

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

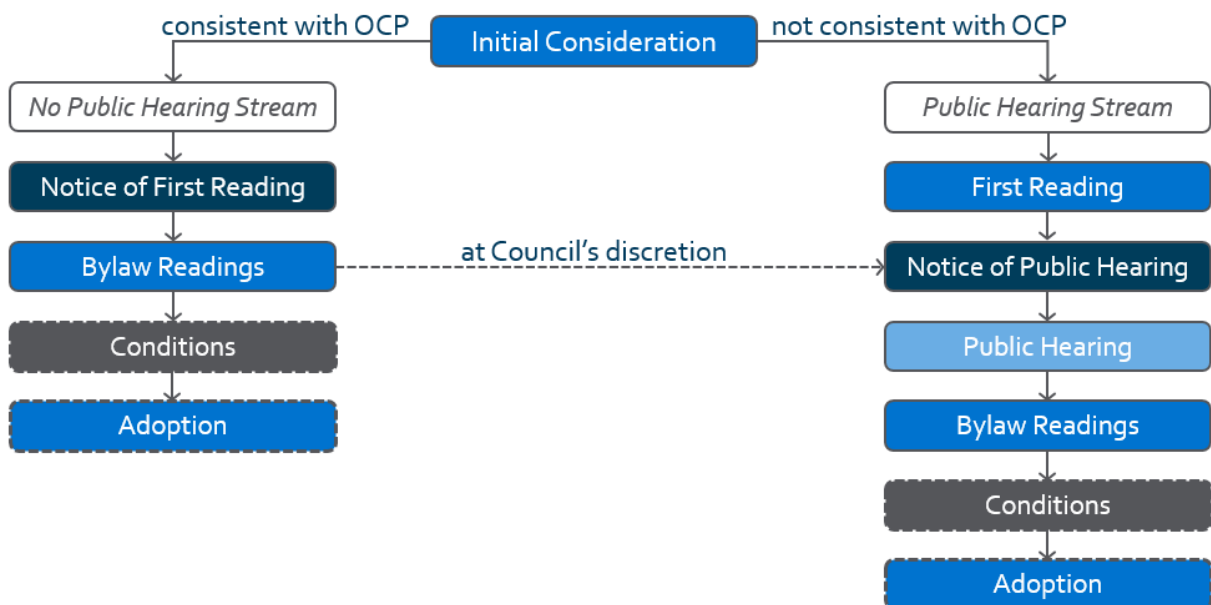
Resolution	Date
THAT Council receives, for information, the report from the Office of the City Clerk dated November 22, 2021, with respect to legislative amendments affecting Council, public notices, and development application procedures; AND THAT Council directs staff to report back to Council with options to implement the legislative amendments; 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.	November 22, 2021

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.

Change	Bylaw No. 9200	Bylaw No. 12310	Council Policy No. 307	Council Policy No. 367
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:

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Approved for inclusion: S. Fleming, City Clerk

cc:

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T. Barton, Development Planning Department Manager