



COUNCIL REPORT
Finance, Administrative and Protective Services
For the June 25, 2019 Council Meeting

DATE: June 11, 2019 Bylaw No. 0093.44
TO: Jim Zaffino, CAO
FROM: Shelley Schnitzler
RE: Amendment to Bylaw Notice Enforcement Bylaw

RECOMMENDED MOTION:

THAT Council give first, second and third reading to "Bylaw Notice Enforcement Amendment Bylaw No. 0093.44, 2019".

RATIONALE:

This is a housekeeping amendment to update Section 14 of the Bylaw to reflect current job titles and to add an additional screener position.

BACKGROUND:

Section 14 of the Bylaw Notice Enforcement Bylaw designates the positions of individuals that are appointed as Screening Officers. Those position titles are being updated to reflect actual job titles. Also, an additional position is being added to the class of persons that may be appointed as screening officer – the newly created Bylaw Enforcement Supervisor position. Any of these 4 positions will be able to screen (have a discussion with a disputant on their reasons for disputing a ticket and providing information on the adjudication process) a disputed ticket.

ALTERNATE MOTION:

That Council direct staff to revise the bylaw amendment and return to Council with the changes.

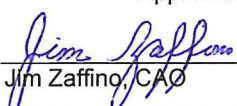
Respectfully submitted,


Shelley Schnitzler
Legislative Services Manager


Tracey Batten
Deputy CAO

Powerpoint: Yes ☐ No ☒

Attachments: Bylaw No. 0093.44
Bylaw No. 0093
Bylaw No. 0093.44 (Section 14 red-lined)

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| Approved for Agenda | |
|  Jim Zaffino, CAO | June 18, 2019 Date |

CITY OF WEST KELOWNA

BYLAW NO. 93.44

A BYLAW TO AMEND THE BYLAW NOTICE ENFORCEMENT BYLAW

The Council of the City of West Kelowna in open meeting assembled, hereby enacts as follows:

1. Title

This Bylaw may be cited as the "Bylaw Notice Enforcement Amendment Bylaw No. 0093.44, 2019".

2. Amendments

"Bylaw Notice Enforcement Bylaw 2010, No. 0093" is hereby amended as follows:

2.1 By deleting Section 14 in its entirety and replacing with the following Section 14:

The following are designated classes of persons that may be appointed as Screening Officers:

- 1) Corporate Officer
- 2) Legislative Services Manager
- 3) Executive Assistant
- 4) Bylaw Enforcement Supervisor

READ A FIRST, SECOND AND THIRD TIME THIS
ADOPTED THIS

MAYOR

CORPORATE OFFICER

CITY OF WEST KELOWNA

Bylaw No. 0093

A bylaw respecting the enforcement of bylaw notices

**CONSOLIDATED FOR CONVENIENCE TO INCLUDE
BYLAW 0093.02, 0093.03, 0093.04, 0093.05, 0093.06, 0093.08, 0093.09, 0093.10,
0093.11, 0093.12, 0093.13, 0093.14, 0093.15, 0093.16, 0093.17, 0093.18, 0093.19,
0093.20, 0093.21, 0093.22, 0093.23, 0093.24, 0093.25, 0093.26, 0093.27, 0093.28,
0093.29, 0093.30, 0093.31, 0093.32, 0093.34, 0093.35, 0093.36, 0093.37, 0093.38,
0093.40, 0093.41, 0093.42**

Bylaw No. 0093.34, adopted April 4, 2017, amended Bylaw No. 0093 by replacing all references to "District of West Kelowna" in reference to the subject bylaw name with "City of West Kelowna", by replacing all references to "City" with "City of Kelowna" and by replacing all references to "District" in the subject bylaw with "City of West Kelowna".

The Council of the City of West Kelowna in open meeting assembled, enacts as follows:

1. This bylaw may be cited as **"Bylaw Notice Enforcement Bylaw 2010, No. 0093"**.

Bylaw No. 0093.34, adopted April 4, 2017, amended Bylaw No. 0093 by removing Section 2 in its entirety and replacing with the following:

2. In this bylaw:

"Act" means the *Local Government Bylaw Notice Enforcement Act*;

"Registry" means the Okanagan Valley Bylaw Notice Adjudication Registry established pursuant to this Bylaw.

TERMS

3. The terms in this bylaw have the same meaning as the terms defined in the Act.

BYLAW CONTRAVENTIONS

4. The bylaws and bylaw contraventions designated in Schedule "A" attached hereto and forming part of this Bylaw, may be dealt with by bylaw notice.

OFFENCE AND PENALTY

5. The penalty for a contravention referred to in Section 4 is referenced in Schedule "A".

PERIOD FOR PAYING A DISPUTED NOTICE

6. A person who receives a bylaw notice must, within 14 days of the date on which the person received or is presumed to have received the bylaw notice:
 - (1) pay the penalty, or
 - (2) request dispute adjudication,by filling in the appropriate portion of the bylaw notice indicating either a payment or a dispute and delivering it, either in person during regular office hours, or by mail, to the City of West Kelowna.

