

**City of Kelowna  
Regular Council Meeting  
AGENDA**



Monday, January 10, 2022  
9:00 am  
Council Chamber  
City Hall, 1435 Water Street

**Pages**

1. **Call to Order**
2. **Confirmation of Minutes** 3 - 4  
Regular AM Meeting - December 6, 2021
3. **Reports**
  - 3.1. **Deputy City Clerk, Verbal Update, re: SILGA Nominations and Resolutions** 5 m
  - 3.2. **Public Hearing Implementation Options** 20 m 5 - 21  
To consider options to implement legislative changes for rezoning applications and public hearing procedures.
4. **Resolution Closing the Meeting to the Public**

THAT this meeting be closed to the public pursuant to Sections 90(1) (c), (e), (j) and Section 90(2) (b) of the Community Charter for Council to deal with matters relating to the following:

  - Disposition of Land
  - Confidential Third Party Business Information
  - Labour Relations
  - Confidential Information from the Province
5. **Adjourn to Closed Session**
6. **Reconvene to Open Session**
7. **Issues Arising from Correspondence & Community Concerns**

7.1. Mayor Basran, re: Issues Arising from Correspondence

15 m

8. Termination



**City of Kelowna  
Regular Council Meeting  
Minutes**

Date: Monday, December 6, 2021  
 Location: Council Chamber  
 City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart, Ryan Donn\*, Gail Given, Brad Sieben, Luke Stack\* and Loyal Wooldridge

Members participating remotely Councillors Charlie Hodge and Mohini Singh

Staff Present City Manager, Doug Gilchrist; City Clerk, Stephen Fleming

(\* Denotes partial attendance)

**1. Call to Order**

Mayor Basran called the meeting to order at 9:07 a.m.

**2. Confirmation of Minutes**

Moved By Councillor Hodge/Seconded By Councillor Wooldridge

**R1103/21/12/06** THAT the Minutes of the Regular AM Meeting of November 22, 2021 be confirmed as circulated.

Carried

**3. Resolution Closing the Meeting to the Public**

Moved By Councillor DeHart/Seconded By Councillor Singh

**R1104/21/12/06** THAT this meeting be closed to the public pursuant to Section 90(1) (a), (c), (d), (e) and Section 90(2) (b) of the Community Charter for Council to deal with matters relating to the following:

- Personal Information - Appointment
- Labour Relations
- Security of Municipal Property
- Acquisition and Disposition of Lands and Improvements
- Confidential Information from the Province
- Confidential Information from a First Nation

Carried

4. **Adjourn to Closed Session**

The meeting adjourned to a closed session at 9:08 a.m.

5. **Reconvene to Open Session**

The meeting reconvened to an open session at 12:18 p.m. with Councillors Donn and Stack present.

6. **Issues Arising from Correspondence & Community Concerns**

Moved By Councillor Donn/Seconded By Councillor Hodge

R1105/21/12/06 THAT Council direct staff to invite Journey Home Society to present to Council during the first quarter of 2022.

