CITY OF KELOWNA

BYLAW NO. 11770

Well Regulation Bylaw

A bylaw to regulate the disconnection and closure of wells on properties connected to the City Water Utility.

WHEREAS under Section 8 of the *Community Charter*, Council may by bylaw, regulate, prohibit and impose requirements in relation to municipal services;

AND WHEREAS the City of Kelowna has established by section 2.1.1 of the Water Regulation Bylaw No. 10480 the service of water supply through the City Water Utility (the "System");

AND WHEREAS the City of Kelowna deems it necessary and desirable to regulate the use and closure of wells on properties served by the system;

AND THEREFORE, the Council of the City of Kelowna, in an open meeting assembled, enacts as follows:

1. Introduction

1.1 This Bylaw may be cited for all purposes as the "City of Kelowna Well Regulation Bylaw No. 11770."

2. Applicabilty

2.1 Nothing in this Bylaw shall preclude anyone from complying with the provisions of any other local, provincial, or federal regulations or enactment.

2.2 Any enactment referred to herein is a reference to an enactment of British Columbia, and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Kelowna, as amended, revised, consolidated, or replaced from time to time.

3. Definitions

3.1 In this Bylaw;

"Backflow" means flow of water, well water or other substances back into any plumbing system connected to the System.

"Bylaw" means the City of Kelowna Well Regulation Bylaw.

"City" means the City of Kelowna.

"Close" means to remove a Well from service permanently in accordance with section 9 of the Groundwater Regulation.

"Connect" or "Connection" means to connect the Private System on a parcel to the System.

"Contractor" means the person responsible for the performance in the compliance with this Bylaw of the work to Close a Well.

"Disconnect" or "Disconnected" means to disconnect a Well from the Private System on the parcel on which the Well is located, in a manner that permanently prevents water or other substances from entering the System.

"Domestic Purpose" means the use of water for "domestic purpose" as defined in the Water Sustainability Act.

"Groundwater Regulation" means the Groundwater Protection Regulation, B.C. Reg.299/2004, under the *Water Sustainability Act*.

"Irrigation System" means the separate network of pipes, pumps, water treatment facilities, valves, hydrants, service lines, water meters and all other appurtenances or facilities that made up the water supply and distribution system of the former South East Kelowna Irrigation District ("SEKID") and which, since the dissolution of SEKID, is being operated by the City of Kelowna as a water supply for non-domestic purposes within the area formerly serviced by SEKID.

"Manager" means the person with responsibility for the management and oversight of the day-to-day operation of the System.

"Non-Domestic Purpose" means for uses other than those defined for a Domestic Purpose.

"Owner" means the owner of a Well on a parcel Connected to the System, and in the case of a Well situated on land to which the *Strata Property Act*, SBC 1998, c. 43 applies, means the strata corporation.

"Permission to Use Well for Domestic Purposes" means a permission authorized by the Manager under section 6 to operate a well for a Domestic Purpose.

"Private System" means the onsite pipes and other apparatus on a parcel, connected to the System at the property line and used to convey water from the System to the plumbing fixtures in the buildings or structures on that parcel.

"Service Connection" has the same meaning as defined in the City of Kelowna Bylaw No. 10480.

"System" has the same meaning as "City Water Utility" in the City of Kelowna Bylaw No. 10480.

"Well" means a groundwater well that was used for supplying water for Domestic Purposes or Non-Domestic Purposes prior to the Connection of the parcel on which the well was located.

"Well Decommission Report" has the same meaning as a "well decommission report" in the Groundwater Regulation and which contains all of the information required under Schedule 4 of the Groundwater Regulation.

"Well Driller" means a person holding, in relation to the decommissioning of wells, the prescribed qualifications of a well driller under the Water Sustainability Act, SBC 2014, c. 15.

4. Well Disconnection and Closure Options

4.1 The Owner of a parcel on which a Well is located, upon the Connection, must promptly Disconnect or cause the Well to be Disconnected at the Owner's expense.

4.2 No later than the later of 12 months after the Connection or 12 months after the date of adoption of this bylaw, the Owner must:

(a) ensure the Well is Closed in accordance with this Bylaw and all applicable provincial enactments, and
(b) at the Owner's expense, obtain and submit a Well Decommission Report prepared by the Well Driller, to the City and Ministry of Environment.

5. Non-domestic Purpose Option

5.1 If, despite section 4.2, an Owner wishes to be or remain Connected to the System and to continue to use the Well for Non-Domestic Purposes, the Owner must submit to the Manager, not later than sixty days after the date of the adoption of this Bylaw where there is an existing Connection, or not later than sixty days after the date of Connection in the case of a parcel that does not have a Connection at the date of adoption of this Bylaw:

(a) an Application for Permission to Use a Well for Non-Domestic Water Purpose after Connection in the form prescribed for that purpose by the Manager;
(b) a map showing:
    (i) the location of the Well in relation to the buildings and structures on the parcel on which the Well is located, and
    (ii) the well identification plate number, if available.
(c) a copy of the Owner's application to the Province for a groundwater license.

