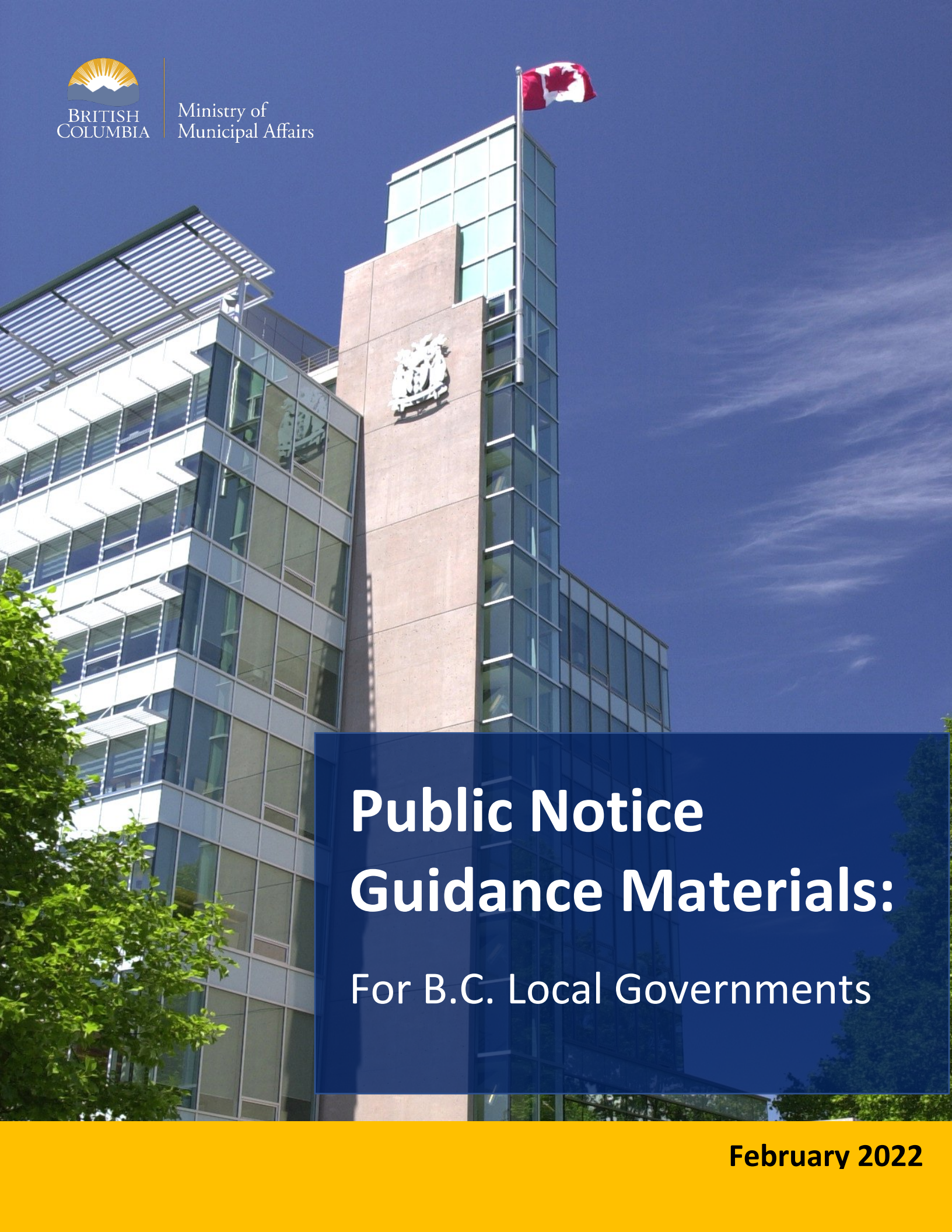




Ministry of
Municipal Affairs

A photograph of a modern government building with a glass facade and a central concrete tower. A Canadian flag flies from a tall pole on the tower. The building is set against a clear blue sky with some light clouds. A dark blue semi-transparent box is overlaid on the bottom right of the image, containing the title text.

Public Notice Guidance Materials: For B.C. Local Governments

February 2022

Introduction

The *Community Charter* and *Local Government Act* require local governments to provide advance public notice of matters of public interest (e.g., public meetings, elections, public hearings, disposition of land). Public notice is required to facilitate transparency and accountability and is part of the public engagement process.

Public notices inform the public of opportunities to participate in local government decision-making and share views. The *Community Charter*, *Islands Trust Act*, *Local Government Act* and *Vancouver Charter* set out the minimum content requirements for public notice and how notice must be provided; however, they do not limit any additional information that the local government may choose to incorporate into a notice or additional methods the local government may choose to use to provide notice to its community.

Requirements for Public Notice

The public notice requirements that came into force February 28, 2022 provide local governments with two options for providing public notice under Section 94 of the *Community Charter*:

- 1. continue to use the default publication requirements of publishing in a newspaper once each week for two consecutive weeks; or,**
- 2. adopt a bylaw to provide for alternative methods of publication (i.e., a public notice bylaw).**

Local governments must also provide public notice by posting the notice at the public notice posting places identified in their [procedure bylaw](#).

If a matter is subject to two or more requirements for publication (e.g., election notices), the notices may be combined as long as the requirements of the applicable provisions are met.

A local government may provide any additional notice regarding a matter that it considers appropriate, including by the internet or by other electronic methods.

Section 94 of the *Community Charter* states that if public notice is required the notice must be published in accordance with s. 94.1 [*Default publication requirements*] or s. 94.2 [*Bylaw to provide for alternative means of publication*] and by posting in the public notice posting places.

Section 94.2 of the *Community Charter* refers to the “means of publication”. In this document the term “methods” is used to express the “means of publication” for a public notice bylaw to differentiate it from “alternative means” in section 94.1.

Default Publication Requirements for Public Notice (94.1)

The public notice provisions that were in place prior to February 28, 2022 (“default publication requirements for public notice”) continue to be an available option for local governments. The default publication requirements apply if a local government has not adopted a public notice bylaw to provide for alternative methods of publication specific to the community. The default rules provide that the local government must:

- publish notice in a newspaper that circulates in the community once each week for two consecutive weeks; or,
- if publication by newspaper is not practicable, the notice may be given in the area by alternative means (e.g., posted on a community bulletin board or directly mailed).

If a local government uses alternative means the notice(s) must be given within the required time period and frequency set out in the legislation. The council or board must also consider the notice to be reasonably equivalent to that which would be provided by a newspaper.

Local governments that regularly have to use alternative means because publication by newspaper is not practical may want to consider adopting a public notice bylaw so the public consistently knows where to find public notice(s) in the community.

Alternative means in section 94.1 are not defined in the legislation, and could include any type of notice that the council or board believes will adequately reach the community and meet the legislative requirements, such as online advertising, direct mailing and/or radio ad. If the local government is using alternative means to meet the notice requirements, best practice is to provide the rationale for the mean(s) chosen and adopt a resolution in an open meeting.

Bylaw to Provide for Alternative Methods of Publication (94.2)

Section 94.2 provides local governments the authority to adopt a public notice bylaw if they choose not to use the default notice provisions. Local governments that adopt a public notice bylaw **must** then publish notice by all the methods specified in the bylaw, **and** are still required to post a notice at the public notice posting places.

A bylaw adopted under section 94.2 must:

- specify at least two methods of notice (e.g., newspaper and local government website), not including the public notice posting places; and,
- consider the principles of effective public notice (*reliable, suitable and accessible*) described by the *Public Notice Regulation* before adopting a public notice bylaw (detailed information about the principles is provided below).

2022 General Local Elections

Local governments considering adopting a public notice bylaw in 2022 are recommended to do so before July 4, 2022, so there is sufficient time to develop the bylaw and let the public know about any changes to public notice before notices start for the October 15, 2022 general local elections.

Under a public notice bylaw, the notice must be published at least seven days before the matter for which notice is required (unless a different period is prescribed in the *Community Charter, Local Government Act* or another Act).

Principles of Effective Public Notice

Each council or board is required to consider the principles described in the *Public Notice Regulation* and think critically about the same set of principles in making public notice choices. These principles are intended to foster a shared set of good governance expectations among local governments and give British Columbia's confidence that their local governments will conduct their business in an open and transparent manner.

The principles that **must** be considered before a public notice bylaw is adopted are:

- *Reliable* – the publication methods are dependable and trustworthy;
- *Suitable* – the publication methods work for the purpose for which the public notice is intended; and,
- *Accessible* – the publication methods are easy to access and have broad reach.

As a best practice, local governments may want to note how the principles have been considered (e.g., by resolution, reflected in the minutes, or included in the preamble of the public notice bylaw). A record of the decision demonstrates that the council or board discussed the principles and that the discussion is on the public record.

For example, if a council or board is considering whether to use the local government website and a community newspaper as the two required means of publishing notice in their bylaw, they would need to consider if:

- the community can easily access the website, and that the newspaper is distributed broadly in the community (i.e., accessibility principle);
- the community considers that the website and the newspaper will provide reliable and accurate ongoing information (i.e., reliability principle); and,
- the website and newspaper together can meet specific timing requirements (e.g., between three and 10 days) and content requirements (i.e., suitability principle).

Possible methods to publish public notice:

- Online or print newspaper.
- Local government website.
- Local government subscription service.
- Community website or newsletter.
- Local government Facebook page.
- Direct email or mail out.
- Posting at recreation centres.

Examples of sources that would likely **not** meet the principles of public notice*:

- Twitter: the character limit means it is not **suitable** for displaying all the required information for a statutory public notice.
- Non-government Facebook or webpage: a source containing mostly opinions and not facts would not meet the principle of **reliability**.
- Radio/TV: because the information is only quickly displayed/read – it limits **access** to the information.

**All of the sources listed above would be appropriate as a supplemental way of informing the public; however, they would likely not meet the threshold established by the principles of effective public notice (e.g., reliable, suitable and accessible) and therefore couldn't be used as one of the official means of public notice under section 94.2 of the Community Charter.*

Reliable

The publication methods are dependable and trustworthy in the community. To meet the principle of reliability consider whether the method is:

- trusted by the community to provide factual information (e.g. not solely opinions);
- a source that isn't likely to abruptly stop operating and has been part of the community for some time (e.g., is a well-established source of information); and,
- tested and able to reliably display the required information.

Suitable

The publication methods work for the purpose of informing the community. To meet the principle of suitability consider whether the method can:

- display all of the legislatively required notice information in a legible manner;
- meet specific timing requirements outlined in the legislation (e.g., publishing by at least one of the means between three and 10 days before the matter is to be considered);
- be revisited during the publication period (e.g., won't be published once and then disappear); and,
- allow for the local government to keep a record of the date and period of time that the notice was published.

Accessible

The publication methods are easily accessible for people and have broad reach in the community. To meet the principle of accessibility consider whether the method(s):

- are accessible to a broad spectrum of the local population (e.g., age, location);
- provide an easy way for people to find and read the public notice information (considering also persons with disabilities, community demographics, and language needs);
- provide different ways for the public to be informed (e.g., in print and online);
- have limited barriers to access (e.g., one is free if the other is a paid subscription); and,
- take into consideration local circumstances (e.g., lack of reliable internet or a local newspaper).

Best Practices for Developing a Public Notice Bylaw

Best practices for development and adoption of a public notice bylaw may include:

- discussion of different options for public notice and the principles of effective public notice at an open meeting of council or regional district board before deciding on the methods and adopting the bylaw;
- a public survey to understand communication needs and practices in the community (perhaps including a question to find out how the person heard about the survey, which may show how people access information from the local government);

- outreach to the newspaper (if it is one of the methods being considered) to understand publication schedules and future plans, to ensure that the principles of reliability and suitability can continue to be met;
- outreach to member municipalities (for regional districts) to discuss the methods they use to provide public notice to be as consistent as possible;
- information for the public about the adoption of a public notice bylaw to promote accountability and transparency. This may include:
 - a press release;
 - local government open house;
 - information on the local government website and/or social media; or,
 - information at the public notice posting place.
- review of the public notice bylaw (e.g., annually) to ensure that the principles continue to be met for each of the methods identified in the bylaw.

Public Notice Posting Place

All notices must be posted at the public notice posting place(s) for the public notice requirements to be met, regardless of whether a local government is using the default notice requirements or has adopted a public notice bylaw. Local governments must identify places that are to be the public notice posting places in their [procedure bylaw](#).

Examples of public notice posting places include: the public notice board at municipal hall or regional district board office; the council chamber at municipal hall or regional district board meeting place.

Public Notice Timing Requirements

Specific timing and content requirements in the *Community Charter*, *Islands Trust Act*, *Local Government Act* and *Vancouver Charter* continue to apply whether the local government has adopted a public notice bylaw or is using the default rules. However, there is some new terminology for councils and boards to be aware of.

Notice must be published at least seven days before the matter

For most matters, local governments that adopt a public notice bylaw are required to publish notice “at least seven days before the date of the matter for which notice is required”. The [Interpretation Act](#) sets out the definitions and how to determine the beginning or end(s) of a time period. It also sets out considerations if a day falls on a holiday or the office is closed. A period of consecutive days is counted as seven days from the day before the reference day (so eight days including the reference day). If the term “at least” is used, then one day is added to this calculation.