Carried

7. **Termination**

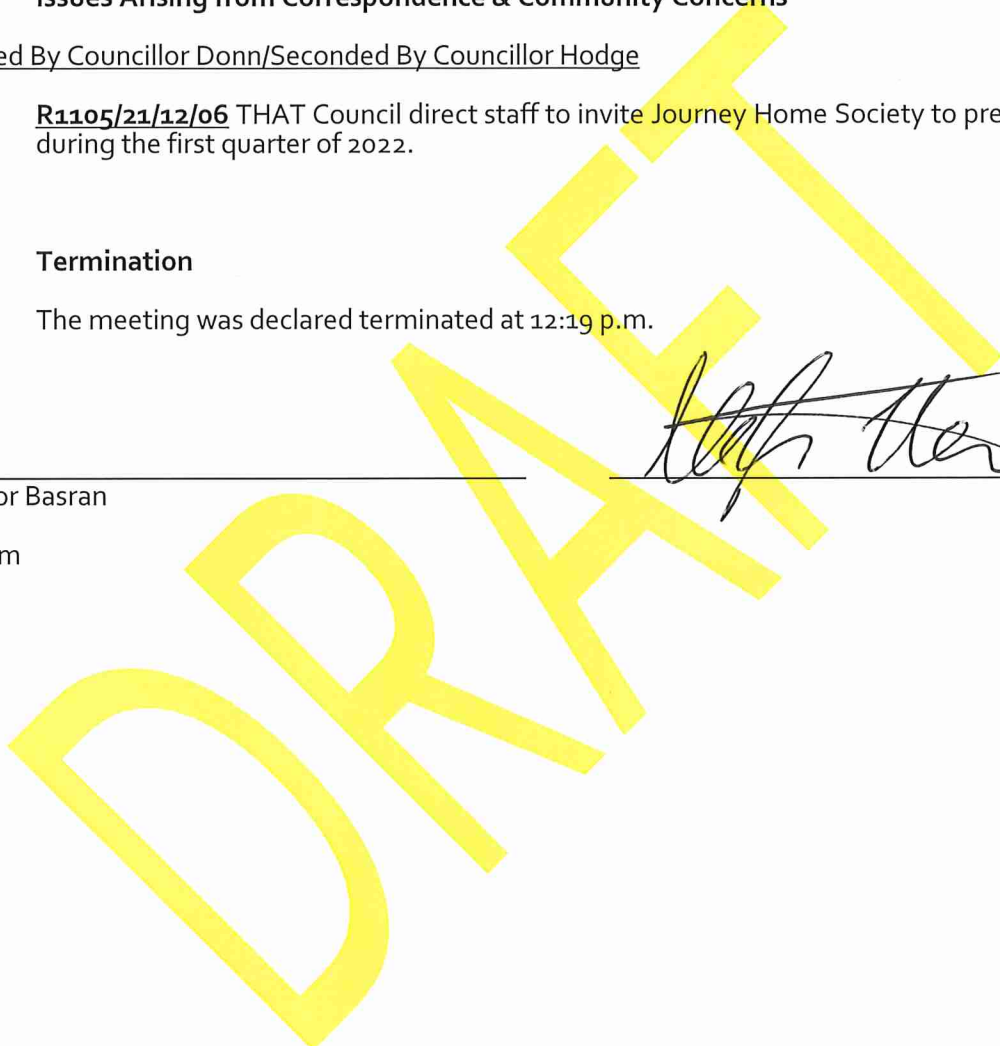
The meeting was declared terminated at 12:19 p.m.

\_\_\_\_\_  
Mayor Basran

sf/acm



\_\_\_\_\_  
City Clerk



# Report to Council



**Date:** January 10, 2021  
**To:** Council  
**From:** City Manager  
**Subject:** Public Hearing Implementation Options  
**Department:** Office of the City Clerk

**Recommendation:**

THAT Council receives, for information, the report from the Office of the City Clerk dated January 10, 2021, with respect to options to implement legislative amendments to public hearing procedures;

AND THAT Council directs staff to prepare bylaws and policies required to implement the legislated changes and recommended options described in the report from the Office of the City Clerk dated January 10, 2021.

**Purpose:**

To consider options to implement legislative changes for rezoning applications and public hearing procedures.

