

Report to Council



Date: December 14, 2015
File: 0910-01
To: City Manager
From: Greg Wise, Bylaw Services Manager
Subject: Southern Interior Bylaw Adjudication Report to Council 2015

Recommendation:

THAT Council receives, for information, the Report of the Bylaw Services Manager dated December 14, 2015 with respect to the Bylaw Adjudication System Update;

AND THAT Bylaw No. 11177, being Amendment No. 14 to Bylaw Notice Enforcement Bylaw No. 10475 be forwarded for reading consideration;

AND THAT Council approves the renewal of the Southern Interior Bylaw Notice Dispute Registry Agreement including the addition of the City of Enderby as a partner;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute the renewal of the Southern Interior Bylaw Notice Dispute Registry Agreement.

Purpose:

To provide Council with an update on the Bylaw Adjudication System and to make minor amendments to the Establishment Bylaw; and to renew the Southern Interior Bylaw Notice Dispute Adjudication Registry Agreement and add the City of Enderby to the Agreement.

Background:

In October 2003, the Province of British Columbia enacted legislation providing an alternative approach for processing and resolving minor bylaw infractions, the *Local Government Bylaw Notice Enforcement Act*.

Prior to the *Local Government Bylaw Notice Enforcement Act* (the Act), there were three main strategies used by local governments to deal with a problem:

1. Seek voluntary compliance;
2. Issue a traffic "offence notice" for various offences seeking voluntary payment of a prescribed fine; or

3. Initiate formal court proceedings by issuing a Municipal Ticket Information (MTI) or swearing an Information and issuing a Summons.

Over the past fifteen years, there have been various calls for bylaw reform with respect to enforcement and prosecution. Calls for reform have come from the Union of British Columbia Municipalities (UBCM), the Hughes Commission on Access to Justice and the Chief Judges' Task Group on Sitting Justices of the Peace. In response to these calls, the Province enacted the *Local Government Bylaw Notice Enforcement Act*.

Under the Act, local governments may establish a local government bylaw dispute adjudication system, more simply known as an adjudication system, which replaces the Provincial Court as the venue for resolving disputes of minor municipal bylaw breaches.

An initiative, led by the City of Kelowna, involving nine Okanagan local governments resulted in the Southern Interior Bylaw Notice Dispute Registry being established in January 2011, and three additional local governments have since been or are in process of being added.

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

Staff investigated partnerships with other local Okanagan Governments with the intent of delivering a simple, fair and cost effective method of enforcement of minor Bylaw infractions.

A five year cost sharing agreement was entered into with the following local governments:

City of Kelowna	City of West Kelowna	District of Peachland
City of Penticton	District of Lake Country	District of Coldstream (2014)
District of Summerland	Regional District of Okanagan Similkameen	Central Okanagan Regional District (2013)
Town of Oliver	City of Vernon	City of Enderby (2016)

By implementing a joint adjudication system, the local governments involved created the mechanism where all minor bylaw matters could be resolved through a streamlined process. The new system saves taxpayer dollars and allows provincial and local government resources to be used more efficiently and effectively. As well, individuals challenging tickets issued for minor infractions have had their dispute heard in a timelier manner than going through the court system.

The current agreement expires on December 31st, 2015 and is need of renewal. City of Enderby has recently been granted permission by the Province to issue tickets under the *Local Government Bylaw Notice Enforcement Act* and staff recommend the City of Enderby be included as part of the Southern Interior Registry.

SOUTHERN INTERIOR BYLAW NOTICE ADJUDICATION

The system is authorized by the Province to operate as a dispute resolution forum for handling minor bylaw offence ticket disputes. While there is one combined system for all 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 minor infractions at the local level more effectively than through the Provincial Court system and offers a more streamlined process for paying and collecting fines.

Persons who receive a bylaw offence notice will have the opportunity to dispute violations out of court via a provincially appointed adjudicator who will hear all disputes. (Typically adjudicators are retired former provincial court judges or judicial justice's of the peace). The adjudication calendar and bookings for all coordinated municipalities are managed by Kelowna City Bylaw staff.

Adjudication sessions have been scheduled monthly since mid-2011, including two annually in both Penticton and Vernon and the balance in Kelowna.

Screening Officer

One of the benefits of the system is the ability to designate City staff as "Screening Officers." Screening officers act as "gatekeepers" to the adjudication system by reviewing all disputed Bylaw Notices prior to adjudication. This review, between the screening officer and disputant, creates a number of efficiencies for the system. The screening process results in a number of disputed Bylaw Notices avoiding adjudication, resulting in cost and time savings. The screening officer has the authority to cancel a Bylaw Notice if upon review of evidence he or she believes that there is an error on the face of the ticket, or that the required information is missing from the Notice. The local government may also permit the screening officer to cancel a Bylaw Notice in other circumstances set out in policy by the local government. The screening process is also educational as screening officers explain the bylaw in question to disputants, allowing the public to better understand bylaws, and in some cases, realize the errors they may have made. This causes some citizens to withdraw their notice to dispute following their discussion with the Screening Officer.

Staff recommend amending section 7.2 of the Bylaw Notice Enforcement Bylaw to update position title changes and add "Parking Services Manager" and "Parking Operations Coordinator" and "Licence and Bylaw Enforcement Officer" as a designated Screening Officer Option.

Compliance Agreements

A Screening Officer may enter into a compliance agreement for certain types of charges, with a person who has received a Bylaw Notice. A compliance agreement will include acknowledgement of the contravention of the bylaw and will typically set out remedies or conditions on future behavior to be performed within a designated period of time, and reduce or waive the fine at the conclusion of that period.

Staff have experienced increased success over the past four years, resolving many infractions including some City land use and zoning files with the use of compliance agreements. This has been a successful tool in bringing many properties into full compliance in a timelier manner, which in the past would have resulted in outstanding fine amounts being left unpaid, or required costly court proceedings.

Appeals

The decision of the adjudicator is final and the Act does not allow for appeals. If a failed disputant or the local government feels that the adjudicator exceeded his or her authority, or made an error at law, the person or local government may seek relief in the Supreme Court of British Columbia under the *Judicial Review Procedure Act*.

Internal Circulation:

Divisional Director, Corporate & Protective Services

Legal/Statutory Authority:

Local Government Bylaw Notice Enforcement Act

Legal/Statutory Procedural Requirements:

Bylaw No. 11177, being Amendment No. 14 to Bylaw Notice Enforcement Bylaw No. 10475

Considerations not applicable to this report:

Existing Policy:

Financial/Budgetary Considerations:

Personnel Implications:

External Agency/Public Comments:

Communications Comments:

Alternate Recommendation:

Submitted by:

Greg Wise, Bylaw Services Manager

Approved for inclusion:



R.Mayne, Divisional Director, Corporate & Protective Services

cc: Parking Services