To establish when notice must be published:

- determine the date the matter will be considered. This date will be the “reference day”;
- start counting backwards seven days from the day before the reference day; and,
- add one more day to the calculation because the term “at least” is used.

For illustration:

- If the matter is to be considered on May 12 then the notice must be published by May 4.

May						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
26	27	28	29	30	1	2
3	4 At least seven days before +1	5	6	7	8	9
10	11	12 Reference Day	13	14	15	16
2	1					

Notice must be published by at least one of the means “not less than” and “not more than”

For some matters (e.g., public hearings, zoning bylaws, notice of annual tax sale), the legislation specifies rules that public notice must be published within a specific timeframe. If a local government has adopted a public notice bylaw, only one of the means must be published during this specific timeframe. The other means would be subject to the default “at least seven days before the date of the matter for which notice is required” (described above).

To establish when notice must be published for “not less than three days and not more than 10 days”:

- determine the date the matter will be considered. This date will be the “reference day”;
- to determine “not less than three days” count backwards three days from the day before the reference day (so four days including the reference day) and then add one day because the term “not less than” is used;
- to determine “not more than 10 days” count backwards 10 days from the day before the reference day (so 11 days including the reference day) – do not add an extra day for this one because “not more than” is not a special period in the *Interpretation Act*; and,
- a notice must be published by one of the methods specified in the bylaw between these two dates.

For illustration:

- If the matter is to be considered on November 15 – “not less than three days” before would be November 11 and “not more than 10 days” before would be November 5. Notice must be published between November 5 and November 11.

November						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
26	27	28	29	30	1	2
3	4	5 Not more than ten days before 10	6 9	7 8	8 7	9 6
10 5	11 Not less than three days before 4 (+1)	12 3	13 2	14 1	15 Reference Day	16

30 days after publication by two of the methods

For some matters, the legislation specifies the notice deadline to be “at least 30 days after the second publication of the notice” (e.g., alternative approval process), or “within 30 days after the second publication” (e.g., local area service – subject to petition against).

If a local government has adopted a public notice bylaw, the 30-day period starts on the date when the notice has been published by two means. If notice is published on:

- **two different dates**, the 30-day period starts on the day the second notice is published (as long as the first notice is still published at the same time); or,
- **the same day**, the 30-day period starts on the day both the notices are published.

Where a local government has established more than two methods in its public notice bylaw, only the first two methods used must be considered with respect to the timing requirements. However, the notice must still be published by all the methods specified in the bylaw.

To determine how to count 30 days from the start date, please refer to the *Interpretation Act* for that specific section of the legislation. For example, “at least” and “within” are counted slightly differently.

Public Notice Policy

Local governments may decide to establish a public notice policy in addition to adopting a public notice bylaw. This policy may indicate:

- additional methods of public notice (in addition to the required notices) that will be provided to specific hard-to-reach rural areas or populations;
- what additional methods would be used if staff were directed to do so by council/board (e.g., local government social media page if this is not one of the methods specified in the bylaw);
- a public notice e-mail subscription service for residents to sign-up for (if this is not one of the methods specified in the bylaw);
- the specific name of the primary newspaper that will be used for public notice (if this is one of the chosen methods in the bylaw and the name of the newspaper is not included in the bylaw);

- the specific names of alternative newspapers that would be used if the primary newspaper for public notice isn't available (if this is one of the chosen methods in the bylaw and the name of the newspaper is not included in the bylaw);
- how notice of the matter will be provided to First Nations communities in the area (if applicable) and persons living on reserve (e.g., contact the band manager to advise of notices and direct mail to persons living on reserve); and,
- records management practice for public notices.

Public Notice Bylaws and Regional Districts

Regional districts generally encompass large areas with a diverse mix of rural and urban needs which may make it challenging to find methods of public notice that will reach everyone.

One approach for regional districts that want to adopt a public notice bylaw is to specify methods that are consistent with the principles of effective public notice and as widely available as possible within the region (e.g., regional district website and Facebook) and then adopt a public notice policy to specify additional methods that will be used for different electoral areas or municipalities (e.g., a local newsletter; posting at firehalls or member municipal halls; publishing a condensed notice in the local newspaper with a link to the website for the full notice). This will give the regional district flexibility to provide notice in different ways depending on which urban or rural area it is providing notice.

Public Notice Records Management

Local governments that establish a public notice policy with additional methods to publish notice may also want to include best practices for records management of those public notices. Records management practices for public notice may consider how to keep an historical record of public notice if it is published in electronic form, posted on a bulletin board, or published in a newspaper.