**Background:**

*Previous Council Resolution*

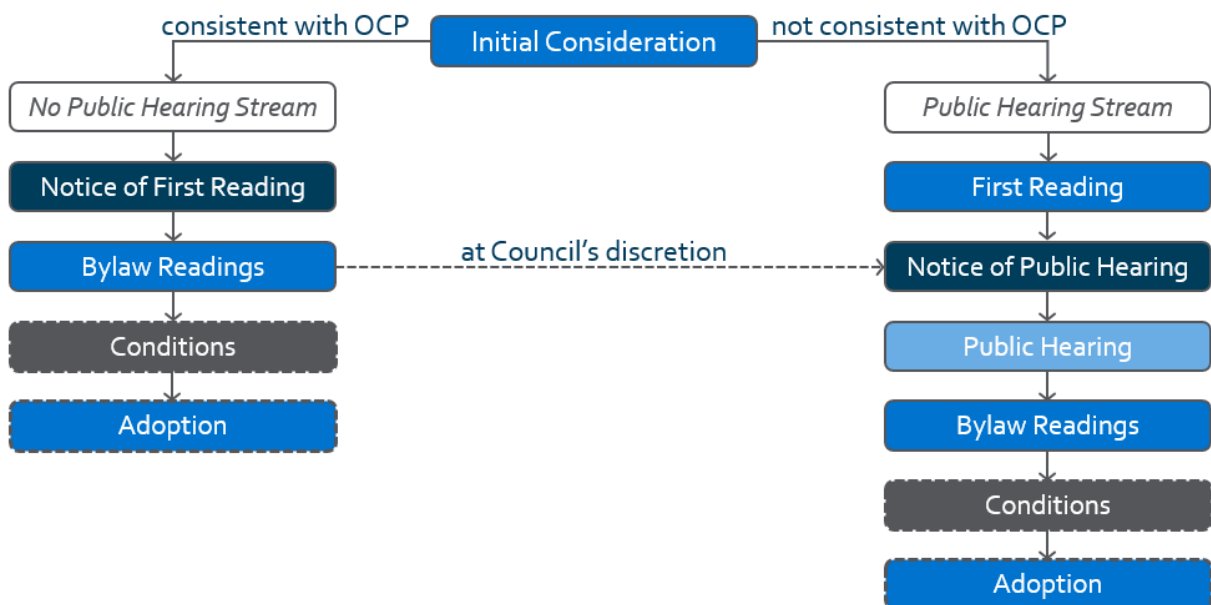
Resolution	Date
<p>THAT Council receives, for information, the report from the Office of the City Clerk dated November 22, 2021, with respect to legislative amendments affecting Council, public notices, and development application procedures;</p> <p>AND THAT Council directs staff to report back to Council with options to implement the legislative amendments;</p> <p>AND FURTHER THAT, once the legislative amendments come into effect, Council directs staff to make recommendations on public hearings for zoning applications as outlined in the report from the Office of the City Clerk dated November 22, 2021, pending bylaw and policy amendments.</p>	<p>November 22, 2021</p>

Bill 26 received Royal Assent on November 25, 2021, bringing into effect changes around public hearings for zoning bylaws that are consistent with the OCP and options to delegate certain development variance permits (DVPs). This report outlines implementation options around the public hearing changes. The Development Planning Department will bring forward a future report with options for DVPs.

**Discussion:**

*Rezoning Application Flowchart*

The flowchart below shows the two streams for rezoning applications. Those that are consistent with the OCP do not require a public hearing and follow the process on the left. Those that are not consistent with the OCP require a public hearing and follow the process on the right. Staff will recommend which stream to follow at initial consideration. Council may choose to direct an application to public hearing at initial consideration or following notice of first reading.



*Criteria*

The LGA requires a zoning bylaw that does not go to a public hearing be consistent with the OCP. Staff will develop an internal policy to establish how such a consistency is determined. Council reports will identify relevant OCP policies and how the application does or does not meet them. Staff recommend that applications that have a recommendation of non-support from staff continue to go to public hearing. To align with the change in legislation, staff recommend removing the previous public input criteria used for waiving public hearings, recognizing the public is still notified of first reading and Council can choose to hold a public hearing.

Statistics for 2021 comparing correspondence for waived public hearings versus items where a public hearing was held (including OCP and text amendments) are shown in the table below.

