

## ADMINISTRATIVE REPORT



**TO:** Board of Directors

**FROM:** B. Newell, Chief Administrative Officer

**DATE:** May 4, 2023

**RE:** Development Permit Ticketing (X2023.003-ZONE)

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### **Administrative Recommendation:**

**THAT Bylaw No. 3006, 2023 being a bylaw to amend the Official Community Plan Bylaws to introduce development permit offences, be read a first and second time and proceed to public hearing;**

**AND THAT Bylaw No. 2507.19, 2023 being a bylaw to amend the Bylaw Notice Enforcement Bylaw to allow for the ticketing of development permit offences, be read a first and second time;**

**AND THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated May 4, 2023, to be appropriate consultation for the purpose of Section 475 of the Local Government Act;**

**AND THAT, in accordance with Section 477 of the Local Government Act, the Board of Directors has considered Amendment Bylaw No. 3006, 2023, in conjunction with its Financial and applicable Waste Management Plans;**

**AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of May 18, 2023;**

**AND THAT staff give notice of the public hearing in accordance with the requirements of the Local Government Act.**

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### **Purpose:**

Amendment Bylaws No. 3006 and 2507.19, 2023 are seeking to allow for the enforcement of contraventions of an issued development permit (DP) through ticketing.

### **Background:**

At its meeting of June 18, 2020, the Corporate Services Committee of the Board resolved to “instruct staff to bring forward options for bylaw amendments to allow for the ticketing of development permit infractions rather than pursue legislative changes through a resolution to UBCM.”

At its meeting of March 2, 2023, the Planning and Development Committee of the Board was presented with options regarding the enforcement of contraventions of an issued DP and resolved that “the electoral Area official community plan bylaws and bylaw enforcement notice bylaw, be amended to allow for the ticketing of development permit infractions.”

The Province has previously stated that it believes local governments already have the necessary authority under the *Local Government Act* to ticket development permit infractions, however, legal

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opinions exist regarding the authority to enforce DP contraventions using bylaw notices or municipal tickets.

The proposed amendments are required to allow for the ticketing of development permit infractions.

**Referrals:**

Approval from the Ministry of Transportation and Infrastructure (MoTI) is required prior to adoption as the proposed amendments involve lands within 800 metres of a controlled access highway (i.e. Highway 97 & 3).

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 53, 58 and 67 have been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Pursuant to Section 475 of the *Local Government Act*, the Regional District must consult with the Agricultural Land Commission (ALC) when proposing to amend an OCP which might affect agriculture. The ALC has been made aware of the proposed amendment bylaws.

**Public Process:**

On April 12, 2023, a Public Information Meeting (PIM) was held electronically via webex and was attended by 7 members of the public.

Administration recommends that the public meeting as well as formal referral to the agencies listed at Attachment No. 1, should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to be further ongoing.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

**Analysis:**

The proposed OCP bylaw amendments will establish failing to comply with the conditions of an issued DP as an offence that can be enforced through ticketing under the Bylaw Notice Enforcement (BNE) Bylaw.

With regard to the BNE Bylaw, the penalty for failing to comply with the conditions of an issued DP should be the same as the existing penalty for failing to obtain a DP, which is \$500, and that early payment of a penalty be \$450, late payment of a penalty be \$550 and that a Compliance Agreement be available.

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Risk:

If the Regional District were to be challenged over a bylaw notice penalty, it is possible that the Court may determine that a contravention is not enforceable.

**Alternatives:**

1. THAT Bylaw No. 3006, 2023, and Bylaw No. 2507.19, 2023, be denied.

**Respectfully submitted:**

Ben Kent  
Ben Kent, Planner I

**Endorsed By:**

  
C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Amendment Bylaw No. 3006:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input type="checkbox"/>	Fortis
<input type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Lands, Water and Resource Stewardship	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input checked="" type="checkbox"/>	ONA , PIB , OIB , USIB & LSIB (via NationsConnect)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Canadian Wildlife Services
<input checked="" type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	OK Falls Irrigation District
<input checked="" type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Kaleden Irrigation District
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Vaseux Lake Irrigation District
<input type="checkbox"/>	Keremeos Irrigation District	<input type="checkbox"/>	Irrigation District / improvement Districts / etc.
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Kootenay Boundary Regional District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Fraser Valley Regional District
<input type="checkbox"/>	Volunteer Fire Department		