

DATE OF MEETING OCTOBER 19, 2020

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SUBJECT BYLAW AND POLICY RENEWAL PROJECT TIMELINE

OVERVIEW

Purpose of Report:

To provide Council with a timeline of the Bylaw and Policy Renewal Project as identified in Council's 2019 – 2022 Strategic Plan.

BACKGROUND

In 2019, Council underwent a planning process to define its vision and values for the 2019 – 2022 Council term. Within the Governance Excellence section of the Strategic Plan, one of the action items identified was to have a comprehensive review undertaken on Council's bylaws and policies as well as updates done on ones that were outdated, ineffective or inconsistent with current objectives. The Deputy City Clerk was assigned the responsibility to oversee and support this project and to develop a timeline for moving the project forward.

DISCUSSION

Prior to developing the timeline and assigning deliverables for the project, an audit of the City's Bylaws and Council policies was undertaken to identify gaps and determine priorities. The following project scope, work breakdown structure, and deliverables were developed based on that audit:

Project Scope:

The "bylaw project" is proposed to be conducted in two phases:

The first phase will consist of manually inputting all of the City's bylaws into a Master Bylaw Registry. This is a critical first step as the audit identified historical gaps in how the bylaws were recorded making it challenging to determine what bylaws are current, what they repealed, which are amendments, missing, etc. Staff has developed a framework for the Registry where critical information will be recorded in one easily searchable Excel spreadsheet (see Attachment "A").

The audit also revealed that the City does not have scanned PDF versions of all signed bylaws. All bylaws are considered permanent records and the Corporate Officer (under Section 148 of the *Community Charter*) is legally responsible for the safekeeping of the bylaws. Therefore, it is crucial for business continuity purposes to have PDF copies of the original bylaws in the event of a flood, earthquake, or fire. As each bylaw is entered into the Registry and the information recorded, staff will make PDF copies of the bylaws.

After the bylaws have been recorded, an analysis of the active bylaws will be done to determine their status (fine as is, to be repealed, or needs updating).

During the second phase of the project, staff will develop a bylaw guide document and work with staff to modernize the bylaws that were identified in phase one for updating. Determining which bylaws will be addressed first will be based on risk, liability, applicability, revenue generation, etc. and drafted based on best practices, using plain language, to provide better enforceability. It is recognized that throughout the process bylaws based on Council priorities and operational needs will need to be updated or modernized sooner rather than later. Therefore, Council can expect to see amendments, rewrites, or development of bylaws on an on-going basis.

The “policy project” will also be conducted in phases. The first phase will consist of bringing forward a list of policies identified by staff as outdated for Council to repeal. As with the Bylaw Renewal Project, the next step will be to develop a Master Council Policy Registry and move forward with modernizing policies in the same manner as the bylaw project. Given the scope of the Bylaw project, the Policy Registry will commence after the Bylaw Registry is well underway. As with the priority bylaws mentioned above, there will be policies that need to be addressed on an on-going basis.

Work Breakdown Structure (Bylaw Renewal Project)

PHASE ONE – 2020-2021

Deliverable: Develop a Master Bylaw Registry

Tasks	Timeline for Completion
Develop a Master Bylaw Registry of the City's approximately 6,500 bylaws (in Excel) that includes the following information for each bylaw: <ul style="list-style-type: none"> - Bylaw No. - Name of Bylaw - Readings - Assent of Electors (if applicable) - Date of Adoption - Amends Bylaw - Repeals Bylaw - Amended By - Repeal Date - Repealed By - Comments 	2021-Q4
Attach hyperlinks within the Master Bylaw Registry to PDF versions of each bylaw	2021-Q4

Deliverable: To repeal bylaws that are no longer relevant

During the development of the Master Bylaw Registry, bylaws that are active would be analyzed to ensure they are relevant and aligned with Council's stated strategic goals, priorities, and policy objectives. Where bylaws or regulations are seen to be irrelevant, outdated, ineffective, obsolete or inconsistent with current objectives, those bylaws would be identified for updating or earmarked for repeal.