Item	Public Hearing Waived	Public Hearing Held
Number of applications	48	81
Number of applications with correspondence	13	41
Percentage of applications with correspondence	27%	51%
Total number of pieces of correspondence	25	490
Average number of pieces of correspondence per application	1.9	11.9
Number of applications sent to public hearing after being waived	3	

### *Correspondence*

The amendments to the Local Government Act (LGA) remove the statutory requirement that a Council provide the public with an opportunity to be heard or to present written submissions for those rezoning applications consistent with an OCP. This is a fundamental change to how rezoning applications have been considered previously, as neither the public nor the applicant enjoys a statutory right to be heard with these changes. The new legislated procedure is similar to Council consideration of a development permit, with the exception the public is notified before first reading for zoning bylaws that are not scheduled to a public hearing. The public or the applicant may communicate with Council members prior to the application or bylaws appearing on a Council agenda, and either may submit correspondence to Council prior to the meeting. Options for how Council may receive such correspondence are listed below. The public notice content will reflect the option decided upon.

Option	Description	Receipt Method
a)	Submit correspondence to the City Clerk who will collect and provide it to Council. Similar to a public hearing process.	Agenda package
b)	Submit correspondence directly to Council by email or letter.	Mayor & Council correspondence
c)	Contact the Planning Department for more information about the application. May also choose to submit correspondence to Council.	Mayor & Council correspondence

Staff recommend option c). This option gives the public the opportunity to find out more information about the application and keeps the option to submit correspondence to Council through a process distinct from an application being considered at public hearing.

### *Notification Radius & Signage*

No changes to the current 50 m notification radius or signage requirements are recommended at this time. Notice of first reading includes a newspaper advertisement, notices mailed to property owners and occupants within 50 m of the subject property, and a sign posted on the subject property at least 10 days before first reading. Amendments to the Development Application & Heritage Procedures Bylaw are needed to remove reference to waived public hearings and add notice of first reading.

Options to amend the notification radius and signage requirements will be presented to Council along with options to change public notice methods later in 2022 once the legislative amendments for public notice are brought into force by regulation.

### *City Imposed Conditions*

In light of the legislative changes, staff are reviewing other processes, including the types of conditions the City chooses to place on a bylaw before it can be adopted. These include the coupling of Council consideration of an associated development permit and/or development variance permit, and servicing agreements to bylaw adoption. Staff will bring forward options to Council once further review on these items is complete.

### *Other Administrative Updates*

In addition to the changes for public hearing procedures, administrative amendments to Council Procedure Bylaw No. 9200 will improve clarity, processes, and alignment with legislation. These include removing public hearing procedures, as these are established by the chair of the public hearing in accordance with the LGA, removing the requirement for resolution numbers, and adding a general appeal process for Council reconsideration of delegated decisions. The report to Council accompanying the bylaw amendments will provide more details.

### *Next Steps*

Amendments to several bylaws and policies are needed to implement the changes, as outlined in the table below. General legislative changes include removing waiving public hearings and updating legislative references.

<b>Change</b>	<b>Bylaw No. 9200</b>	<b>Bylaw No. 12310</b>	<b>Council Policy No. 307</b>	<b>Council Policy No. 367</b>
General legislative changes	✓	✓	✓	✓
Criteria			✓	
Correspondence, notification & signage		✓		✓
Other administrative updates	✓			

### **Conclusion:**

The LGA amendments are a significant shift in how Council considers rezoning applications that are consistent with the OCP, removing the statutory opportunity for the public to be heard or to present written submissions and placing more emphasis on the OCP. The recommended changes reflect the new legislated procedures, using the experience with waiving public hearings in 2021 as a starting point for criteria and processes. Staff will bring forward amendments to the relevant bylaws and Council policies to implement the changes.

Options for notification radius and signage requirements will come forward later in 2022 and further review will be completed on conditions of bylaw adoption for Council's consideration.

### **Considerations applicable to this report:**

#### ***Legal/Statutory Authority:***

Bill 26 – 2021: Municipal Affairs Statutes Amendment Act (No. 2), 2021



***Legal/Statutory Procedural Requirements:***

Amendments to Council Procedure Bylaw No. 9200, Development Application & Heritage Procedures Bylaw No. 12310, and related Council policies to implement changes

***Existing Policy:***

[Council Policy No. 307 Waiver of Public Hearing](#)

[Council Policy No. 367 Public Notification & Consultation for Development Applications](#)

***Financial/Budgetary Considerations:***

Similar to waiving public hearings, not holding public hearings reduces costs associated with staff time preparing for and attending public hearings.

