



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: June 22, 2021

From: Chris Anderson, Public Works Manager  
Mike Cain, Bylaw Services Manager  
Lisa Siavashi, Financial Services Manager

Subject: **Water Regulation Bylaw No. 274**

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### RECOMMENDATION

**THAT** Council give first, second, and third reading to “City of West Kelowna Water Regulation Bylaw No. 274, 2021” and;

**THAT** Council give first, second, and third reading to “City of West Kelowna Fees and Charges Amendment Bylaw No. 0028.71, 2021” and;

**THAT** Council give first, second, and third reading to “City of West Kelowna Ticket Information Utilization Bylaw No. 0095.44, 2021” and;

**THAT** Council give first, second, and third reading to “Bylaw Notice Enforcement Amendment Bylaw No. 0093.47, 2021”.

### BACKGROUND

The City of West Kelowna operates, maintains, and administers service to five individual and separate water systems. These five systems fall under either the Powers Creek Water Service Area (legacy Westbank Irrigation District (WID)) or the Rose Valley Water Service Area (legacy Lakeview Irrigation District (LID)), Sunnyside/Pritchard, and the West Kelowna Estates water systems). For these 5 water systems there are currently 9 corresponding bylaws.

The City of West Kelowna’s Water Regulation Bylaw No. 274 is a consolidation of the 9 existing bylaw’s as well as integration of best practice and industry standard updates where necessary.

## **DISCUSSION**

### History

Upon incorporation of the City of West Kelowna in 2007, the City initially inherited the 3 individual water systems and their various corresponding bylaws from the Regional District of Central Okanagan for the Sunnyside, Pritchard, and West Kelowna Estates water systems. Approximately 3 years later in 2010, the two legacy irrigation districts (LID and WID) also became the responsibility of the City of West Kelowna.

Along with taking over the operation and maintenance of these water systems also came the administration of the systems and their various bylaws. There are eight bylaws that the City of West Kelowna had inherited and has been administering for various parts of the community for upwards of 14 years. It should be noted that the City of West Kelowna also adopted “The City of West Kelowna Outdoor Water Use Regulations Bylaw No. 0188” in 2015 rounding the total number of “water regulation type” bylaws up to nine. Over time, and while both the water servicing needs of the community and the sophistication of the City’s Water Utility operations have evolved, it became increasingly clear that it was time to consolidate the nine bylaws into one.

The City of West Kelowna Water Regulation Bylaw No. 274 is the joint and combined effort of many Departments at the City, however the main working group that focused on the delivery of this bylaw included participation from Bylaw Services, Legislative Services, Finance, and Public Works. The City of West Kelowna Water Regulation Bylaw No. 274 has also been through both an internal and external legal review as well as a review by the Municipal Insurance Association of British Columbia.

### Enforcement

Since incorporation, the City has only had the ability to take ticketing enforcement on one of the water systems bylaws - the Regional District of Central Okanagan Water Systems Bylaw No. 1108. The ticketing ability was restricted to only 5 specific offences. This created a gap in the City’s ability to utilize the normal escalating enforcement options for offences as well as lacking the deterrent effect that a ticketing option presents.

Staff has taken the opportunity to provide ticketing schedules for all offences listed in the new bylaw. The City of West Kelowna Water Regulation Bylaw No. 274 is about protecting the City’s water system and ensuring the safety of the public. Maintaining the maximum ticketing penalties provincially permitted portrays a strong deterrent as well as messaging the importance of compliance.

As with all of the City’s regulatory bylaws, when a non-compliance issue is identified, the City engages in a graduated scale of enforcement that would typically begin with efforts to achieve voluntary compliance. Should voluntary compliance not be achieved, the City may progress to ticketing, long form information, as well as proceeding by way of an injunction if necessary and in the public’s best interest.

Even with a strong voluntary compliance strategy in place, violations will occur and require Bylaw Enforcement and Compliance Officers to attend and conduct investigations.

The foundation of the investigative process is based on reasonable, transparent and proportionate enforcement. Enforcement measures must be proportionate with an alleged violation.

Offences may occur where the gravity of the offence warrants bypassing of a warning or ticketing phase of the escalating enforcement process, and may be necessary to have the matter brought before the Provincial or Supreme Court of BC where penalties of up to \$50,000 can be issued.

## **FINANCIAL IMPLICATIONS**

The consolidation of the 9 bylaws does not create any significant financial implications, with the exception of creating administrative efficiencies. Staff has taken this opportunity though to review the City's water fees and charges (water usage rates are reviewed separately each year). The changes in the Fees and Charges Bylaw No. 0028, Schedule 4 include updating the meter rates to cover current charges and adding new fees and security deposits to better incorporate the services that are being used. These changes continue to ensure that users of the water system are paying for that system accordingly.

## **CONCLUSION**

Staff recommends that Council give first, second and third readings as per the recommended motion based on the following:

- The existing 9 bylaws are not consistent throughout the community depending on which water service area certain issues may arise. This can cause difficulties or challenges for staff due to bylaw inconsistencies.
- The City of West Kelowna Water Regulation Bylaw No. 274 is both a consolidation of the existing bylaws as well as an update that considers current best practices and industry standards.
- Providing the ability for ticketing options in the enforcement continuum will act not only as a non-compliance disincentive but provide the ability for the City to react to non-compliance in a reasonable and proportionate manner.
- The water system is self-funded by user fees and charges and needs to be reviewed and adjusted to ensure that the cost of the system is being covered.

## **Alternate Motion:**

**That** Council postpone first, second, and third readings of the following bylaws:

- City of West Kelowna Water Regulation Bylaw No. 274, 2021, and;
- City of West Kelowna Fees and Charges Amendment Bylaw No. 0028.71, 2021, and;
- City of West Kelowna Ticket Information Utilization Bylaw No. 0095.44, 2021, and;

- City of West Kelowna Bylaw Notice Enforcement Amendment Bylaw No. 0093.47, 2021.

Should Council wish to postpone the first, second, and third reading of these bylaws, it is requested that direction be provided as part of the Council resolution.

**REVIEWED BY**

Allen Fillion, Director of Engineering and Public Works

Warren Everton, Director of Financial Services

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

PowerPoint: Yes ☒ No ☐

Attachments:

1. Water Regulation Bylaw No.274
2. Fees and Charges Amendment Bylaw No.0028.71 (Schedule 4 B Water)
3. Ticket Information Utilization Bylaw No. 0095.44
4. Bylaw Notice Enforcement Amendment Bylaw No. 0093.47