Bylaw No. 0093.13, adopted October 16, 2012, amended Bylaw No. 0093 by removing Section 7 in its entirety and replacing with the following:

7. A person may pay the indicated penalty after 14 days of receiving the notice but no person may dispute the notice after 14 days of receiving the bylaw notice.
8. Where a person was not served personally with a bylaw notice and advises the City of Kelowna, in accordance with the requirements of Section 25 of the Act, that they did not receive a copy of the original notice, the time limits for responding to a bylaw notice under Section 5 and Section 7 of this Bylaw do not begin to run until a copy of the bylaw notice is re-delivered to them in accordance with the Act.

BYLAW NOTICE DISPUTE ADJUDICATION REGISTRY

9. The Registry is established as a bylaw notice dispute adjudication system in accordance with the Act to resolve disputes in relation to bylaw notices.
10. The civic address of the Registry is the City of Kelowna, 1435 Water Street, Kelowna, BC, V1Y 1J4.
11. The City of Kelowna is authorized to enter into, and the Mayor and Clerk are authorized to execute, the dispute adjudication system agreement in the form and with the content of the agreement attached as Schedule "B".
12. Every person who is unsuccessful in a dispute adjudication in relation to a bylaw notice or a compliance agreement under the dispute adjudication system established under this section must pay the City of Kelowna an additional fee of \$25 for the purpose of the City of Kelowna recovering the costs of the adjudication system.

SCREENING OFFICERS

13. The position of screening officer is established.

Bylaw No. 0093.13, adopted October 16, 2012, amended Bylaw No. 0093 by removing Section 14 in its entirety and replacing with the following:

14. The following are designated classes of persons that may be appointed as screening officers:
 - 1) City Clerk

- 2) Corporate Services Supervisor
- 3) Executive Coordinator

POWERS, DUTIES AND FUNCTIONS OF SCREENING OFFICERS

- 15. The powers, duties and functions of screening officers are as set out in the Act, and include the following powers:
 - (1) Where requested by the person against whom a contravention is alleged, communicate information respecting the nature of the contravention, the provision of the bylaw contravened, the facts on which the contravention allegation is based, the penalty for a contravention, the opportunity to enter into a compliance agreement, the opportunity to proceed to the bylaw notice dispute adjudication system and the fee or fees payable in relation to the bylaw notice enforcement process;
 - (2) To communicate with any or all of the following for the purposes of performing their functions under this Bylaw or the Act:
 - (a) the person against whom a contravention is alleged or their representative;
 - (b) the officer issuing the notice;
 - (c) the complainant or their representative;
 - (d) the City of West Kelowna or City of Kelowna or Regional District's staff and records regarding the disputant's history of bylaw compliance.
 - (3) To prepare and enter into compliance agreements under the Act with persons who dispute bylaw notices, including to establish terms and conditions for compliance that the Screening Officer considers necessary or advisable, including time periods for payment of penalties and compliance with the Bylaw;
 - (4) To provide for payment of a reduced penalty if a compliance agreement is entered into, as provided in Schedule "A"; and
 - (5) To cancel bylaw notices in accordance with the Act or City of Kelowna policies and guidelines.
- 16. The bylaw contraventions in relation to which a Screening Officer may enter into a compliance agreement are indicated in Schedule "A".
- 17. The maximum duration of a compliance agreement is one year.

BYLAW ENFORCEMENT OFFICERS

- 18. Persons acting as any of the following are designated as Bylaw Enforcement Officers for the purposes of this Bylaw and the Act:
 - (6) Special constables, officers, members or constables of:

- (a) The provincial police force as defined in Section 1 of the *Police Act*, or
 - (b) A municipal police force;
-
- (7) Bylaw Enforcement Officers appointed pursuant to the *Police Act* and *Community Charter*;
 - (8) Local Assistants to the Fire Commissioner under Section 6 of the *Fire Services Act*;
 - (9) Bylaw Enforcement Officers, licensing inspectors, building inspectors, animal control officers or other persons acting in another capacity on behalf of a municipality, regional City or local trust committee for the purpose of enforcement of one or more of its Bylaws.

FORM OF BYLAW NOTICE

- 19. The City of Kelowna may from time to time provide for the form or forms of the bylaw notice, provided the bylaw notice complies with Section 4 of the Act.

SEVERABILITY

- 20. If a portion of this Bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

PASSED FIRST READING, MAY 11, 2010

PASSED SECOND READING, MAY 11, 2010

PASSED THIRD READING, MAY 11, 2010

ADOPTED, JUNE 22, 2010

MAYOR

Excerpt from the Bylaw Notice Enforcement Bylaw with red-lined changes:

SCREENING OFFICERS

13. The position of screening officer is established.

14. The following are designated classes of persons that may be appointed as screening officers:

- 1) ~~City Clerk~~
- 2) ~~Corporate Services Supervisor~~
- 3) ~~Executive Coordinator~~

- 1) Corporate Officer
- 2) Legislative Services Manager
- 3) Executive Assistant
- 4) Bylaw Enforcement Supervisor