**Considerations not applicable to this report:**

*External Agency/Public Comments:*

*Communications Comments:*

Submitted by:

L. Bentley, Deputy City Clerk

**Approved for inclusion:** S. Fleming, City Clerk

cc:

R. Smith, Divisional Director, Planning & Development Services

T. Barton, Development Planning Department Manager



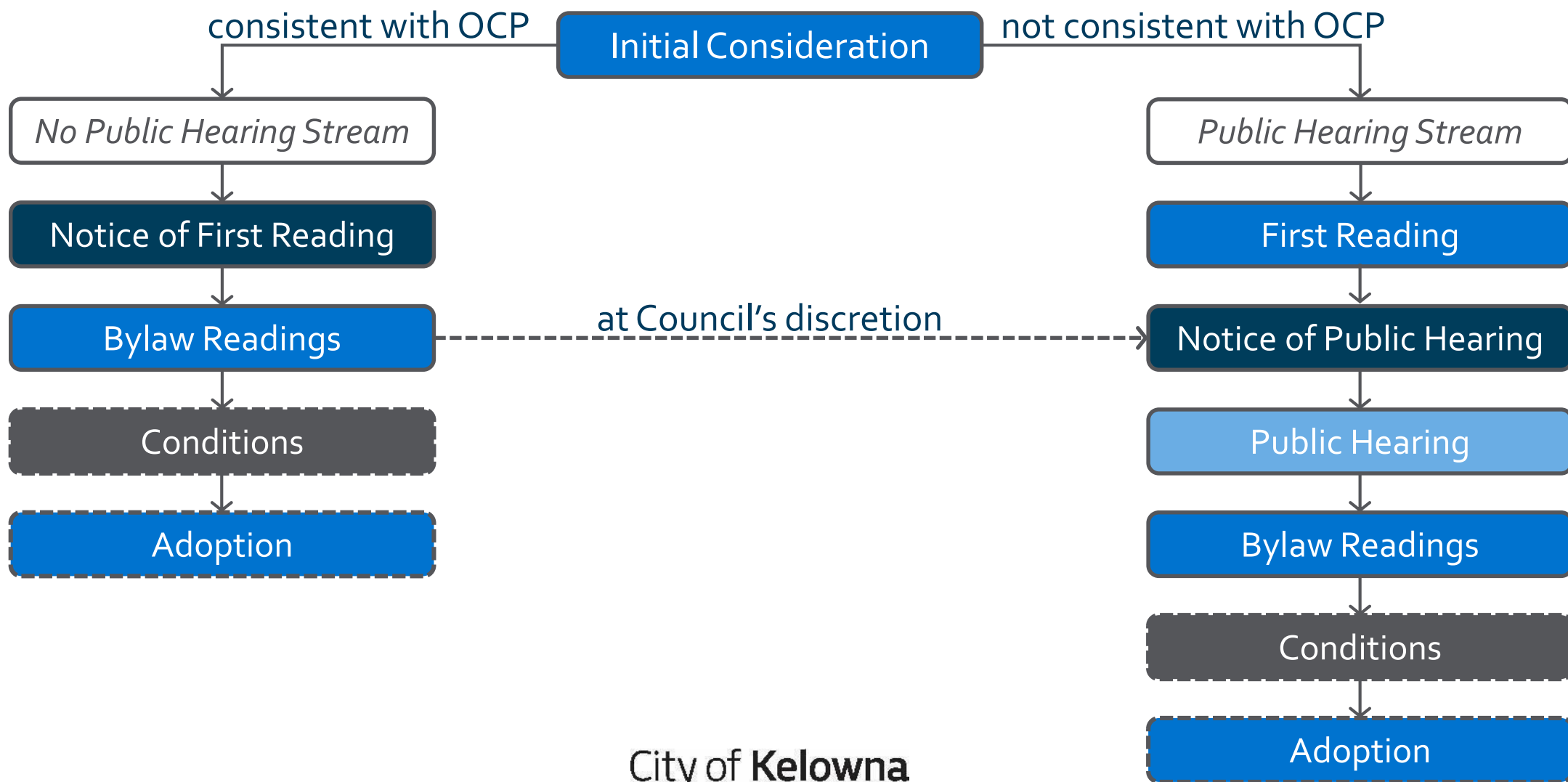
# Public Hearing Implementation Options

January 2022

# Background

- ▶ Bill 26 given Royal Assent November 25, 2021
- ▶ Zoning bylaws that are consistent with the OCP no longer need a public hearing

# Rezoning Application Flowchart



# 2021 Public Hearing Statistics

Item	Public Hearing Waived	Public Hearing Held
Number of applications	48	81
Number of applications with correspondence	13	41
Percentage of applications with correspondence	27%	51%
Total number of pieces of correspondence	25	490
Average number of pieces of correspondence per application	1.9	11.9
Number of applications sent to public hearing after being waived	3	

# Criteria

- ▶ Consistent with the OCP
- ▶ Recommendation of support from staff
- ▶ Council can choose to direct to public hearing at initial consideration or after notice of first reading

# Correspondence

- ▶ No statutory opportunity for the public or applicant to be heard or submit written correspondence
- ▶ Similar to DPs, with public notice before first reading
- ▶ Public or applicant may communicate with or submit correspondence to Council

# Correspondence

Option	Description	Receipt Method
a)	Submit correspondence to the City Clerk who will collect and provide it to Council. Similar to a public hearing process.	Agenda package
b)	Submit correspondence directly to Council by email or letter.	Mayor & Council correspondence
c)	Contact the Planning Department for more information about the application. May also choose to submit correspondence to Council.	Mayor & Council correspondence