Tasks	Timeline for Completion
While inputting bylaws into the Master Bylaw Registry, identify bylaws that are no longer relevant, and note the rationale for updating or repealing the bylaw.	2021-Q4
Quarterly – draft a “Bylaw Repeal Bylaw” to remove obsolete bylaws off the books	2021-Q4

Deliverable: To streamline the City’s ticketing system and do housekeeping amendments to include consistent violation and penalty language within each regulatory bylaw so that Bylaw Enforcement Officers are able to issue the appropriate ticket for an offence.

Currently the City has the following four ticketing options:

1. The Bylaw Offence Notice (BON) ticketing system. This system operates under the authority of the Bylaw Notice Enforcement Bylaw (implemented in 2012) and used for fines under \$500. The fines are administered through an Adjudication process vs. the Courts. It is a cost effective system administered by the City (with other local government participation) and used for the majority of offences. Regulatory bylaws that are not included in the BON system need to be added.
2. The Municipal Ticketing Information System (MTI) operates under the authority of the Municipal Ticketing System Bylaw and can be used for fines up to \$1,000. This system is administered through the Provincial Courts, which can be costly. The City has not used this system since the implementation of the BON system in 2012 as most of the City’s fines are under \$500. It is anticipated that in the near future the legislation will be amended to increase the fine limit to \$1,000 for the BON system and the MTI system phased out. For these reasons, it is recommended that the MTI Bylaw be repealed.
3. The Long Form ticketing process (via the *Offence Act*) is for processing the most egregious infractions (i.e. cutting down multiple trees). It is administered through the Provincial Courts with the assistance of a Municipal Prosecutor. This system is used for fines over \$500 and up to \$50,000 (depending on the seriousness of the Offence).
4. The Super Ticket process, (under the authority of Section 263.1 of the *Community Charter*) is a Long Form process that the City enacted in 2005. It is administered through the Provincial Courts and was used for all tickets (prior to implementation of the BON system in 2012). This system is no longer relevant and should be abolished.

Tasks	Timeline for Completion
Draft a housekeeping amendment to the BON bylaw to update the Agreement (Schedule A) and update the Zoning Fine Schedule and include fines for the Management and Protection of Trees Bylaw. A bylaw amendment to remove reference to fines from the Zoning Bylaw (B4500) and Management and Protection of Trees Bylaw (B7126) would be done concurrently.	October 19, 2020 Council meeting
Repeal the MTI Bylaw as part of the first Bylaw Repeal project	2021 – Q1
Remove reference to the fines in the regulatory bylaws as they come up for renewal or amendment and ensure consistent offence clauses are included in all bylaws.	On-going

Deliverable: To develop a new Animal Responsibility Bylaw

On July 6, 2020, Council endorsed, in principle, the recommendations of the Animal Control Services review and directed staff to modernize the Licensing and Control of Animals Bylaw and to incorporate the recommendations of the service review.

Tasks	Timeline for Completion
Identify stakeholders and have preliminary discussions on desired outcomes for a new Bylaw.	Completed
Draft bylaw using the SPCA's Model Bylaw and bylaws from those jurisdictions who participate in Nanaimo's Bylaw Dispute Adjudication System as a framework. Include recommendations from stakeholders and those outlined in the service review.	Completed
Forward finalized draft bylaw to stakeholders for feedback: Note: concerns raised by Council and members of the public regarding mandatory sterilization of outdoor cats, identification for cats, removing breed specific legislation, dogs in heat, and tethering were considered and incorporated into the draft.	Completed
Feedback from stakeholders incorporated in the bylaw and circulate 2 nd draft	First part of October
Send finalized bylaw for legal review	3 rd Week of October
Present draft bylaw to Council.	November 9, 2020 GPC
Incorporate any Council feedback from the November 9, 2020 GPC meeting and forward to the December 7, 2020 meeting for consideration of first three readings. A new fees and charges bylaw (that incorporates the licensing and boarding fees will be introduced at the same meeting)	December 7, 2020
Bylaw Adoption	December 21, 2020
Once adopted, amendments will be required to the Parks and Regulation Bylaw and the Bylaw Notice Enforcement Bylaw.	December 21, 2020

Deliverable: To develop a comprehensive Fees and Charges Bylaw

Currently, fees and charges are outlined within various bylaws. Having a “one stop” comprehensive bylaw that lists all fees and charges would make it much easier for the public and staff to find the applicable fees that will reduce the number of enquires to the City.

