



COUNCIL REPORT

To: Paul Gipps, CAO

Date: July 27, 2021

From: Mike Cain, Bylaw Services Manager

Bylaw No: 72.02, 93.49 & 95.46

Subject: **1) Amendment to the Offences and Penalties Section of the Sanitary Sewer Uses Bylaw**
2) Amendment to the Ticketing Bylaw Schedules

RECOMMENDATION

THAT Council adopt City of West Kelowna Sanitary Sewer Use Amendment Bylaw No. 0072.02, 2021; and

THAT Council adopt Bylaw Notice Enforcement Amendment Bylaw No. 0093.49, 2021; and

THAT Council adopt City of West Kelowna Ticket Information Utilization Amendment Bylaw No. 0095.46, 2021.

STRATEGIC AREA(S) OF FOCUS

Foster Safety and Well Being – to pursue policing and other services and foster safety and well-being.

BACKGROUND

The Sanitary Use Bylaw No. 0072 was adopted April 12, 2011. Prior to the adoption of Bylaw No. 0072 the Regional District of Central Okanagan Sewer Systems Regulation Bylaw No. 1171, 2006 was being utilized.

At the time of adoption of Bylaw No. 0072, there was no consideration given to the inclusion of ticketing schedules, which would have enabled the issuance of fines for any non-compliance.

To date, all non-compliance complaints have been dealt with by way of education and warnings.

DISCUSSION

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.

A typical progressive enforcement continuum would include the following graduating enforcement steps:

- Education to obtain voluntary compliance
- Issuance of written or oral warnings
- Issuance of a ticket
- Application of nuisance abatement fees
- Summons to Provincial Court (Long Form Information)
- Commencement of an action in Supreme Court (Injunction)

The absence of a ticketing ability in the enforcement continuum creates a gap in the City's ability to respond to non-compliance with the Bylaw in a proportionate manner.

In April, 2020, the *Community Charter* was amended to increase the maximum penalty permitted for a bylaw offences prosecuted under the *Offence Act* from \$10,000 to \$50,000. Staff are ensuring that all new regulatory bylaws, and amendments to existing regulatory bylaws reflect this increase.

Adopting the recommended ticketing schedules will close the enforcement continuum gap providing the City with a more proportionate response ability. Having the ability to issue a ticket also adds to the deterrent component of a regulatory bylaw.

Increasing the maximum penalty for an *Offence Act* prosecution to \$50,000 significantly adds to the deterrent component of a bylaw as well as ensuring that the available penalty can be proportionate to the seriousness of the infraction.

COUNCIL REPORT / RESOLUTION HISTORY

| Date | Report Topic / Resolution | Resolution No. |
|---------------|---|----------------|
| July 13, 2021 | THAT Council gives first, second and third reading to City of West Kelowna Sanitary Sewer Use Amendment Bylaw No. 0072.02, 2021; and THAT Council gives first, second and third reading to Bylaw Notice Enforcement Amendment Bylaw No. 0093.49, 2021; and | C235/21 |

THAT Council gives first, second and third reading
to City of West Kelowna Ticket Information
Utilization Amendment Bylaw No. 0095.46, 2021.
CARRIED UNANIMOUSLY

Alternate Motion:

THAT Council postpone the adoption of City of West Kelowna Sanitary Sewer Use Amendment Bylaw No. 0072.02, 2021; and

THAT Council postpone the adoption of Bylaw Notice Enforcement Amending Bylaw No. 0093.49, 2021; and

THAT Council postpone adoption of City of West Kelowna Ticket Information Utilization Amendment Bylaw No. 0095.46, 2021.

Should council wish to postpone adoption, it is requested Council provide further direction.

REVIEWED BY

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) Bylaw No. 0072.02
- 2) Bylaw No. 0093.49
- 3) Bylaw No. 0095.46