# Notification & Signage

- ▶ Notice of first reading
  - ▶ Newspaper advertisement
  - ▶ Notices mailed to properties within 50 m
  - ▶ Sign posted on subject property
- ▶ Options to amend notification radius & signage requirements along with broader options for public notice methods
  - ▶ Later in 2022

# Conditions & Administrative Updates

- ▶ Staff are reviewing conditions of zoning bylaw adoption
  - ▶ Options for Council once further review is complete
- ▶ Administrative updates to Council Procedure Bylaw
  - ▶ Clarity, process improvements & legislative alignment

# Summary of Changes

Item	Recommendation
Criteria	<ul style="list-style-type: none"> <li>• Consistent with the OCP</li> <li>• Recommendation of support from staff</li> </ul>
Correspondence	<ul style="list-style-type: none"> <li>• Direct the public to contact the Development Planning Department</li> <li>• Public may choose to send correspondence through Mayor &amp; Council correspondence</li> </ul>
Notification & signage	<ul style="list-style-type: none"> <li>• Newspaper advertisement, notices mailed to properties within 50 m, sign posted on subject property</li> <li>• Review along with options to change public notice methods later in 2022</li> </ul>
Conditions	<ul style="list-style-type: none"> <li>• Review conditions for bylaw adoption</li> </ul>
Administrative updates	<ul style="list-style-type: none"> <li>• Public hearing procedures, resolution numbers, appeal process</li> </ul>

# Recommendation & Next Steps

- ▶ Direct staff to prepare bylaws & policies required to implement legislated changes & recommended options

Item	Bylaw No. 9200	Bylaw No. 12310	Council Policy No. 307	Council Policy No. 367
General legislative changes	✓	✓	✓	✓
Criteria			✓	
Correspondence, notification & signage		✓		✓
Other administrative updates	✓			



*Questions?*

For more information, visit [kelowna.ca](http://kelowna.ca).