Best practices for public notice records management include:

- outlining records management practices for public notice(s) in a policy;
- requiring that a date of publication be included on the notice;
- for electronic notices, taking a screen shot that shows the date and download the analytics (e.g., how long the notice was posted for; how many viewed the notice);
- for newspaper, saving the original news clipping (if printed) or a screen shot if online, and all supporting documents (e.g., information from the newspaper stating the date of publication; PDF of the notice and the invoice);
- if posting notice on a bulletin board (e.g., fire hall, recreation centre) including the dates for which the notice is to be posted on the notice itself (e.g., July 10 – July 22) and take a date stamped photo; and,
- storing all of the information related to the notice (including copies of the notice itself) in one folder for ease of access in the future and keeping a copy on an offsite server.

Public Notice Bylaws - Frequently Asked Questions

Q: Why adopt a public notice bylaw?

A: A local government may decide to use the authority to adopt a public notice bylaw in circumstances where publication by newspaper is no longer practical or where the community has a desire for more varied notice.

Considerations before adopting a public notice bylaw may include:

- Does the community have an accessible, reliable and regularly published newspaper?
- How is public notice accessed most often by the community?
- Are there areas or people in the community that may access public notice differently?
- Has the local government recently had to use “alternative means” to publish notice for a matter? If yes, what method of publication was used?
- Has there been past confusion from the public about where to find public notice?
- Would a public notice bylaw provide clarity for local government staff and/or the public?

Q: Is public engagement required to adopt or amend a public notice bylaw?

A: **No.** Section 94.2 of the *Community Charter* does not require local governments that adopt or amend a public notice bylaw to engage with the public or provide public notice that the bylaw is being adopted. However, as a best practice, notice of the proposed public notice bylaw or amendment can be posted on the local government’s website or shared in other ways (e.g., at a council or board meeting; posted to a public notice posting place; shared through a news release).

Providing the public with information about where to find public notice (especially if the method of public notice is changing) facilitates openness and transparency, a fundamental principle of good governance. Informing the community about the public notice bylaw also helps people know where to find public notices for matters affecting the community.

Q: Can a public notice bylaw use newspaper publication as one of the methods?

A: **Yes.** In many communities, local newspapers remain an accessible, reliable and suitable source for sharing information with the public. Where this is the case, a local government may choose to have newspaper as one of the methods of publication specified in a public notice bylaw, or the local government may decide not to adopt a bylaw and continue to use the default requirements for public notice.

Q: What methods may be used for publishing notice?

A: Newspapers are considered a regular source of local information in many communities and, where available, can be used for public notice; however, where this is not the case, there may be other reliable sources the public looks to for community information (e.g., local government website). Local governments that choose to adopt a public notice bylaw must consider the principles of effective public notice to determine the most appropriate methods for the community. The methods of publishing notice will vary from community to community and depend on local circumstances.

Q: Can a public notice bylaw have more than two methods of publishing notice?

A: **Yes.** Local governments can consider whether to establish additional methods of public notice, beyond the required two methods. However, *all* the methods of public notice specified in the bylaw must be completed before the public notice is considered “published”. Specifying more than two methods of publication in a public notice bylaw may increase the risk that public notice requirements may not be met. Where additional public notice is desired and the local government prefers not to include it in the bylaw, it can consider adopting a public notice policy that specifies where and when additional notice will be provided.

Q: Can a public notice bylaw use different methods of providing notice for different types of notices (e.g., elections, planning and land use)?

A: **No.** A local government adopting a public notice bylaw must use the same two or more methods specified in the bylaw for publishing **all** public notices. This ensures the public knows consistently where to find notices that may be of interest.

In the event that one of the methods for publishing notice is unavailable, the local government must amend the public notice bylaw and choose a new method of publishing notice to meet the legislated public notice requirements.

Q: Can a public notice bylaw be combined with a procedure bylaw?

A: **It is not recommended.** Local governments developing a public notice bylaw may do so as a stand-alone bylaw so the information remains easily accessible to the public. Where appropriate, local governments can refer to a public notice bylaw in their [procedure bylaw](#).

Additional Public Notice FAQs

Q: Can a local government using the default rules still publish notice by “alternative means”?

A: **Yes.** Local governments that choose to use the default public notice requirements can, where publication in a local newspaper is not practical, publish the notice using “alternative means”. The legislation specifies that if “alternative means” are being used instead of newspaper, the notice must be:

- given within the same period as required for publication;
- given with the same frequency as required for publication; and,
- provide notice the council or board considers is reasonably equivalent to that which would be provided by newspaper publication.

