It is not anticipated very many obstruction bylaw tickets would be written; in a similar manner to how the increase in noise violations penalties has resulted in a greater level of voluntary compliance.

Those MTI penalties that Council set at \$1,000 (noise, graffiti) are lower as the maximum fine value within the Notice Bylaw is \$500.

The new Municipal Ticket Information Bylaw will be changed to reflect the new order of enforcement. The MTI fines are generally higher than the Bylaw Notice fines and will only be used when compliance is not reached through the other means. Further enforcement options also exist. The standard escalating enforcement practice for regulatory Bylaw violations is as follows:

- **Voluntary Compliance** - Bylaw staff work with the public, where possible, to obtain compliance with a bylaw provision before writing a ticket where practical.
- **Bylaw Notice Tickets** - allows for compliance agreements (with reduced fines) and adjudication.
- **MTI Ticket** - allows for a Provincial Court hearing with set fines not able to be varied by the Judge.
- **Long Form Information** (laying charges under the penalty section of the individual bylaw) - allows for the Provincial Court Hearing with the Judge having ultimate authority on fine levels, requirement orders, and breaches should an individual not meet the Judges order.
- **Injunction Relief** - requires Council approval - court ordered based on evidence provided, may lead to other court action.
- **Remedial Order** - Council ordered enforcement procedure under the Community Charter provisions, all costs may be applied to the property taxes and may lead to other court actions.

Internal Circulation:

Community and Media Relations
City Clerk

Legal/Statutory Authority:

Local Government Bylaw Notice Enforcement Act

Financial/Budgetary Considerations:

A cost sharing arrangement between the Local Government partners has been established with proportionate funding based on established population. Funding for this initiative was established during the 2010 budget process.

Considerations not applicable to this report:

Legal/Statutory Procedural Requirements:

Existing Policy:

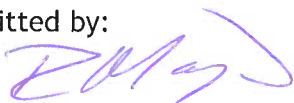
Personnel Implications:

External Agency/Public Comments:

Community & Media Relations Comments:

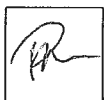
Alternate Recommendation:

Submitted by:



R. Mayne, Director Corporate Services

Approved for inclusion:



P. Macklem, General Manager Corporate Sustainability

cc: Director of Community & Media Relations
City Clerk