Tasks	Timeline for Completion
To establish a Fees and Charges Bylaw that would be introduced in conjunction with the Animal Responsibility Bylaw. This bylaw would be the starting point and as various bylaws are amended, staff would take the opportunity to update the fees and charges bylaw at the same time.	December 7, 2020 Council Meeting for introduction. Project will be on going.

Deliverable: To scan all “signed” bylaws

As bylaws are permanent records and the Corporate Officer is assigned the responsibility of ensuring bylaws are maintained and kept safe as outlined in Section 148 of the *Community Charter*, it is important that for business continuity purposes in the event of a flood, fire, or earthquake that the City has scanned copies of all signed bylaws.

Tasks	Timeline for Completion
This project got underway in the spring of 2020 and many bylaws have been scanned. Those remaining will be scanned while the bylaws are being added to the Master Bylaw Registry.	2021-Q4

PHASE TWO – 2021/2022

Deliverable: To work with staff on modernizing the City’s regulatory bylaws (on a priority basis) based on risk, liability, applicability, revenue generation, etc. in order to improve service to the public and provide for efficiencies across the organization. Bylaws would be drafted based on best practices using plain language to provide for better enforceability.

Some of this work has already commenced with work being done on the Animal Responsibility Bylaw and Ticketing Bylaws. Other bylaws that need addressing will be part of the 2021 work plan. The focus for 2022 would be to do a review of the bylaws that are identified through the Master Bylaw Registry project with more specific deliverables and tasks identified in the later part of 2021.

Deliverable: To develop a bylaw guideline document for staff

To assist subject matter experts on drafting bylaws, a bylaw guideline document would be developed for staff to use as a tool when developing their bylaws.

Work Breakdown Structure (Policy Renewal Project)

Phase One – 2021

Deliverable: Develop a Master Policy Registry

The City has a hard copy of a Council policy manual that contains several policies, which are divided into sections, by department. Some of the policies are in effect and posted on the internet (currently 46 posted in the internet). Others are still valid but outdated; others are historical.

In 2010 and subsequently 2016, Legislative Services developed a policy status sheet. This status sheet, along with copies of the policies, were sent to the applicable departments for review. Managers were asked to determine whether the policy was relevant and should remain as is, whether it needed amending, whether it was obsolete and should be repealed or unsure. At the time, it was also noted that some policies were administrative in nature and would be more applicable as a staff policy or appeared to be a procedure or guideline. To assist, staff was provided with definitions as to how to view the policy (i.e. is it a rule, guiding principle or statement vs. a process, method, practice). Feedback from the various departments was provided; however, the work was not concluded.

Tasks	Timeline for Completion
Present a report to Council with a list of policies that need to be repealed	November 23 rd GPC
Bring forward a revised Public Hearing process policy	November/December, 2020
Start Development of a Master Bylaw Registry	2021
To build on the work that was done in 2010 and 2016	*TBD

*Further work on the policies will be identified in 2021 in conjunction with the updates provided to Council on the bylaw project.

SUMMARY POINTS

- As part of Council's 2019 – 2022 Strategic Plan, one of the Governance action items identified was to have a comprehensive review undertaken on Council's bylaws and policies and then proceed with updating those that were outdated, ineffective or inconsistent with current objectives.
- An audit was conducted on the City's bylaws and Council policies and a project timeline, with work breakdown structures and deliverables was developed for moving the project forward.

ATTACHMENTS

Attachment "A" - Master Bylaw Registry (sample)

Submitted by:

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