Section 94.1(3) of the *Community Charter* sets out how to give notice using alternative means under the default requirements.

The frequency requirement does not apply if a local government chooses to distribute the public notice directly (e.g., delivered by mail or by hand) to residents in the area impacted by the matter set out in the notice.

Q: Can public notices for two different matters be combined?

A: **Yes.** Generally public notice is given separately for different matters – this provides clarity for the public. However, if the same matter is subject to two or more requirements for publication, the notices may be combined so long as the requirements of all applicable provisions are met (e.g., timing and frequency).

Examples of Combined Notice

Notice of Assent Voting

The public notice for assent voting must be published at least six, and not more than 30 days, prior to general voting day. Notices for assent voting can be combined with the notices required for general local elections (if happening at the same time).

Disposition of Local Government Property

A local government that wishes to dispose of property below market value must provide a public notice of its intention to grant assistance, as required either by section 24 of the *Community Charter* or section 272 of the *Local Government Act*. This notice may be combined with the notice of disposition (section 26 of the *Community Charter* or 286 of the *Local Government Act*), and the notice must clearly state that it provides for both disposition and assistance.

Local Government Elections

A local government may combine required local election notices (e.g., notice of advance voting and general voting day) as long as the timing set out in the legislation is met for both notices. For example: the notice of advance elector registration, elector qualifications, list of registered electors and objection to registration of an elector can appear in one notice.

Q: Have the timing and content requirements for public notice changed?

A: **No.** The timing and content requirements specified in the *Community Charter*, *Islands Trust Act*, *Local Government Act*, and *Vancouver Charter* continue to apply regardless of whether the local government has adopted a public notice bylaw or is using the default rules.

Amendments have been made to some sections of the legislation to provide clarity on the timing rules for local governments that adopt a public notice bylaw (refer to the public notice timing section of this document for further information).

Q: Has the requirement for “publication in a newspaper” changed in the *Local Government Act* and *Islands Trust Act*?

A: **Yes.** The reference to “publication in a newspaper” has been removed from sections of the *Local Government Act* and *Islands Trust Act* and replaced with the requirement to publish notice in accordance with Section 94 of the *Community Charter*. The explanation for “giving notice by newspaper publication” in section 4 of the Schedule in the *Local Government Act* has also been removed. This means all local governments now have the same requirements and options for public notice. Regional districts and Islands Trust bodies are now required to also post notice at the public notice posting place.

Sections of the *Local Government Act* where the reference to “newspaper” has been removed and replaced with “publishing notice in accordance with Section 94 of the *Community Charter*”.

- Section 13 – Reduction of municipal area
- Section 16 – Other redefinition of boundaries
- Section 50 – Public notice by newspaper publication
- Section 225 – Procedure bylaws
- Section 272 – Publication of intention to provide certain kinds of assistance
- Section 286 – Notice of proposed disposition
- Section 376 – Annual reporting on regional district finances
- Section 466 – Notice of public hearing
- Section 467 – Notice if public hearing waived
- Section 494 – Public notice and hearing requirements
- Section 612 – Heritage designation procedure
- Section 647 – Notice of annual tax sale
- Section 659 – Application of surplus from tax sale

Q: Has the public notice requirement for regional district procedure bylaw amendments changed?

A: **Yes.** The amendments for a regional district board’s procedure bylaw are no longer required to be mailed to each director five days before the meeting at which the amendment is to be introduced. The *Local Government Act* now requires the local government to provide notice in accordance with section 94 of the *Community Charter* describing the proposed changes in general terms, which is consistent with the requirement for municipalities.

Q: Has the notice for regional district special board meetings changed?

A: **Yes.** The notice for regional district special board meetings provided in section 220 of the *Local Government Act* now has the same requirements as that of municipalities under section 127 of the *Community Charter*. Notice of a regional district special board meeting must be given at least 24 hours before the time of the meeting by:

- posting a copy of the notice at the regular board meeting place;
- posting a copy of the notice at the public notice posting places; and,
- leaving one copy of the notice for each board member at the place to which the member has directed notice be sent (this can be by email).

Additionally, the notice must include the date, time and place of the meeting and describe in general terms the purpose of the meeting and be signed by the chair or corporate officer.

The notice of a special meeting may be waived by unanimous vote of all directors. However, waiving notice for special meetings is best used sparingly and the reasons for waiving notice documented in the meeting minutes.



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