5.2 An Owner who is permitted under this section to use a Well for Non-Domestic Purposes after Connection to the System must:

(a) operate and maintain the Well in good order and in accordance with the requirements of sections 58 and 59 of the *Water Sustainability Act*, S.B.C. 2014, c. 15 and Part 7 of the Groundwater Regulation;
(b) ensure that the Well is physically disconnected from the Irrigation System;
(c) ensure the Well is Closed immediately when required by the City to do so if it is not operated or maintained in good order;
(d) not reconnect the Well to an Owner's existing private domestic water distribution system or the Private System as long as the Owner's parcel is Connected; and
(e) not use the Well for Domestic Purposes.

6. Option of Well for Domestic Use

6.1 If, despite section 4.2, an Owner wishes to use the Well for a Domestic Purpose, the City will not provide water service from the System to the parcel through a Service Connection except in accordance with Section 6.2. The Owner must submit to the Manager not later than sixty days after the date of the adoption of this Bylaw where there is an existing Connection, or not later that sixty days after the date of Connection in the case of a parcel that does not have a Connection at the date of adoption of this Bylaw:

(a) an Application for Permission to Use a Well for Domestic Water Purpose after Connection in the form prescribed for that purpose by the Manager;
(b) a map showing the location of the Well in relation to the buildings and structures on the parcel on which the Well is located, and the well identification plate number, if available.

6.2 The Manager may issue a Permission to Use Private Well for Domestic Purposes to an Owner of a parcel that has a Connection where there is more than one residential dwelling on the parcel and it would be unduly expensive in the assessment of the Manager to provide a Connection to one or more of the residential dwellings.

6.3 An Owner who is permitted under this section to use a Well for Domestic Purposes after Connection to the System must:

(a) operate and maintain the Well in good order and in accordance with the requirements of sections 58 and 59 of the Water Sustainability Act, S.B.C. 2014, c. 15 and Part 7 of the Groundwater Regulation;
(b) ensure the Well is Closed immediately when required by the City to do so if it is not operated or maintained in good order;
(c) not connect the Well to the Owner's private water distribution system which provides water service for a purpose other than that authorized by the Manager under subs. 6.2 as long as the Owner's parcel is Connected;
(d) submit a Domestic Well Registration Form, in the form prescribed by the Province, to FrontCounterBC.ca and provide a copy of the submitted form to the Manager.

7. Discontinuation of Service

7.1 Where a provision of this bylaw has or is being violated which puts the System or Irrigation System at risk of contamination, or which has the potential to pose a risk of contamination to either the System or Irrigation System, the City will provide a notice to the Owner that the City will discontinue the provision of water service through either or both of the System or the Irrigation System in the event the violation is not remedied within seven (7) days.

7.2 The notice under section 7.1 may be provided by one of more of:

(a) personal delivery to the Owner;
(b) registered mail to the Owner;
(c) by leaving the written notice at the property.

7.3 The notice must inform the Owner that they have an opportunity to make representations to City Council before the provision of water service is discontinued.

7.4 In the event that the Owner requests reconsideration by Council of a proposed discontinuation of water service, the water service must not be discontinued until Council has reconsidered the matter or the Owner fails to appear for the Council reconsideration having been given notice in accordance with section 7.2 of the date and time of the reconsideration.

7.5 In the event the violation of the bylaw is not rectified within seven (7) days of giving notice under section 7.2, or in the case of a reconsideration by Council, within seven (7) days of Council affirming the discontinuation of the service, the City may discontinue the provision of water service through the System, Irrigation System, or both, as the case may be.

8. City Action in Default

8.1 In addition to discontinuing a water service under section 7, where there is a contravention of the bylaw as described in section 7.1 that the Owner has failed to rectify, the City may take action in default of the Owner and rectify the contravention, including by disconnecting the Private System from the System or Irrigation System or installing an Approved Backflow Preventer to prevent Backflow to the System or Irrigation System.

8.2 Any costs incurred by the City in taking action under section 8.1 may be recovered from the Owner as a debt in accordance with Division 14 of Part 7 of the Community Charter.

9. Prevention of Contamination

9.1 No person shall introduce, or cause to be introduced into the System, any water or other substance from a well on a parcel owned or occupied by that person or, if the person is not the owner or occupier of the parcel, from a well that the person has Disconnected, Closed, performed any other work upon or caused any of those things to be done in relation to the well.

10. Offences and Penalties

10.1 Every person who violates any provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw, or who does any act which constitutes an offence against the bylaw is guilty of an offence against this bylaw and liable to the penalties hereby imposed. Each day that the violation continues to exist, shall constitute a separate offence.

10.2 Every person who commits an offence against this bylaw is liable on conviction, to a fine of up to $10,000.00, or liable to a term of incarceration for a period of not more than 90 days, or both. Any penalty imposed pursuant to this bylaw shall be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, law or legislation.

11. Severance

11.1 If a section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portions of this bylaw.

Read a first, second and third time by the Municipal Council this 17th day of June, 2019.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk