



**Regular Council Meeting**  
to be held at  
**City of Penticton Council Chambers**  
171 Main Street, Penticton, B.C.

**Tuesday, June 5, 2018**  
**at 1:00 p.m.**

1. **Call Regular Council Meeting to Order**
2. **Introduction of Late Items**
3. **Adoption of Agenda**
4. **Recess to Committee of the Whole**
5. **Reconvene the Regular Council Meeting**
6. **Adoption of Minutes:**
  - 6.1 Minutes of the May 22, 2018 Committee of the Whole 1-3 Receive
  - 6.2 Minutes of the May 22, 2018 Public Hearing 4-9 Receive
  - 6.3 Minutes of the May 22, 2018 Regular Council Meeting 10-16 Adopt
7. **Committee and Board Reports**
  - 7.1 Official Community Plan Task Force Minutes of May 16, 2018 17-19  
*Staff Recommendation: THAT Council receive the draft minutes of the Official Community Plan Task Force meeting of May 16, 2018.*
  - 7.2 Arts, Creative and Cultural Innovations Committee Minutes of May 25, 2018 20-23  
*Staff Recommendation: THAT Council receive the draft minutes of the Arts, Creative and Cultural Innovations Committee meeting of May 25, 2018.*  
*Committee Recommendation: THAT Council approves the establishment of a standing budget, within the Recreation Department's Operating budget in the amount of \$25,000, which funds to be used solely for the annual Public Sculpture Project.*
8. **Correspondence**
  - 8.1 City of Langley 24-39  
Re: Provincial Employer Health Tax

8.2 The Honourable Mobina S.B. Jaffer, Senator for British Columbia 40-48  
Re: Border implications of Bill C-45

9. **Staff Reports:**

- BPM 9.1 BC Energy Step Code Implementation Strategy 49-59  
*Staff Recommendation: THAT Council receives, for information, the BC Energy Step Code Implementation Strategy report dated June 5, 2018; AND THAT Council direct staff to continue to engage key stakeholders on the proposed Energy Step Code timeline for the City of Penticton as part of an Okanagan regional strategy.*
- BPM 9.2 Liquor Licence – Structural Change Application 60-65  
Re: Sun Country Lanes  
*Staff Recommendation: THAT Council direct staff to commence public notification of the proposed Structural Change (change in hours) to the Liquor-Primary License for Sun Country Lanes located at 1035 Westminster Ave West; AND THAT staff report back to Council at their meeting on July 3, 2018 the results of the public consultation for Council's consideration.*
- DDS 9.3 Pawnbrokers, Secondhand Dealers and Auction Houses Regulations 66-75  
Amendment Bylaw No. 2018-42  
Bylaw Notice Enforcement Amendment Bylaw No. 2018-43  
*Staff Recommendation: THAT Council adopt "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42"; AND THAT Council adopt "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43", a bylaw that amends Appendix 13 – Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Bylaw No. 97-68 and increases the fines amounts from \$100 to \$300.*  
**or**  
*THAT Council rescind third reading and give third reading as amended to "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42"; AND THAT Council rescind third reading and give third reading as amended to "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43", a bylaw that increases the fine amounts in Appendix 13 to \$450 per offence.*
- DCS 9.4 Video Surveillance Policy 76-83  
*Staff Recommendation: THAT Council approve the Video Surveillance Policy as attached to the report dated June 5, 2018.*
- DCS 9.5 Council Procedure Bylaw No. 2018-35 84-135  
*Staff Recommendation: THAT Council give first, second and third reading to "Council Procedure Bylaw No. 2018-35".*
- DCS 9.6 Election and Assent Voting Bylaw No. 2018-34 136-164  
Sign Regulation Amendment Bylaw No. 2018-31  
Political Signage Regulations Bylaw No. 2018-32  
Bylaw Notice Enforcement Amendment Bylaw No. 2018-33  
*Staff Recommendation: THAT Council give first, second and third reading to "Election Bylaw No. 2018-34"; AND THAT Council give first second and third reading to "Sign Regulations Amendment Bylaw No. 2018-31"; AND THAT Council give first, second and third reading to "Political Signage Regulations Bylaw No. 2018-32" and repeal the Political Signage Policy dated April 7, 2009; AND THAT Council give first, second and third reading to "Bylaw Notice Enforcement Amendment Bylaw No. 2018-33".*

10. **Public Question Period**

11. **Recess to In-Camera Meeting**

Resolution: THAT Council recess to a closed meeting of Council pursuant to the provisions of the Community Charter section 90 (1) as follows:

- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (g) litigation or potential litigation affecting the municipality;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act.

12. **Reconvene the Regular Council Meeting following the Public Hearing at 6:00 p.m.**

13. **Bylaws and Permits:**

- |  |  |         |   |
|--|--|---------|---|
|  | 13.1 Zoning Amendment Bylaw No. 2018-40<br>Re: 1386 Commercial Way | 165-166 | 2 <sup>nd</sup> /3 <sup>rd</sup> /Adopt |
|--|--|---------|---|

14. **Land Matters:**

- |     |   |         |         |
|-----|---|---------|---------|
| DRF | 14.1 SOEC Facilities Operation & Management Agreement<br><u>Staff Recommendation:</u> THAT Council authorize staff to finalize the extension of Spectra Venue Management's (Spectra) Facilities Operation & Management Agreement for the South Okanagan Event Centre (SOEC); AND THAT Council direct the Mayor and Corporate Officer to execute the agreement.  | 167-171 |         |
| PM  | 14.2 Development Variance Permit PL2018-8216<br>Re: 2753 Evergreen Drive<br><u>Staff Recommendation:</u> THAT Council approve "Development Variance Permit PL2018-8216" for Lot 24 District Lot 2710 Similkameen Division Yale District Plan EPP62484, located at 2753 Evergreen Drive, a permit to increase the maximum height of a retaining wall within a required yard from 1.2m to 4.5m; AND THAT staff be directed to issue "Development Variance Permit PL2018-8216."  | 172-190 | Del/Sub |
| PM  | 14.3 Development Variance Permit PL2018-8225<br>Re: Timberstone/Balsam<br><u>Staff Recommendation:</u> THAT Council approve "Development Variance Permit PL2018-8225", a permit to increase the permitted height of a retaining wall in a required yard from a maximum height of 1.2m to a maximum height of 3.0m for Lots 1-11 and 13-17 of Plan EPP66462, District Lot 2710, Similkameen Division Yale District located at 604, 612, 620, 628 and 692 Balsam Avenue and 101, 107, 115, 121, 133, 139, 145, 151, 157, 163, 169 Timberstone Place; AND THAT staff be directed to issue "Development Variance Permit PL2018-8225." | 191-203 | Del/Sub |
| PM  | 14.4 Temporary Use Permit PL2018-8268<br>Re: 813 Westminster Avenue West<br><u>Staff Recommendation:</u> THAT Council approve "Temporary Use Permit PL2018-8268", a permit to allow the use 'motor vehicles sales and rentals' for Lot 1, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 13891, located at 813 Westminster Avenue West, for a one-year period; AND THAT prior to issuance of "Temporary Use Permit PL2018-8268," the driveway accesses are closed as shown on Attachment F; AND THAT staff are directed to issue the permit.  | 204-217 | Del/Sub |
| PM  | 14.5 Zoning Amendment Bylaw No. 2018-44<br>Re: 783 Martin Street<br><u>Staff Recommendation:</u> THAT "Zoning Amendment Bylaw No. 2018-44", a bylaw to rezone Lot A District Lot 202 Similkameen Division Yale District Plan 899, located at 783 Martin Street from RD1 (Duplex Housing) to RM3 (Medium Density Multiple Housing), be given first reading and forwarded to the June 19, 2018 Public Hearing; AND THAT prior to adoption of "Zoning Amendment Bylaw No. 2018-44", a 1.0m road dedication along the east property line (Martin Street) is registered with the Land Title Office.                                    | 218-242 |         |

*THAT delegations and submissions for "Development Variance Permit PL2018-8240" for Lot A District Lot 202 Similkameen Division Yale District Plan 899, located at 783 Martin Street, a permit to reduce the minimum width of a landscape buffer abutting a residential zone from 3.0m to 0.5m, to reduce the minimum rear yard from 6.0m to 5.0m and to increase the maximum hard surfacing of a lot from 81%, be heard at the June 19, 2018 Public Hearing; AND THAT Council consider "DVP PL2018-8240" following the adoption of "Zoning Amendment Bylaw No. 2018-44."*

- PM 14.6 Zoning Amendment Bylaw No. 2018-45 243-254  
Re: 456 Main Street  
*Staff Recommendation: THAT "Zoning Amendment Bylaw No. 2018-45", a bylaw to add section 11.5.4.9 to the C5 (Urban Centre Commercial) zone, "In the case of Lot 9, Block 15, DL 202, SDYD, Plan 269, located at 456 Main Street, one dwelling unit on the first storey behind the commercial space shall be permitted," be given first reading and be forwarded to the June 19, 2018 Public Hearing.*
- PM 14.7 Zoning Amendment Bylaw No. 2018-36 255-259  
Re: RD3 (Residential Infill)  
*Staff Recommendation: THAT "Zoning Amendment Bylaw No. 2018-36", a bylaw to amend Zoning Bylaw No. 2017-08 to create a new zone called RD3 (Residential Infill) be given first reading and be forwarded to the June 19, 2018 Public Hearing.*
- PM 14.8 Official Community Plan Amendment Bylaw No. 2018-38 260-279  
Zoning Amendment Bylaw No. 2018-39  
Re: 157 Abbott Street/198 Van Horne Street  
*Staff Recommendation: THAT prior to consideration of "OCP Amendment Bylaw No. 2018-38" and in accordance with Section 475 of Local Government Act, Council considers whether early and on-going consultation, in addition to the required Public Hearing, is necessary with:*
- 1. One or more persons, organizations or authorities;*
  - 2. The Regional District of Okanagan Similkameen;*
  - 3. Local First Nations;*
  - 4. School District #67; and*
  - 5. The provincial or federal government and their agencies;*

*AND THAT it is determined that the public consultation completed to date and the Public Hearing is sufficient consultation;*

*AND THAT "OCP Bylaw No. 2002-20", be amended by changing the OCP designation on Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP81594, located at 157 Abbott Street and Lot 1, District Lot 202, Similkameen Division Yale District, Plan KAP86539 located at 198 Van Horne Street from HR (High Density Residential) to MR (Medium Density Residential), and amends Schedule 'H' of the bylaw, including the subject lands in the General Multiple Family Development Permit Area; AND THAT "Official Community Plan Amendment Bylaw No. 2018-38" be introduced, read a first time and forwarded to the June 19, 2018 Public Hearing.*

*THAT "Zoning Amendment Bylaw No. 2018-39", a bylaw to rezone Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP81594, located at 157 Abbott Street and Lot 1, District Lot 202, Similkameen Division Yale District, Plan KAP86539 located at 198 Van Horne Street be rezoned from RM4 (Medium Density Multiple Housing) to RD3 (Residential Infill), be given first reading and be forwarded to the June 19, 2018 Public Hearing.*

*THAT, in accordance with section 507 of the Local Government Act, Council require the developer, at the time of subdivision of 157 Abbott Street, include the frontage of 198 Van Horne Street as part of the required frontage improvements, as an 'excess or extended service'.*

15. **Notice of Motion**
16. **Business Arising**
17. **Council Round Table**
18. **Public Question Period**
19. **Adjournment**

**Committee of the Whole**  
held at City of Penticton Council Chambers  
171 Main Street, Penticton, B.C.

**Tuesday, May 22, 2018**  
**Recessed from the Regular Council Meeting at 1:00 p.m.**

**Present:** Mayor Jakubeit  
Councillor Picton  
Councillor Watt  
Councillor Sentes  
Councillor Konanz  
Councillor Martin

**Absent:** Councillor Sayeed

**Staff:** Dana Schmidt, Corporate Officer  
Peter Weeber, Chief Administrative Officer  
Jim Bauer, Chief Financial Officer  
Ian Chapman, City Engineer  
Anthony Haddad, Director of Development Services  
Angie Collison, Deputy Corporate Officer

1. **Call to order**

The Mayor called the Committee of the Whole meeting to order at 1:02 p.m.

2. **Adoption of Agenda**

**It was MOVED and SECONDED**

THAT the agenda for the Committee of the Whole meeting held on May 8, 2018 be adopted as presented.

**CARRIED UNANIMOUSLY**

3. **Delegations and Community Recognition**

3.1 Delegation – South Okanagan Loss Society (SOLS)

Sam Lucier, on behalf of South Okanagan Loss Society, provided Council with a summary of their services and invited Council and residents to their launch meeting, June 12, 2018 at 7:00 p.m. at the Shatford Centre.

3.2 Delegation – Sharps Disposal Strategy

Ian Gerbrandt, on behalf of the ad-hoc Sharps Committee, provided Council with a draft Sharps Disposal Strategy and requested Council direct staff to work with the ad-hoc committee to identify locations for placement of sharps containers on city property. The ad-hoc Sharps Committee would like to publish resource and educational information on the city website.

The Committee of the Whole agreed by consensus to direct staff to work with the ad-hoc Sharps Committee to identify locations for the installation of sharps containers on city property and promote educational initiatives.

3.3 Penticton South Okanagan Similkameen Regional Detachment Quarterly Report – January to March 2018

Supt. Ted De Jager, provided Council with the Penticton South Okanagan Similkameen Regional Detachment Quarterly Report for January – March 2018.

3.4 Economic Development Quarterly Report

Jennifer Vincent, Economic Development Specialist, provided Council with the Economic Development Quarterly Report for 2018. Local business owners Shae Ayris, The Anomaly House Art Supplies, Peter Beauchamp, Okanoggin Barber Shop and Yves Gagnon, Loom Inc. were introduced to Council and spoke about their businesses.

3.5 Political Signage

Dana Schmidt, Deputy Chief Election Officer, provided Council with options for political signage and recommended changes to the sign bylaw.

Councillor Martin declared a conflict of interest and left the meeting at 2:31 p.m.

**It was MOVED and SECONDED**

THAT the Committee of the Whole direct staff to prepare bylaws to identify the following public locations for election signage: Skaha Park; Sudbury Beach; Channel Parkway; Duncan Hill; Front of Library; SOEC Site; Ellis Street Round-a-bout; North City Entrance; McLaren Arena; City Yards; Robinson Park; Riverside Park; 1099 Main Street; AND THAT political signage be restricted to a total of 16 square feet per public location.

**CARRIED**  
**Councillor Konanz, Opposed**

Councillor Martin returned to the meeting.

4. **Adjourn to Regular Meeting**

**It was MOVED and SECONDED**

THAT Council adjourn the Committee of the Whole meeting held May 22, 2018 at 2:39 p.m. and reconvene the Regular Meeting of Council.

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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Dana Schmidt  
Corporate Officer

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Andrew Jakubeit  
Mayor

**Public Hearing**  
**City of Penticton, Council Chambers**  
**171 Main Street, Penticton, B.C.**

**Tuesday, May 22, 2018**  
**at 6:00 p.m.**

**Present:** Mayor Jakubeit  
Councillor Watt  
Councillor Picton  
Councillor Martin  
Councillor Konanz  
Councillor Sayeed  
Councillor Sentes

**Staff:** Jim Bauer, Chief Financial Officer  
Peter Weeber, Chief Administrative Officer  
Ian Chapman, City Engineer  
Anthony Haddad, Director of Development Services  
Dana Schmidt, Corporate Officer  
Blake Laven, Planning Manager  
Angie Collison, Deputy Corporate Officer

**1. Call to order**

Mayor Jakubeit called the public hearing to order at 6:00 p.m. for Zoning Amendment Bylaw No. 2018-29, Zoning Amendment Bylaw No. 2018-26, Zoning Amendment Bylaw No. 2018-27, Official Community Plan Amendment Bylaw No. 2018-28 and Zoning Amendment 2018-30. He explained that the public hearing was being held to afford all persons who considered themselves affected by the proposed bylaws an opportunity to be heard before Council.

The Corporate Officer read the opening statement and introduced the purpose of the bylaws. She then explained that the public hearing was being held to afford all persons who considered themselves affected by the proposed bylaws an opportunity to be heard before Council. She further indicated that the public hearing was advertised pursuant to the *Local Government Act*.

**2. "Zoning Amendment Bylaw No. 2018-29" (179 Green Avenue West)**

The purpose of "Zoning Amendment Bylaw No. 2018-29" is to amend Zoning Bylaw No. 2017-08 as follows:

Rezone Lot 3 District Lot 116, Similkameen Division Yale District, Plan 4725, Except Plan KAP78868 located at 179 Green Avenue West from RD1 (Duplex Housing) to RM2 (Low Density Multiple Housing).

The applicant is proposing to develop a 52 unit supported residential housing development that will be consolidated with the neighboring property at 2872 Skaha Lake Road.

The Corporate Officer advised that two letters of opposition were received since the printing of the agenda and distributed to Council.

### **DELEGATIONS**

Mayor Jakubeit asked the public for the first time if anyone wished to speak to the application.

- Ann Howard, BC Housing, provided a PowerPoint outlining other modular supportive housing initiatives and data addressing homelessness in the Okanagan.
- Bob Hughes, ASK Wellness Society, operates Fairhaven site and this new project. Believe in the approach BC Housing and government have taken.
- Metric Modular, working on project, building project here in factory in Penticton. Modular building, scheduled for August 20 of this year, can finish by end of December to move tenants in before winter.
- Mike Biden, Green Avenue, neighbourhood has done due diligence, cleaned up needles, garbage, had trouble driving vehicles in front of place. With schools and kids walking in area, fearful of adding another 52 into high density complex. What happens to value of our condo? What happens to vehicles parked on Green Avenue if they get damaged? Is City or BC housing going to pay for that? Not fair to our neighbourhood to add, already doing what we need to do as a community.
- Charlie Belshrum, Green Avenue, moved here year ago, wouldn't have picked this spot, traffic concerns, trash, don't think improves area, we have enough in our neighbourhood.
- Dennis Ebner, Green Avenue, discuss rezoning, not low density, 52 units is high density, feel area becoming saturated with low income housing, mix of schools and senior homes not conducive to neighbourhood, need a bigger site.
- Bernie Raddick, walk every day to the mall, pushed off sidewalk when passing by, worried about schools and vulnerable children and seniors, concerned about the location.
- Janet Bertrand, read out two letters of support from Katrina McGowan, Access Centre, and Sharon Singbush, resident of BC Housing.
- Brigid Kemp, Warren Avenue West, encouraged Council to make smart decisions for the entire community.
- Lucille Belshrum, Green Avenue, concerned about schools and seniors, how many are coming from prison to here, what about families and single parents, why don't they go to work if they can go to work, don't think right spot.
- Elder Greyeyes, think about people who need a place to live, get homeless off the street and give them some dignity.
- David False, Skaha Sunrise, resident, do what we can to clean up area we live in, never seen needles from residents, ask Council to put themselves in our shoes if they lost a job or business and ended up on the street, how would you feel?
- Rick Thorpe, Green Avenue, issue not about homelessness, why build facility in school zone? BC Housing can find another alternative, we know traffic on Green Avenue, enough challenges in area now. Surely BC Housing and the City can find another location to serve the needs of those who need it. Consultation process not working, should receive full disclosure of services located and future anticipated services on site. Tighten up security, key fob not going to work.

- Tony Lang, Baskin Street, as a parent I have no problem supporting this new complex. As a professional, support this development.
- Debbie Scarborough, SOWINS, work with homeless, learned from Fairhaven, ASK Wellness has an incredible reputation, give them a chance. Imagine having 24 hr support and a place to live. Ask Council to support this initiative.
- Andrea Turner, social worker, Kinney Avenue, spoke in support of the application, shocked had to come and speak in favour.
- Lynn Allen, resident of south end of town, let's not forget other types of homeless, seniors and working poor. Need to take care of people struggling with addictions. Take more time to think about who we need to help. Limited space to build housing.
- Linda Sankey, Quebec Street, Brain Injury Society, location of existing housing on Westminster has had zero complaints about clients living in building, it is a positive example.
- Reanna Madio, United Way, spoke in support of application and housing model put forward. Housing is a key step, ASK Wellness has a great track record in other communities. Evidence shows housing is effective. Our community needs these 52 units. Move our most vulnerable from homeless to possibility.
- Ross Goodwin, Dauphin Park, here to attest to problems Fairhaven imposed on our park. Crossing boundaries and breaking fences. Lives already impacted, now another facility proposed. Calmed down now but still some problems with people accessing park. If new project goes ahead, what problems do they have, where are they going to hang out?
- Kevin Fraser, manager of mental health for Interior Health, encouraged by progress BC housing is making with this project. Hope Council will make a wise decision. Interior Health will be working closely with BC housing and ASK Wellness to makes sure right type of services are provided to the housing complex.
- Gary Graham, Green Avenue, live directly across, we need another facility but location is the issue. Skaha Sunrise and Fairhaven is a lot of concentration in one area, density is an issue.

Mayor Jakubeit asked the public for the second time if anyone wished to speak to the application.

- Patricia Dobrich, with access to services was able to overcome and get on my feet. Went back to school, raise children, got support. Now run successful business. Believe in supporting others, beyond compassion its understanding.
- Laurie Goodwin, manage Dauphin Park, we felt negative impact, not over, not sure how having more drug addicts in area is going to make things better for residents.
- Sheila Findley, was homeless in Toronto, no support services. Work for BC Housing today, can't expect change if you don't have housing.

Mayor Jakubeit asked the public for the third and final time if anyone wished to speak to the application.

- Brigid Kemp, Warren Avenue West, worked in various forms of supportive housing, do what is best and provide housing for those who need it.
- Kenneth Scott, Forestbrook Drive, site coordinator, assumption all destitute and problematic that have chronic addictions. Needs to be balance, have seen the journey to wellness and not all will get there on the first try. Seen monumental growth, it's important to recognize it's not the same for everyone, everyone not the same either.
- Rick Thorpe, not against helping homeless, talking about location. Negative impact on children, students, seniors and other people. Challenge BC Housing to find a creative solution and better site that is suited for our community.
- Ann Howard, BC Housing, tonight is about the homeless, consolidate the site and serve that population, housing first.

- Bob Hughes, for the first time the province is committing two staff on site, confident we can do this on this site recognizing impact to area residents.

The public hearing for "Zoning Amendment Bylaw No. 2018-29" was terminated at 8:18 p.m. and no new information can be received on this matter.

**3. "Zoning Amendment Bylaw No. 2018-26" (500 & 512 Gahan Avenue)**

The purpose of "Zoning Amendment Bylaw No. 2018-26" is to amend Zoning Bylaw No. 2017-08 as follows:

Rezone Lots 30 and 31, District Lot 202, Similkameen Division Yale District Plan 1122, located at 500 & 512 Gahan Avenue from R2 (Small Lot Residential) to RM5 (Urban Residential).

The applicant is proposing to construct a 4-unit townhouse development with suites (8 units total).

The Corporate Officer advised that no letters have been received since the printing of the agenda.

**DELEGATIONS**

Mayor Jakubeit asked the public for the first time if anyone wished to speak to the application.

- No one spoke.

Mayor Jakubeit asked the public for the second time if anyone wished to speak to the application.

- No one spoke.

Mayor Jakubeit asked the public for the third and final time if anyone wished to speak to the application.

- No one spoke.

The public hearing for "Zoning Amendment Bylaw No. 2018-26" was terminated at 8:20 p.m. and no new information can be received on this matter.

**4. "Zoning Amendment Bylaw No. 2018-27" and "Official Community Plan Amendment Bylaw No. 2018-28" (201 Penticton Avenue)**

The purpose of "Zoning Amendment Bylaw No. 2018-27" is to amend Zoning Bylaw No. 2017-08 as follows:

Rezone Lot 31, Block 1, District Lot 250, Similkameen Division Yale District Plan 812, located at 201 Penticton Avenue from R2 (Small Lot Residential) to RD1 (Duplex Housing).

The purpose of "Official Community Plan Amendment Bylaw No. 2018-28" is to amend Official Community Plan Bylaw No. 2002-20 as follows:

Amend Schedule 'H' Development Permit Area Map to include Lot 31, Block 1 District Lot 250, Similkameen Division Yale District Plan 812, located at 201 Penticton Avenue.

The applicant is proposing a side by side duplex with suites in each unit.

The Corporate Officer advised that one letter has been received since the printing of the agenda and distributed to Council.

### **DELEGATIONS**

Mayor Jakubeit asked the public for the first time if anyone wished to speak to the application.

- Chris Brass, Penticton Avenue, spoke in support of the application.

Mayor Jakubeit asked the public for the second time if anyone wished to speak to the application.

- No one spoke.

Mayor Jakubeit asked the public for the third and final time if anyone wished to speak to the application.

- No one spoke.

The public hearing for "Zoning Amendment Bylaw No. 2018-27" and "Official Community Plan Amendment Bylaw No. 2018-28" was terminated at 8:23 p.m. and no new information can be received on this matter.

### **5. "Zoning Amendment Bylaw No. 2018-30" (1273 Edgewood Drive)**

The purpose of "Zoning Amendment Bylaw No. 2018-30" is to amend Zoning Bylaw No. 2017-08 as follows:

Rezone Lot 9, District Lot 250, Similkameen Division Yale District, Plan 6748, located at 1273 Edgewood Drive from R2 (Small Lot Residential) to R3 (Small Lot Residential: Lane)

The applicant is proposing to subdivide the lot to develop 2 single family lots with lane access.

The Corporate Officer advised that 2 letters have been received since the printing of the agenda and distributed to Council.

### **DELEGATIONS**

Mayor Jakubeit asked the public for the first time if anyone wished to speak to the application.

- Trevor Obie, building one of the homes on the lots, will be permanent residence, opportunity to build single family home. Less than 2000 square feet each.

- Lyla Parsons, Edgewood Drive, spoke in opposition to the application.

Mayor Jakubeit asked the public for the second time if anyone wished to speak to the application.

- Nicole Nemuchek, Edgewood Drive, all the houses have large lots, if homes look like concept not a fan of the look, not a fan of carriage houses. Like neighbourhood way it is.

Mayor Jakubeit asked the public for the third and final time if anyone wished to speak to the application.

- Karen Guhagen, Kensington Street, support densification, existing house is not desirable, support the application.
- Len Nemuchek, Edgewood Drive, zoning allows for carriage house and possible eight cars, no parking in back.

The public hearing for "Zoning Amendment Bylaw No. 2018-30" was terminated at 8:42 p.m. and no new information can be received on this matter.

Certified correct:

Confirmed:

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Dana Schmidt  
Corporate Officer

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Andrew Jakubeit  
Mayor

**Regular Council Meeting**  
held at City of Penticton Council Chambers  
171 Main Street, Penticton, B.C.

**Tuesday, May 22, 2018**  
**at 1:00 p.m.**

- Present:** Mayor Jakubeit  
Councillor Picton  
Councillor Sentes  
Councillor Konanz  
Councillor Martin  
Councillor Watt
- Absent:** Councillor Sayeed
- Staff:** Dana Schmidt, Corporate Officer  
Peter Weeber, Chief Administrative Officer  
Jim Bauer, Chief Financial Officer  
Ian Chapman, City Engineer  
Anthony Haddad, Director of Development Services  
Angie Collison, Deputy Corporate Officer

1. **Call to Order**

The Mayor called the Regular Council meeting to order at 1:01 p.m.

2. **Introduction of Late Items**

3. **Adoption of Agenda**

**It was MOVED and SECONDED**

THAT Council adopt the agenda for the Regular Council meeting held on May 22, 2018 as presented.

**CARRIED UNANIMOUSLY**

4. **Recess to Committee of the Whole**

Council recessed to a Committee of the Whole Meeting at 1:02 p.m.

5. **Reconvene the Regular Council Meeting**

Council reconvened the Regular Council Meeting at 2:39 p.m.

6. **Adoption of Minutes**

6.1 Minutes of the May 8 2018 Committee of the Whole

213/2018

**It was MOVED and SECONDED**

THAT Council receive the minutes of the May 8, 2018 Committee of the Whole as presented.

**CARRIED UNANIMOUSLY**

6.2 Minutes of the May 8, 2018 Public Hearing

214/2018

**It was MOVED and SECONDED**

THAT Council receive the minutes of the May 8, 2018 Public Hearing as presented.

**CARRIED UNANIMOUSLY**

6.3 Minutes of the May 8, 2018 Regular Meeting of Council

215/2018

**It was MOVED and SECONDED**

THAT Council adopt the minutes of the May 8, 2018 Regular Meeting of Council as presented.

**CARRIED UNANIMOUSLY**

6.4 Minutes of the May 11, 2018 Special Meeting of Council

216/2018

**It was MOVED and SECONDED**

THAT Council adopt the minutes of the May 11, 2018 Special Meeting of Council as presented.

**CARRIED UNANIMOUSLY**

7. **Committee and Board Reports**

7.1 Arts, Creative and Cultural Innovations Advisory Committee Minutes of April 27, 2018

217/2018

**It was MOVED and SECONDED**

THAT Council receive the draft minutes of the Arts, Creative and Cultural Innovations Advisory Committee meeting of April 27, 2018.

**CARRIED UNANIMOUSLY**

218/2018

**It was MOVED and SECONDED**

THAT Council approve the allocation of \$2,500 from the Arts Reserve Fund towards the purchase of the sculpture titled "Bring Back the Salmon Chief" by Clint George, subject to a matching contribution of \$2,500 from the Penticton & District Arts Council.

**CARRIED UNANIMOUSLY**

8. **Staff Reports**

8.1 Pawnbroker and Secondhand Dealers bylaw amendments and reporting changes  
Re: Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment  
Bylaw No. 2018-42  
Bylaw Notice Enforcement Amendment Bylaw No. 2018-43

219/2018

**It was MOVED and SECONDED**

THAT Council support the proposed work plan as outlined in the report titled "Pawnbroker and Secondhand Dealers bylaw amendments and reporting changes";

AND THAT Council give first, second and third reading to "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42";  
AND THAT Council give first, second and third reading to "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43".

**CARRIED UNANIMOUSLY**

8.2 Equalized Utility Billing Options

220/2018

**It was MOVED and SECONDED**

THAT Council direct staff to design educational material for Electric, Water, and Sewer Utility customers regarding self-managed equalized payment plans and begin proactive promotion.

**CARRIED**  
**Councillor Konanz, Opposed**

8.3 Budget Amendment to Address Identified Flood Issues

221/2018

**It was MOVED and SECONDED**

THAT Council approve amending the 2018 Budget as follows:

- Create a \$45,000 Budget for an Options Analysis and Detail Design for drainage improvements on Carmi Road, with funding coming from the Asset Emergency Reserve;
- Create a \$50,000 Budget for an Options Analysis and Detail Design for drainage improvements in the vicinity of the Campbell Mountain Landfill and Naramata Road, with funding coming from the Asset Emergency Reserve;
- Create a \$400,000 Budget for the completion of a Master Plan for Ellis Creek and for the Detail Design for 2019 Ellis Creek Improvements with funding coming from the capital reserve; and
- Create a \$250,000 Budget for the completion of design and construction works to clear debris from under the bridges and culverts in Ellis Creek in 2018, with funding coming from the capital reserve.

**CARRIED UNANIMOUSLY**

8.4 Local Area Service (Burnaby Avenue, Wylie Street, Riverside Drive) Bylaw No. 2018-41

222/2018

**It was MOVED and SECONDED**

THAT "Local Area Service (Burnaby Avenue, Wylie Street and Riverside Drive) Bylaw No. 2018-41", a bylaw to impose a local area service tax to offset the cost of street improvements on Burnaby Avenue, Wylie Street and Riverside Drive, be given first and second reading;  
AND THAT, in accordance with Section 213 of the *Community Charter*, approval of the Bylaw be subject to a petition against the bylaw by property owners who would be subject to the bylaw;  
AND THAT notice of Council's proposal to proceed with the local area service be carried out in accordance with Section 213 of the *Community Charter*;  
AND FURTHER THAT once the Local Area Service (Burnaby Avenue, Wylie Street and Riverside Drive) Bylaw is complete, if supported by the landowners, this project be considered as part of the 2019 Budget process.

**CARRIED UNANIMOUSLY**

8.5 Request for Removal of Section 219 "No Suite" Covenant from Title

223/2018

**It was MOVED and SECONDED**

THAT Council direct staff to notify Land Titles to discharge Section 219 "no suite" covenant CA2401718 registered against 102 – 796 Government Street, Strata Lot 2, DL 249, SDYD, Strata Plan EPS1008;  
AND THAT Council also support discharge of section 219 covenant CA2401719, registered against 101-796 Government Street, Strata Lot 1, DL 249, SDYD, Strata Plan EPS1008.

**CARRIED UNANIMOUSLY**

8.6 Downtown Penticton Association Grant Request

224/2018

**It was MOVED and SECONDED**

THAT Council approves \$2,500 of the cash grant request to the Downtown Penticton Association for the Canada Day Fireworks.

**CARRIED  
Councillor Sentes, Opposed**

8.7 Choir for Carnegie (Our Redeemer Lutheran Church) Grant Request

225/2018

**It was MOVED and SECONDED**

THAT Council decline the request of a \$5,000 cash grant from Choir for Carnegie (Our Redeemer Lutheran Church).

**CARRIED  
Mayor Jakubeit and Councillor Picton, Opposed**

9. **Public Question Period**

10. **Recess to In-Camera Meeting**

226/2018

**It was MOVED and SECONDED**

THAT Council recess at 4:08 p.m. to a closed meeting of Council pursuant to the provisions of the *Community Charter* section 90 (1) as follows:

- (e) *the acquisition, disposition or expropriation of land or improvements if the Council considers that disclosure could reasonably be expected to harm the interest of the municipality;*
- (f) *law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;*
- (i) *the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.*

**CARRIED UNANIMOUSLY**

11. **Reconvene the Regular Council Meeting following the Public Hearing at 6:00 p.m.**

Council reconvened the Regular Council Meeting at 8:42 p.m.

12. **Bylaws and Permits**

Councillor Konanz declared a conflict of interest and left the meeting at 8:42 p.m.

12.1 Zoning Amendment Bylaw No. 2018-23  
Re: 249 Westminster Avenue W

227/2018

**It was MOVED and SECONDED**

THAT Council adopt "Zoning Amendment Bylaw No. 2018-23".

**CARRIED UNANIMOUSLY**

Councillor Konanz returned to the meeting at 8:43 p.m.

12.2 Zoning Amendment Bylaw No. 2018-26  
Re: 500/512 Gahan Avenue

228/2018

**It was MOVED and SECONDED**

THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2018-26".

**CARRIED UNANIMOUSLY**

12.3 Zoning Amendment Bylaw No. 2018-27  
Official Community Plan Amendment Bylaw No. 2018-28  
Re: 201 Penticton Avenue

229/2018

**It was MOVED and SECONDED**

THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2018-27";  
AND THAT Council adopt "Zoning Amendment Bylaw No. 2018-27".

THAT Council give second and third reading to "Official Community Plan Amendment Bylaw  
No. 2018-28";  
AND THAT Council adopt "Official Community Plan Amendment Bylaw No. 2018-28".

**CARRIED UNANIMOUSLY**

Council reordered the agenda to consider 12.5 before 12.4.

12.5 Zoning Amendment Bylaw No. 2018-30  
Re: 1273 Edgewood Drive

230/2018

**It was MOVED and SECONDED**

THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2018-30";  
AND THAT Council adopt "Zoning Amendment Bylaw No. 2018-30".

**CARRIED**  
**Councillor Watt, Opposed**

12.4 Zoning Amendment Bylaw No. 2018-29  
Re: 179 Green Avenue West

231/2018

**It was MOVED and SECONDED**

THAT Council send the zoning amendment application for 179 Green Avenue West back to  
staff to work with BC Housing to find other options.

**CARRIED**  
**Councillor Sentes, Opposed**

13. **Land Matters**

13.1 Development Variance Permit PL2018-8234

Re: 920 Kilwinning Street

Delegations/Submissions: Neil Terry, Kilwinning Street, applicant, building is the same size but slightly taller.

232/2018

**It was MOVED and SECONDED**

THAT Council approve "Development Variance Permit PL2018-8234" for Lot 106, District Lot 249 Similkameen Division Yale District Plan 1159, located at 920 Kilwinning Street, a permit to decrease the minimum interior (north) side yard from 1.5m to 1.39m, and the minimum rear yard from 1.5m to 1.16m to permit the reconstruction of a carriage house in its original location; AND THAT staff be directed to issue "Development Variance Permit PL2018-8234".

**CARRIED UNANIMOUSLY**

13.2 Zoning Amendment Bylaw No. 2018-40

Re: 1386 Commercial Way

233/2018

**It was MOVED and SECONDED**

THAT "Zoning Amendment Bylaw No. 2018-40", a bylaw to rezone Lot 2 District Lots 2710 and 3821 S Similkameen Division Yale District Plan 20419, located at 1386 Commercial Way from M3 (Wrecking Yard) to M1 (General Industrial), be given first reading and be forwarded to the June 5, 2018 Public Hearing.

**CARRIED UNANIMOUSLY**

13.3 Loco Landing Lease Extension

234/2018

**It was MOVED and SECONDED**

THAT Council approve the 2029 ten year lease renewal option as indicated on page 2 of the Council Report titled "Loco Landing Lease Extension"; AND THAT Council direct Mayor and Corporate Officer to execute the lease agreement attached to this report dated May 22, 2018 with inclusion of the renewal option above and upon conclusion of the disposition notice.

**CARRIED UNANIMOUSLY**

14. **Notice of Motion**

15. **Business Arising**

16. **Council Round Table**

17. **Public Question Period**

18. **Adjournment**

235/2018

**It was MOVED and SECONDED**

THAT Council adjourn the Regular Council meeting held on Tuesday, May 22, 2018 at 9:34 p.m.

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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Dana Schmidt  
Corporate Officer

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Andrew Jakubeit  
Mayor

## Official Community Plan Task Force Meeting

held at City of Penticton, Council Chambers  
171 Main Street, Penticton, B.C.

Wednesday, May 16, 2018  
at 5:30 p.m.

Present: Andrew Jakubeit, Mayor  
Judy Sentes, Councillor  
Suzanne Moccia, Chair  
Wendy Hyer, SD No. 67 Representative  
Evelyn Riechert, RDOS Representative  
Kristi Estergaard, Interior Health Representative  
Lynn Allin, DPA Representative  
Garrett Cruickshank, Member at Large  
Brian Symonds, Member at Large  
Denis O’Gorman, Member at Large  
Randy Manuel, Member at Large  
Sharon Fletcher, Member at Large

Staff: Ben Johnson, Special Projects Manager  
Blake Laven, Planning Manager  
Lorraine Witowski, Corporate Committee Secretary  
Diane Persoon, Corporate Administration Secretary

### 1. Call to Order

The Official Community Plan Task Force was called to order by the Chair at 5:32 p.m.

### 2. Adoption of Agenda

**It was MOVED and SECONDED**

THAT the Official Community Plan Task Force adopt the agenda for the meeting held on May 16, 2018 as circulated.

**CARRIED UNANIMOUSLY**

3. **Adoption of Minutes**

**It was MOVED and SECONDED**

THAT the Official Community Plan Task Force adopt the minutes of the April 18, 2018 meeting as circulated.

**CARRIED UNANIMOUSLY**

4. **Business Arising from Prior Meetings**

4.1 Timeline Update

The Special Projects Manager provided an update on the timeline commenting we are on track. The next key component of the OCP is the Future Land Use categories. A question was asked if the first draft of the OCP will be ready by the fall. Staff noted that is still the plan.

4.2 Consultancy Updates

The Special Projects Manager gave an update on the Commercial & Industrial Land Use Capacity Study noting the consultant has completed the first draft of the study and it is available to any member wanting a copy. Staff stated the consultant will be presenting the study to Council at the June 5, 2018 Council meeting at 1:00 pm. Members were encouraged to attend the presentation. Staff will be setting up an information session for the Task Force with the consultant following the Council meeting at 3:00 or 3:30 pm. Details of the session to be confirmed.

**New Business**

5.1 Task Force Introductions

The Chair invited two members to share a little more information on their backgrounds. Denis O’Gorman shared his extensive work history in the planning field, experiences and personal hobbies. Garrett Cruickshank spoke to his background and how his desire to be involved started at a very early age and his motivation in wanting to be a part of this task force.

5.2 “Penticton 2030” Presentation

The Special Projects Manager reported on the recent BC Council for International Cooperation (BCCIC) Penticton 2030 meeting recently held in Penticton commenting the meeting was based on information and discussions on how communities, organizations and governments can work together in the achievement of the UN Sustainable Development Goals (SDGs) ([www.un.org/sustainabledevelopment/sustainable-development-goals/](http://www.un.org/sustainabledevelopment/sustainable-development-goals/)). Members who attended provided their feedback noting there were a lot of innovative ideas, productive exercises and a lot of information. Discussion and questions followed.

### 5.3 Draft Future Land Use Categories Presentation and Discussion

The Special Projects Manager provided an explanation and an overview of the importance of future land use categories in an OCP noting input from this Task Force is needed on what categories should be removed or included. The current 2002 OCP Future Land Use categories were reviewed. Staff noted the intention is to apply more normalized land use categories in the new OCP and the first step is to identify and establish what those land use categories should be. Proposed 2018 Future Land Use categories were reviewed that included Agriculture, Residential, Commercial, Industrial, Institutional, Parks and Natural Areas and Other Future Land Uses. Roundtable discussion and questions ensued on each category and input was noted by staff. Staff asked the group to further review the information provided for the next meeting.

### 5.4 Upcoming OCP Opportunities

The Special Projects Manager reported he has presented to the Transportation Advisory Committee, Affordable Community Task Force and Agriculture Advisory Committee to date and will be meeting with the Arts, Creative & Cultural Innovations and Heritage & Museum Committee next.

## 5. Next Steps

The Special Projects Manager noted the next steps will be to review and analysis community feedback, refine the future land use categories following input from the Task Force, review the geography and finalize the report.

## 6. Next Meeting

The next scheduled meeting of the Official Community Plan Task Force will be in June. Staff to determine a date. Discussion on future meetings followed and it was requested that as much notice be given for future meeting dates as possible.

## 7. Adjournment

### **It was MOVED and SECONDED**

THAT the Official Community Plan Task Force adjourn the meeting held on Wednesday, May 16, 2018 at 7:44 p.m.

**CARRIED UNANIMOUSLY**

Certified Correct:

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Lorraine Witowski  
Corporate Committee Secretary



## Arts, Creative & Cultural Innovations Committee Meeting

held at City of Penticton Committee Room A  
171 Main Street, Penticton, B.C.

Friday, May 25, 2018  
at 8:00 a.m.

**Present:** Campbell Watt, Councillor  
Robin Robertson, Chair  
Gerald Kenyon, SOPAC Representative  
Jane Shaak, Okanagan School of the Arts, Shatford Centre Representative  
Timothy Tweed, Penticton & District Community Arts Council Representative  
Murray Swales, Member at Large  
Skyler Punnett, Member at Large

**Staff:** Bregje Kozak, Director of Recreation and Facilities  
Kelsey Johnson, Recreation Business Supervisor  
Ben Johnson, Special Projects Manager  
Lorraine Witowski, Committee Secretary  
Diane Persoon, Corporate Secretary

### 1. Call to Order

The Arts, Creative & Cultural Innovations Committee was called to order by the Chair at 8:02a.m.

### 2. Adoption of Agenda

**It was MOVED and SECONDED**

THAT the Arts, Creative & Cultural Innovations Committee adopt the agenda for the May 25, 2018 meeting as presented.

**CARRIED UNANIMOUSLY**

### 3. Adoption of Minutes

**It was MOVED and SECONDED**

THAT the Arts, Creative & Cultural Innovations Committee adopt the minutes of the April 27, 2018 meeting as amended.

**CARRIED UNANIMOUSLY**

#### 4. Business Arising from Prior Meetings

##### 4.1 Public Sculpture Project Update

The Chair commented the Artist's reception at the Penticton Art Gallery was well received. The Public Sculpture opening and sculpture walk went very well and received good media coverage and public feedback was positive. The Chair stated this committee needs to decide on the future of this project, whether it remains the same for future years or if there are things that could be done differently. By consensus, it was agreed the Sculpture Sub-Committee should meet to discuss its future and bring back their recommendations to the committee.

Murray Swales arrived at the meeting at 8:14 a.m.

Discussion followed on establishing an annual budget for the Public Sculpture Project to ensure its continuance. Staff confirmed the amount of \$25,000 is sufficient to cover the costs for the existing project.

**It was MOVED and SECONDED that the Arts, Creative and Cultural Innovations Committee recommend:**

**THAT Council approves the establishment of a standing budget, within the Recreation Department's Operating budget in the amount of \$25,000, which funds to be used solely for the annual Public Sculpture Project.**

**CARRIED UNANIMOUSLY**

##### 4.2 Existing Arts Infrastructure and the City's Contribution to the Arts

The SOPAC representative commented a new study has emerged comparing the per capita contribution to the arts in cities that also included smaller municipalities. The Chair suggested this committee may have an interest in bringing forth a recommendation to Council regarding allocating a percentage of Development Cost Charges towards art. The Director of Recreation and Facilities stated that this should be a discussion with Development Services and she will contact the Director of Development Services and will report back at the next meeting. The Committee Secretary noted a similar recommendation was made by this committee in the past. Staff to forward a copy of those minutes to the committee for information purposes. Discussion followed on whether to make another recommendation to Council. The Chair asked members to research other cities regarding this for further discussion at the next meeting.

##### 4.3 Consolidated Arts Events Schedule

Murray Swales commented he should have an update for the next meeting. Discussion followed on consolidating calendars and marketing events. Staff noted the Travel Penticton does have a user-friendly events calendar on their website that allows any group or organization to post their event onto. It is however, up to that group or organization to market their own event.

## 5. New Business

### 5.1 Muriel Franc Carved Bench Discussion

The Director of Recreation & Facilities reported the Muriel Franc Carved Bench that had originally been installed beside Gyro Park has been removed due to weathering and the risk of vandalism and will need to be relocated inside a building to preserve the piece. Staff are seeking a recommendation for a suitable location. Discussion followed on potential locations and due to the size of the bench, it was agreed by the committee that the Penticton Trade & Convention Centre would be a suitable location. Staff to investigate.

### 5.2 Official Community Plan Update

The Special Projects Manager presented information on the Official Community Plan review process, community engagement events to date and public feedback received regarding Arts, Culture and Heritage at the OCPEXPO event.

The Special Projects Manager reviewed the draft OCP Goals & Policies and the committee provided the following feedback:

- First Nations
  - Important to have more awareness of First Nations protocols
- Arts and Culture Presence
  - The City does not currently have an Arts and Culture section, any information is hard to find on the website
  - An analysis of the Arts and Culture infrastructure is needed
  - Should have a separate Arts section that is not part of Recreation
  - Suggestion to establish a Design Council
  - Heritage should not be lumped together with Arts & Culture
- Public art – integration of relationships
  - What about existing neighborhoods for public art not just new development areas
  - Integration of public art earlier in the whole development process
  - Percentage allocation for new developments should be established
- Festivals and Events
  - What can be done to encourage events outside the peak season. Staff noted new employee has been hired and has a plan for this.
- Heritage/Character Areas
  - Need to protect the heritage neighborhoods, houses and trees

Staff to forward the draft OCP Goals & Policies to the committee and if anyone has any further suggestions to email those directly to the Special Projects Manager via email at [ben.johnson@penticton.ca](mailto:ben.johnson@penticton.ca).

## 6. Correspondence

### 6.1 Letter from Alex Tilley dated April 15, 2018 Re: Sculptures for Sale

The letter from Alex Tilley was received for information.

## 7. Representative Updates

### 7.1 Penticton Art Gallery

The Penticton Art Gallery representative was not in attendance

### 7.2 Penticton & District Community Arts Council

The Penticton & District Community Arts Council representative reported they have awarded their annual community grants. Council approved the allocation of \$2,500 towards the Clint George sculpture and the preparation of the site at the Leir House has already begun.

### 7.3 South Okanagan Performing Arts Centre

The SOPAC representative reported they are still working on symposium structure and provided an overview of the major objectives for the event. Information will be sent out to the committee on the symposium.

### 7.4 Okanagan School of the Arts, Shatford Centre

The Okanagan School of the Arts, Shatford Centre representative reported on upcoming events including recitals and summer camps noting July is their music month. June 21 is their Indigenous day event featuring a Pow Wow.

### 7.5 Members at Large

Skylar Punnett reported the recent Meadowlark Festival was well attended and thanked members for attending his personal gallery opening.

The Chair reported a representative from the Penticton Indian Band will be attending future meetings and noted the Penticton Regional Hospital has a very active Arts committee.

## 8. Next Meeting

The Committee Secretary stated that during the summer months of July and August, it may be difficult to achieve quorum due to individual vacation schedules and noted the upcoming election could have an effect on meetings as well.

The next meeting of the Arts, Creative & Cultural Innovations Committee is scheduled for 8:00 a.m., Friday, June 22, 2018.

## 9. Adjournment

### It was **MOVED** and **SECONDED**

THAT the Arts, Creative & Cultural Innovations Committee adjourned the meeting held on Friday, May 25, 2018 at 9:34 a.m.

**CARRIED UNANIMOUSLY**

Certified Correct:

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Lorraine Witowski  
Committee Secretary

File: 1610.00

May 17, 2018

BC Municipalities

VIA Email

Dear Mayor and Council:

**Re: Provincial Employer Health Tax**

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At its May 14, 2018 Regular Council meeting, the Council for the City of Langley considered a report from the City's Director of Corporate Services regarding the Province's announcement that it will be implementing, commencing January 1, 2019, an employer health tax to replace the Medical Services Plan premiums that individuals currently pay. The report is enclosed for reference.

Council subsequently passed the following resolution:

**WHEREAS** the Province of BC has introduced an Employer Health Tax (EHT) in the form of a new 1.95% payroll tax starting January 1, 2019 in order to replace the Medical Service Plan (MSP) premiums which will not be fully phased out until January 1, 2020;

**WHEREAS** in 2019, the City of Langley will be required to pay approximately \$236,000 for the EHT in addition to the \$55,000 for the MSP which will require a 1.0% property tax increase to fund the additional costs;

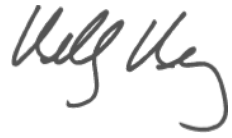
**WHEREAS** the EHT will transfer the tax burden from individuals to businesses causing unintended consequences on the local taxpayers as the primary source of revenue for local governments is through property taxation;

**THEREFORE BE IT RESOLVED THAT** the Province of BC exempt local governments, regional districts and school boards from the imposition of the EHT to lessen the financial burden on local taxpayers, especially those that are on fixed incomes.

Council further resolved:

**THAT** correspondence be sent to all BC municipalities urging each municipality to write to the provincial government requesting the elimination or reduction of the newly implemented Employer Health Tax.

Yours truly,  
CITY OF LANGLEY

A handwritten signature in black ink, appearing to read "Kelly Kenney".

Kelly Kenney  
Corporate Officer

Enclosure





## REPORT TO COUNCIL

To: **Mayor Schaffer and Councillors**

Subject **Provincial Employer Health Tax**

Report #: 18-29

File #: 1610.00

From: Darrin Leite, CPA, CA

Doc #: 156637

Date: May 7, 2018

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### RECOMMENDATION:

THAT Council endorse the following motion to be sent to the Provincial government to amend the implementation of the Employer Health Tax:

**WHEREAS** the Province of BC has introduced an Employer Health Tax (EHT) in the form of a new 1.95% payroll tax starting January 1, 2019 in order to replace the Medical Service Plan (MSP) premiums which will not be fully phased out until January 1, 2020;

**WHEREAS** in 2019, the City of Langley will be required to pay approximately \$236,000 for the EHT in addition to the \$55,000 for the MSP which will require a 1.0% property tax increase to fund the additional costs;

**WHEREAS** the EHT will transfer the tax burden from individuals to businesses causing unintended consequences on the local taxpayers as the primary source of revenue for local governments is through property taxation;

**THEREFORE BE IT RESOLVED THAT** the Province of BC exempt local governments, regional districts and school boards from the imposition of the EHT to lessen the financial burden on local taxpayers, especially those that are on fixed incomes.

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### PURPOSE:

The City of Langley is expressing concern on behalf of the local property taxpayers about the implementation of a new payroll tax being introduced by the Province of British Columbia.

**POLICY:**

None.

**COMMENTS/ANALYSIS:**

The Provincial government announced that they will be implementing, starting January 1, 2019, an employer health tax to replace the Medical Services Plan premiums that individual's currently pay. The UBCM surveyed local governments in British Columbia to determine what the impact of the new 1.95% payroll tax would have. The City of Langley is significantly impacted.

In 2017, the City paid \$110,000 for MSP premiums and the payment reduced in half to \$55,000 in 2018. However, in 2019, the EHT will cost the City approximately \$236,000 in addition to the \$55,000 MSP premiums that will not be fully eliminated until January 1, 2020. The City will have to pass on this new financial burden to the taxpayers in the City resulting in a 1% property tax increase in order to fund the additional cost.

The City of Langley believes it is unfair to be required to pay both the EHT and MSP premiums in 2019, the transition year, until the MSP premiums are fully eliminated in 2020. In addition, it is a concern when an increase in property taxes is being required to fund provincial healthcare services.

**BUDGET IMPLICATIONS:**

The City's expenses will increase to \$291,000 in 2019 from the \$55,000 spent in 2018 on MSP premiums. This \$236,000 will require a 1% property tax increase to balance the budget.

**ALTERNATIVES:**

Forgo the opportunity to write a letter to the Province to express the concern over the implementation of the new EHT.

To: Mayor Schaffer and Councillors  
Date: May 7, 2018  
Subject: **Provincial Employer Health Tax**  
Page 3

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Respectfully Submitted,



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Darrin Leite, CPA, CA  
Director of Corporate Services

Attachment(s): UBCM Employer Health Tax Impact on Local Government Survey  
Results and Analysis

**CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:**

I support the recommendation.



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Francis Cheung, P. Eng.  
Chief Administrative Officer

# Employer Health Tax Impact on Local Governments

## Survey Results and Analysis

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Union of BC Municipalities

May 2018

## ***Introduction***

The Province of British Columbia's 2018/19 – 2020/21 Budget and Fiscal Plan includes a commitment to eliminate Medical Services Plan (MSP) premiums and fund this change through the implementation of an employer health tax (EHT). Since local governments are subject to this proposed tax, the Union of BC Municipalities (UBCM), with support from the British Columbia Government Finance Officers Association, surveyed local government financial officers in April of 2018 to better understand the impact of the EHT on local government finance. The data from the survey provided the basis for this report.

## ***Local Government Finance***

Local governments have a limited revenue base that relies heavily on property taxation<sup>1</sup>. While the property tax provides revenue stability and predictability, it does not fairly distribute costs across income levels, placing an undue share on lower and middle income British Columbians. Local governments are also subject to significant external cost drivers due to decisions made by other orders of government. In recognition of both current and projected stresses, BC local governments have called for a joint review of the local government finance system.<sup>2</sup> One of the objectives of such a review is to prevent the property tax becoming unaffordable for a greater number of British Columbians.

## ***UBCM Employer Health Tax Survey***

77 respondents participated in the UBCM survey, representing just over 40% of local governments in British Columbia. Respondents varied in population from 107 (Village of Zeballos) to 631,406 (City of Vancouver). The survey solicited information on local government costs for employee MSP premiums and estimated EHT costs for the period 2017-2020. This data is provided in the Appendix to this report.

## ***Employer Health Tax and Local Government***

In 2017, all but one of the 77 survey respondents paid some portion of employee MSP premiums. For unionized employees, employer-paid MSP contributions are a negotiated benefit and vary from contract to contract. Local governments may

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<sup>1</sup> Union of BC Municipalities, *Strong Fiscal Futures: A Blueprint for Strengthening BC Local Governments' Finance System* (2013), 18.

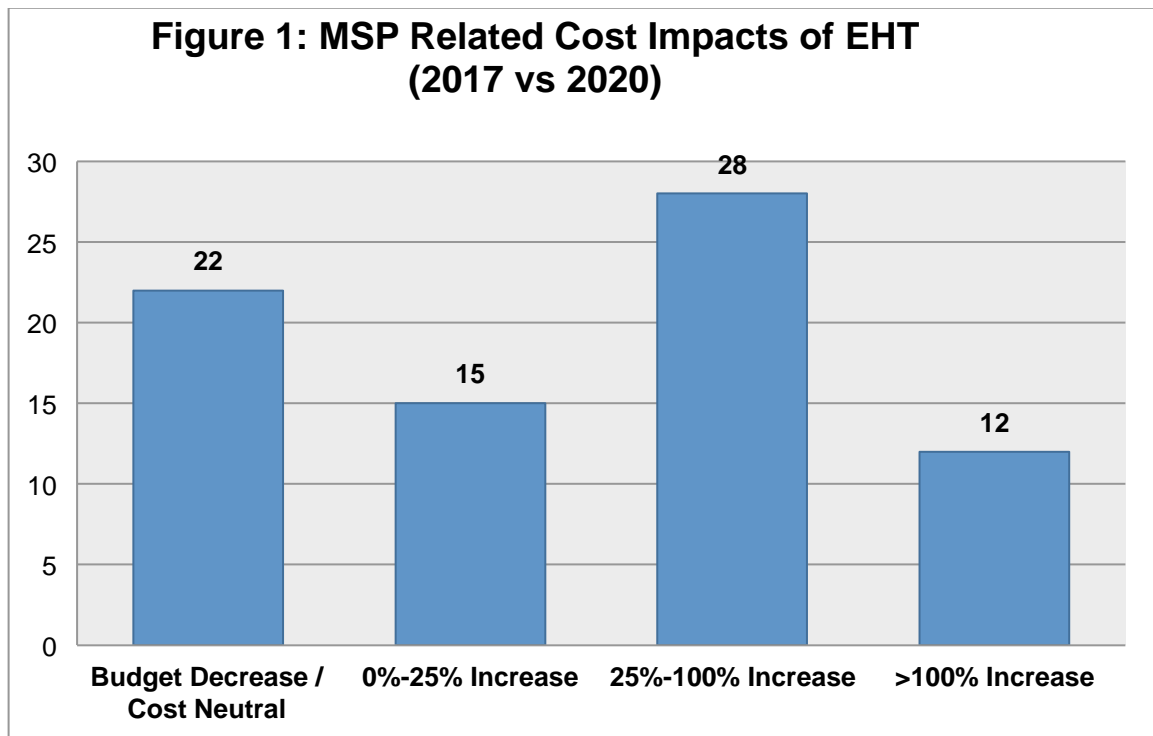
<sup>2</sup> Union of BC Municipalities, *Local Government Finance Policy Paper* (2013).

also pay a portion of MSP premiums for exempt staff, although this too is a matter of local determination.

The employer health tax will be imposed upon businesses and organizations in accordance with the size of their payroll. Businesses and organizations with payrolls less than \$500,000 will be exempt from the EHT. The tax rate will start at 0.98 percent for annual payrolls in excess of \$500,000 and will gradually increase to 1.95 percent for payrolls greater than \$1,500,000 per year.

Due to differences such as population served, the degree of contracting out, and levels of service, local government payrolls vary in size from hundreds of thousands to hundreds of millions. As a result, the impact of EHT implementation on local governments varies considerably (Figure 1).

Taking into account the elimination of MSP premiums effective January 1, 2020, 29% of respondents indicated cost reductions or cost neutrality as a result of EHT implementation relative to 2017 MSP premium costs. Correspondingly, 71% respondents indicated increased costs in relation to EHT implementation in comparison to 2017, with 36% of respondents indicating increases of 25-100% and 15% indicating increases greater than 100%.

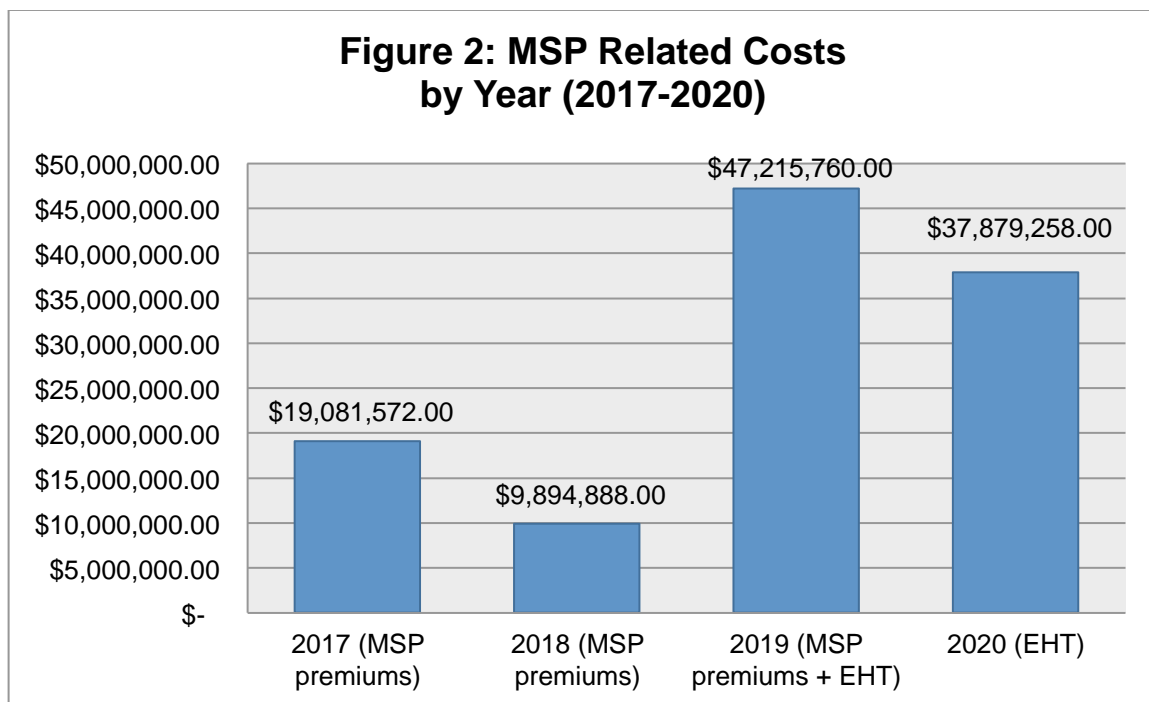


Source: UBCM survey (77 of 189 local governments)

Another way of analyzing the survey data is to consider the impact on local government as a sector. As a group, the 77 communities that contributed to the survey will see its MSP related costs double between 2017 and 2020 as a result of the EHT (Figure 2).

The survey responses also demonstrate that the provincial government decision to reduce MSP premiums by 50% effective 2018 provided significant cost savings for local governments that paid some portion of employee MSP premiums. This relief was effectively eliminated by the introduction of EHT. The transition year of 2019, in which MSP premiums are retained while the EHT is phased in, will also create an extraordinary single year increase in which MSP related costs will more than quadruple for the respondents.

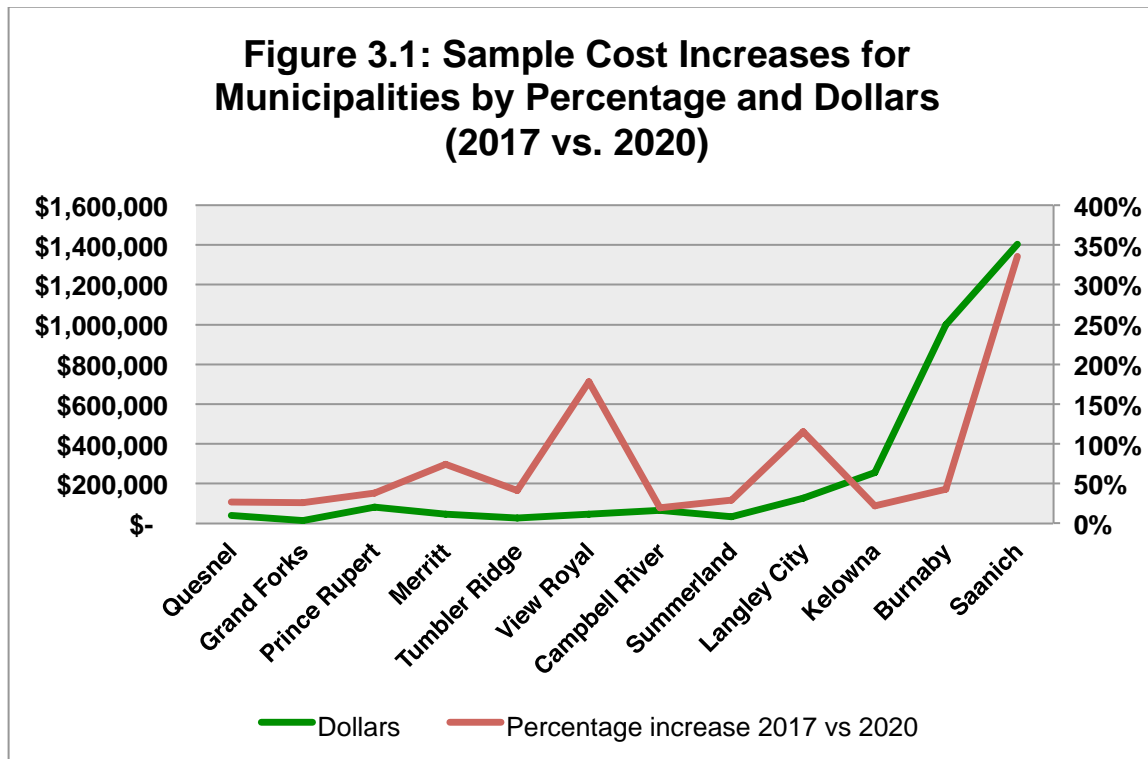
Given that UBCM's survey data reflects information for 40% of BC local governments, the actual increase in for the entire local government sector in 2019 and beyond resulting from EHT implementation are greater than indicated by our survey.



Source: UBCM survey (77 of 189 local governments)

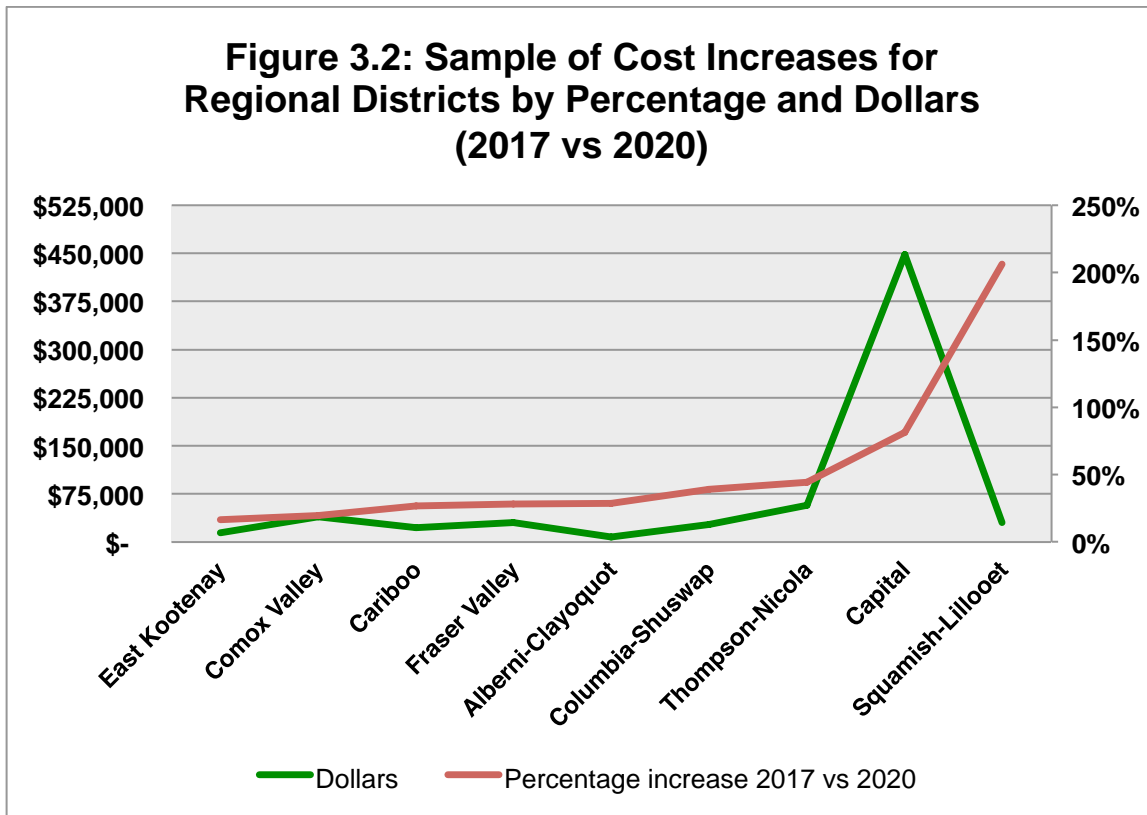
While 21 respondents will see a net cost savings by 2020 through the implementation of EHT, the savings will be modest for most of this group. Conversely, for communities facing cost increases due to EHT implementation, the increases are dramatic. Increased employee MSP related costs for

communities like Vancouver, Saanich, Victoria, and Burnaby will run into the millions. Excluding these four communities, the majority of local governments with populations greater than 50,000 will also see significant impacts, with an average MSP related cost increase of \$631,500, or a budget increase of 92% from 2017 to 2020. Figure 3.1 demonstrates the range of cost increases due to the EHT for a sample of municipalities based on a comparison of 2017 and 2020 MSP related costs.

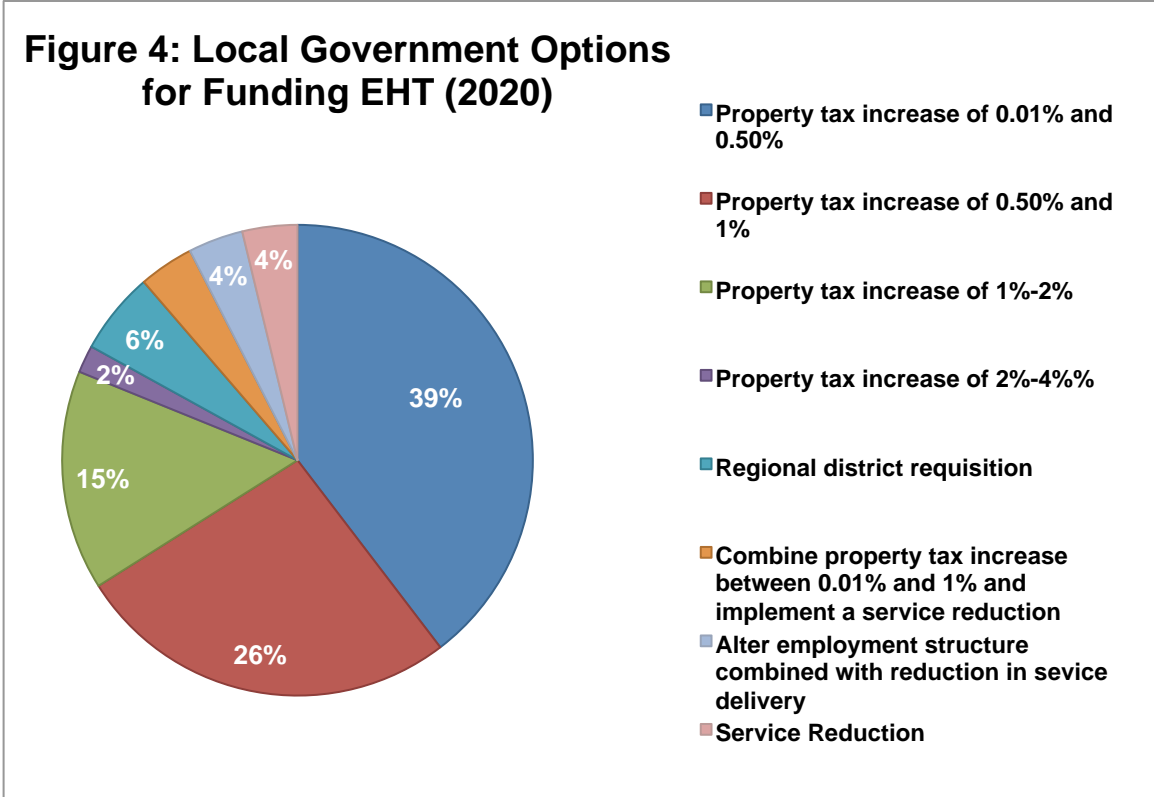


Local government costs will be further increased when the effect of regional districts is factored in (Figure 3.2). Regional districts cannot collect taxes directly from residents, and instead rely on a requisition that is submitted to the Ministry of Municipal Affairs and Housing and direct billing of municipalities. Regional districts that see a net increase in costs as a result of EHT implementation may choose to fund this increase through its requisition, thus further increasing the impact of the EHT on taxpayers in municipalities and electoral areas within the regional district.

**Figure 3.2: Sample of Cost Increases for Regional Districts by Percentage and Dollars (2017 vs 2020)**



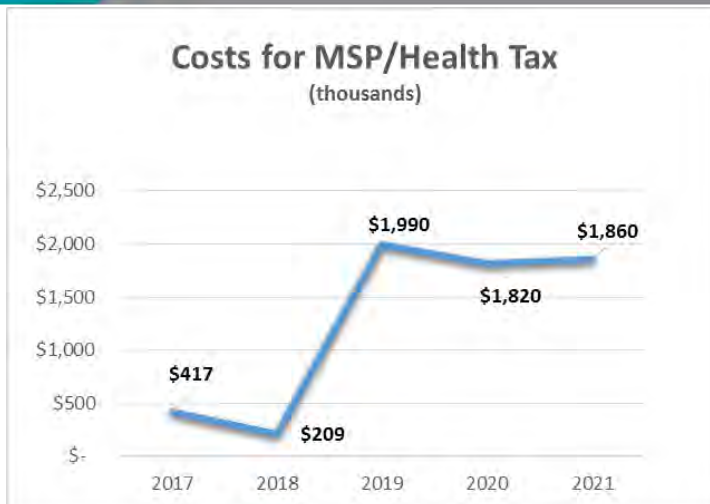
Local governments that have a MSP related cost increase due to the EHT will need to consider how best to fund the change. As indicated in Figure 4, these Councils and Boards will face a choice of reducing services, increasing property taxation, or a mixture of both. The majority of respondents have indicated that these options involve some form of property tax increase, with 15% indicating that such increases are likely in the range of 1-2%.



**Case Study: District of Saanich**

The proposed employer health tax will have significant budget implications for the District of Saanich. The estimated cost for Saanich in 2019 during the transitional year of EHT implementation is \$1.78 million for the new tax plus \$209,000 for employee MSP premiums. These costs will be distributed between the general fund (property taxation) and the sewer and water utilities (user fees). The general fund portion equates to a 1.3% property tax increase. In subsequent years, the tax will rise in step with collective agreement settlements that are currently 2% to 2.5%. Saanich Council will be faced with a choice of increasing taxes, reducing services, or a combination of the two. Budget reductions implemented after the 2008 economic downturn have left few options remaining.

If the assumption is that the increase should be managed through operating budget reductions, the impact translates into a reduction of at least 15 positions and therefore impactful reductions in service levels. Alternately, capital funding could be reduced moving backwards on a decade of Council commitment to achieve sustainable funding levels for infrastructure replacement.



“Saanich cannot manage a 1.3% property tax increase from this additional expense through simple ‘belt tightening’. We would have to amputate a limb.”  
Paul Thorkelsson, CAO

The impact on Saanich property owners could be compounded with increased levies for the Capital Regional District and Hospital District, BC Assessment, and BC Transit who would also be subject to the employer health tax and facing the same challenges to fund it.

The impact on Saanich’s medium to large business property owners is twofold as they face paying the EHT directly on top of any property taxation increases that may be implemented. An option is to put the burden solely on residential properties, but this is likely to meet strong resistance as 92% of Saanich’s assessment base is residential and due to low non-market revenue in recent years, annual tax increases are trending over 3%.

Employer-paid MSP premiums are a negotiated benefit. Implementation of this tax applied will remove the ability for Saanich to negotiate this benefit as part of collective bargaining. Where property tax currently funds only a small portion of the premiums for some staff, a shift to the health tax confers a considerable benefit without any bargaining and passes the cost on to Saanich property owners.

**Conclusion**

The introduction of the employer health tax will lead to increased Medical Services Plan related costs for a considerable portion of the local government sector. While a small portion of local governments will see reduced MSP related costs once the EHT is implemented, the savings for most of these communities are negligible. Conversely, the cost impacts for some larger communities are considerable. Based on the survey information provided to UBCM, Medical Services Plan related costs for respondents would double between 2017 and 2020. On a one-time basis, due to implementation of the EHT while MSP

premiums are still in place, MSP related costs for respondents would quadruple between 2018 and 2019.

Given that the communities most impacted tend to be larger population centres, it is safe to conclude that the implementation of the EHT will lead to property tax increases for the majority of British Columbia's population. This will have a particular impact on the private sector, since businesses that are already paying the EHT directly will likely face increased property taxes as well.

Due to the extent of these impacts, many local governments are questioning a tax policy that results in the funding of a provincial service (healthcare) through property taxation.

**Appendix A – Survey Results: Medical Services Plan (MSP) Related Costs by Year**

Local Government	2017 (MSP Premiums)	2018 (MSP Premiums)	2019 (MSP Premiums + Employer Health Tax)	2020 (Employer Health Tax)
Alberni-Clayoquot RD	\$26,625.00	\$19,000.00	\$52,600.00	\$34,300.00
Anmore	\$16,050.00	\$8,100.00	\$17,500.00	\$9,400.00
Ashcroft	\$19,912.00	\$10,000.00	\$20,000.00	\$10,000.00
Belcarra	\$10,502.00	\$5,252.00	\$11,421.00	\$6,169.00
Burnaby	\$2,302,000.00	\$1,086,000.00	\$4,400,000.00	\$3,300,000.00
Campbell River	\$336,211.00	\$340,000.00	\$562,300.00	\$400,800.00
Capital RD	\$552,000.00	\$271,000.00	\$1,271,000.00	\$1,000,000.00
Cariboo RD	\$83,000.00	\$41,500.00	\$141,500.00	\$105,000.00
Chase	\$14,550.00	\$8,550.00	\$24,462.00	\$15,912.00
Columbia-Shuswap RD	\$69,746.00	\$35,000.00	\$130,000.00	\$96,900.00
Colwood	\$78,225.00	\$39,113.00	\$170,000.00	\$130,000.00
Comox Valley RD	\$202,282.00	\$220,000.00	\$337,900.00	\$241,500.00
Courtenay	\$188,000.00	\$92,250.00	\$317,250.00	\$225,000.00
Creston	\$45,000.00	\$22,500.00	\$75,500.00	\$54,000.00
Dawson Creek	\$195,825.00	\$100,850.00	\$352,315.00	\$259,009.00
Duncan	\$45,600.00	\$22,500.00	\$75,577.00	\$54,000.00
East Kootenay RD	\$84,038.00	\$42,018.00	\$139,919.00	\$97,901.00
Elkford	\$40,472.00	\$20,250.00	\$79,868.00	\$60,810.00
Enderby	\$15,075.00	\$7,500.00	\$22,575.00	\$15,075.00
Fort St. John	\$265,266.00	\$127,800.00	\$524,366.00	\$406,480.00
Fraser Valley	\$106,500.00	\$53,000.00	\$189,500.00	\$136,500.00
Gold River	\$24,500.00	\$14,000.00	\$45,200.00	\$31,200.00
Grand Forks	\$52,000.00	\$26,000.00	\$64,000.00	\$65,500.00
Harrison Hot Springs	\$20,775.00	\$12,060.00	\$25,000.00	\$12,500.00
Invermere	\$34,875.00	\$17,100.00	\$53,560.00	\$36,460.00
Kaslo	\$12,150.00	\$6,300.00	\$12,500.00	\$6,301.00
Kelowna	\$1,151,000.00	\$575,520.00	\$1,955,520.00	\$1,407,600.00
Kent	\$33,750.00	\$16,875.00	\$88,407.00	\$71,532.00
Keremeos	\$14,400.00	\$7,200.00	\$18,600.00	\$11,600.00
Ladysmith	\$85,397.00	\$42,683.00	\$150,331.00	\$107,648.00
Lake Country	\$97,875.00	\$55,350.00	\$163,400.00	\$107,648.00
Langley District	\$630,500.00	\$386,000.00	\$1,666,000.00	\$1,300,000.00
Langley City	\$110,000.00	\$55,000.00	\$291,000.00	\$236,000.00
Lantzville	\$21,150.00	\$11,250.00	\$31,996.00	\$21,161.00
Logan Lake	\$24,300.00	\$12,150.00	\$42,650.00	\$31,000.00
Lytton	\$8,100.00	\$4,050.00	\$9,048.00	\$4,998.00

Maple Ridge	\$350,000.00	\$175,000.00	\$875,000.00	\$700,000.00
McBride	\$6,390.00	\$6,300.00	\$6,300.00	-
Merritt	\$62,452.00	\$31,225.00	\$138,027.00	\$108,938.00
Metchosin	\$13,320.00	\$6,660.00	\$21,012.00	\$14,636.00
Mission	\$268,000.00	\$134,000.00	\$499,650.00	\$365,650.00
Nakusp	\$25,200.00	\$12,600.00	\$27,600.00	\$15,225.00
New Denver	\$3,600.00	\$1,800.00	\$7,427.00	\$5,739.00
New Hazelton	\$9,000.00	\$4,500.00	\$10,311.00	\$6,012.00
New Westminster	\$706,200.00	\$363,150.00	\$1,817,450.00	\$1,483,400.00
North Cowichan	\$222,500.00	\$112,500.00	\$405,000.00	\$298,350.00
Oak Bay	\$167,099.00	\$83,550.00	\$451,004.00	\$367,454.00
Okanagan-Similkameen RD	\$125,000.00	\$65,000.00	\$180,000.00	\$120,000.00
Oliver	\$42,000.00	\$22,000.00	\$61,000.00	\$41,000.00
Peace River RD	\$52,885.00	\$30,000.00	\$74,709.00	\$48,165.00
Penticton	\$380,704.00	\$190,352.00	\$594,853.00	\$404,501.00
Port Alice	\$13,538.00	\$6,770.00	\$13,026.00	\$6,381.00
Port Coquitlam	\$340,000.00	\$170,000.00	\$785,000.00	\$630,000.00
Port McNeill	\$9,900.00	\$4,950.00	\$15,453.00	\$10,503.00
Port Moody	\$254,480.00	\$130,000.00	\$715,000.00	\$600,000.00
Prince George	\$667,358.00	\$333,679.00	\$1,678,291.00	\$1,371,504.00
Prince Rupert	\$213,000.00	\$107,000.00	\$394,000.00	\$293,000.00
Quesnel	\$152,000.00	\$76,000.00	\$268,660.00	\$192,660.00
Radium Hot Springs	\$12,600.00	\$6,300.00	\$13,300.00	\$7,000.00
Saanich	\$417,420.00	\$208,710.00	\$1,989,410.00	\$1,820,000.00
Sidney	\$90,990.00	\$47,970.00	\$142,970.00	\$97,000.00
Sooke	\$54,975.00	\$36,000.00	\$114,000.00	\$78,000.00
Squamish	\$237,033.00	\$121,000.00	\$440,828.00	\$326,548.00
Squamish-Lillooet RD	\$14,659.00	\$7,500.00	\$51,293.00	\$44,888.00
Summerland	\$111,450.00	\$55,700.00	\$197,200.00	\$144,300.00
Sunshine Coast RD	\$334,000.00	\$160,096.00	\$415,856.00	\$255,760.00
Thompson-Nicola RD	\$129,150.00	\$65,000.00	\$251,405.00	\$186,405.00
Trail	\$87,600.00	\$43,800.00	\$76,200.00	\$32,450.00
Tumbler Ridge	\$63,923.00	\$44,775.00	\$133,509.00	\$90,198.00
Ucluelet	\$38,301.00	\$21,600.00	\$57,395.00	\$36,511.00
Vancouver	\$5,000,000.00	\$2,500,000.00	\$17,500,000.00	\$15,000,000.00
Vernon	\$436,635.00	\$220,000.00	\$668,500.00	\$448,500.00
Victoria	\$800,000.00	\$400,000.00	\$2,300,000.00	\$1,900,000.00
View Royal	\$25,200.00	\$13,000.00	\$81,000.00	\$70,000.00
Warfield	\$6,900.00	\$3,450.00	\$8,950.00	\$5,500.00
Williams Lake	\$113,059.00	\$56,530.00	\$199,706.00	\$143,176.00
Zeballos	\$5,400.00	\$2,700.00	\$2,700.00	-

MAY 16 2018

THE HONOURABLE MOBINA JAFFER, Q.C.  
SENATOR – BRITISH COLUMBIA



L'HONORABLE MOBINA JAFFER, C.R.  
SÉNATRICE – COLOMBIE-BRITANNIQUE

SENATE | SÉNAT  
CANADA

May 3, 2018

His Worship Andrew Jakubeit  
Mayor for the City of Penticton  
171 Main St  
Penticton BC V2A5A9

Dear Mr. Mayor,

**RE: Border implications of Bill C-45**

Bill C-45, which will decriminalize and legalize recreational cannabis, will soon be law. However, with this imminent legislation, our constituents will soon be faced with a series of issues at Canada's border with the United States that could have them barred from crossing the border for life.

To ensure that this does not happen to you or our constituents, I have attached an information package which describes the various issues that Canadians may face as they cross the border into the United States after the legalization of recreational cannabis.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mobina Jaffer'.

The Honourable Mobina S.B. Jaffer, Q.C.  
Senator for British Columbia

With the upcoming passage of Bill C-45 and the legalization of recreational cannabis, many Canadians could find themselves at odds with American law enforcement as they cross the border. In these cases, they could face heavy penalties- including permanent barring from the country.

Understandably, many Canadians are worried about this, and have a wide variety of concerns about this issue. Over the past month, I have worked in the Senate Standing Committee on National Security and Defence to find answers for these questions, which I will list below, along with relevant excerpts from the committee meetings.

### **1) Should I disclose my previous cannabis use as I cross the border?**

One of the major questions that people have been asking about Bill C-45 is whether they should tell the truth or lie about their previous cannabis use after the bill has been passed. However, the best option is simply to not answer at all.

Disclosing your past cannabis usage could be enough to have you barred from the US for life. However, lying to border officials almost always ends with a person's permanent ineligibility if it is discovered, and sometimes even leads to fraud charges! Therefore, the best option for Canadians who have consumed cannabis is to simply withdraw from questioning. While this will likely have them turned away from the border, this is far better than the possible alternative of permanent ineligibility.

**Senator Jaffer:** [...] Your position on whether to disclose cannabis usage differs significantly from our Parliamentary Secretary to the Minister of Public Safety. Unlike the parliamentary secretary, you believe that disclosing past marijuana usage at the port of entry is dangerous and it could have you barred for life.

You gave examples. Of course, if you have just smoked marijuana, that is different. But if I understood you correctly, recreational use some time ago doesn't have to be mentioned. You have also said that if U.S. officials ask Canadians about their past marijuana use, they are not obligated to answer.

Would a Canadian suffer consequences for withdrawing their application for entry at the port of entry if they refuse to answer?

**Mr. Saunders:** The worst thing that can happen, if you don't answer the question, is you can be denied entry. I tell clients you could try back the next day, a week later or a

month later. Chances are you will probably get a different officer who won't ask the same question.

What most people have to understand is not every officer asks this question. It is discretionary. But if you are asked this question, I have always told clients, "You are under no obligation to say yes. It is not a question that is required to be answered at a port of entry."

You are not lying if you say nothing. If you have been charged or convicted of an offence, yes. If you are found in possession of marijuana, yes. But if it's just a random question, I tell clients the worst thing that could happen if you say nothing is just a simple denied entry.

Statements made can also result in you being barred from the United States for life. Therefore, Canadians should be careful about what they state publically- especially on social media. In his testimony, an immigration lawyer by the name of Len Saunders outlined a particularly shocking case:

**Len Saunders, Attorney at Law, The Immigration Law Firm, as an individual:** [...] A great example— I have asked for his permission to tell you his story— is Ross Rebagliati. I'm sure everyone in this room knows who he is, I got a call from Ross just over a year ago. I'm in my late forties, so I watched him win the gold medal 20 years ago in Nagano. When he called me, he said he needed a waiver. I said, "Ross, you have never been convicted of marijuana possession." He said that shortly after the Olympics, when he went on the Jay Leno Show, he admitted to Jay Leno he had smoked marijuana.

So Ross has needed a waiver for the last 20 years. So there's his fee payment, US\$585. That's getting close to C\$1,000. That's what waiver approval looks like. After paying almost US\$600, this is his waiver. It is good for five years.

Most Canadians, when they get a waiver approved after admitting to smoking marijuana, will get a one-year waiver, and then a two-year waiver and maybe a three-year and a five-year waiver. He got a five-year waiver because his issue happened 20 years ago.

So Ross is a great example of someone in the system. He will be in the system requiring a waiver for the rest of his life because he admitted to using marijuana on the Jay Leno Show. That's just the tip of the iceberg on these cases.

## 2) Will the legalization of cannabis in Canada protect me from being barred to the US for cannabis-related offences?

The simple answer to this question is no. While C-45 may legalize cannabis in Canada, this has no effect on American points of entry. This means bringing cannabis over the border, crossing the border while intoxicated, or consuming it in the US is still illegal.

While the legalization of recreational cannabis is a legal landmark in Canada, constituents should not consider this an opportunity to act as they wish. Failing to abide by American law will likely have them barred from the US for life, regardless of its legality here.

Current discussions on pardoning those with drug-related convictions are also unlikely to affect this. US officials mainly focus on your criminal record, regardless of any pardons.

**Senator Jaffer:** [...] I have one question you haven't covered. It wasn't in our transcript, but this is something that is really concerning me. For many years, I represented clients who were convicted for possession, simple possession. I know you don't practise in that field, so, if you're not comfortable commenting on it, let me know. The minister is not going to move to get those convictions set aside as San Francisco is doing or other jurisdictions are doing. I was wondering if you have any comments on that.

**Mr. Waldman:** [...] Canada and the U.S. have a very close information-sharing agreement. When an American official sees a Canadian at the border and swipes his passport, he will be able to get access to his criminal record. Even if there is a simple conviction for possession of marijuana, and even if the official might have been inclined to not ask the question, once he's faced with a conviction, the official will have no choice but to deny the person admission.

I think there are two separate questions here. One is the access that U.S. officials will have to the criminal records of Canadians who are convicted of simple possession and whether they should have or whether there might be a mechanism to purge that from the record. It seems to me that the only way that that might happen would be through some kind of process where people who have been convicted of simple possession get retroactively pardoned.

I would support that, but it's of concern to the issue you brought me here to talk about because, if a person is convicted, the U.S. officials will check the criminal record, the database, see the conviction on the person's criminal record and be forced to bar them admission, even though the activity is now legal in Canada.

There is also little indication that this is about to change. Canada still has yet to enter meaningful discussions with the US to solve this issue.

**Senator Jaffer:** Mr. Waldman, you always make your remarks thoughtfully, saying that our government has to talk to the Americans. As you've set it out, I won't repeat about the monies we spend in the U.S. The challenge that the committee here faces is that when I pushed the official about this, I got a lecture about how we can't tell another country what to do. So what you said, I felt like it was a fait accompli. That's what they said. As you read in the transcript, it said the American government will not change its position, and our officials told me it's not their position to tell another country what to do.

I hear what you say, and obviously the minister is appearing after you, and we will urge him regarding what you are telling us, but that's the challenge we face.

**Mr. Waldman:** I think it's important to distinguish we're not telling the Americans what to do. We're giving the Americans our official governmental position and asking the Americans to take that into account when they deal with Canadian citizens who are seeking to cross the border within the context of Canadians who spend tens of billions of dollars of tourism money in the United States.

We're saying to the Americans, "It's your call what to do, but possession is going to be legal in Canada on this date, and after that we would ask, as a government, that you take into account that it's legal when you deal with Canadians crossing the border." That's all we can do.

### **3) Am I putting myself at risk by going through preclearance?**

Last year, Canada's preclearance policy was updated in a way that could potentially jeopardize travelers. In this new system, travellers have to truthfully answer any question that is asked by a preclearance officer- including questions about cannabis usage.

If they disclose their past use, they put themselves at risk of being barred from the United States for life. However, lying during preclearance can be considered "resisting or willfully obstructing a preclearance officer" which can result in up to two years of imprisonment.

Given that Canadians are left with few options in preclearance proceedings, constituents who have consumed cannabis may wish to go through normal points of entry.

**Senator Jaffer:** My second question has to do with the Preclearance Act. I'm personally very unhappy with what has happened with the Preclearance Act because,

under Bill C-23, travellers must truthfully answer any question that is asked by the pre-clearance officer. That means that Canadians will have to answer truthfully about their cannabis use, despite the fact that they do not have to disclose it at the normal port of entry, meaning if they drive across. But they have to if they go by the airport.

The other part of this, which you are very much aware of, is that it's on our soil, but our RCMP may not be there if there is extensive questioning. I wanted to know how you feel, especially with people who are permanent residents.

**Mr. Waldman:** It will apply also to Canadian citizens. Obviously, I wanted to testify, but I missed the opportunity to testify on the Preclearance Act. I have a lot of concerns about that and precisely about those types of matters because people will now be compellable.

The advice that the immigration officer said — “You don't have to answer the question; you can just turn around and go away” — won't apply at Canadian airports, pursuant to this legislation. They will be compellable, and they will have to answer questions. So it's a bit strange that a Canadian on Canadian soil will be in a weaker position than a Canadian who drives across the border and is on U.S. soil if you travel by car.

So it's a matter for concern. I don't think that, at the time the bill was passed, the drafters of the legislation really contemplated these types of situations. I think it's a big problem, and it exposes some Canadians to a vulnerable position, for sure.

#### **4) Can I consume cannabis in states where it is legalized?**

While many states have legalized the recreational consumption of cannabis, the drug still remains illegal on a federal level under the Controlled Substances Act. In fact, the Act categorizes cannabis as a Schedule 1 drug, the highest possible category in the American legal system.

In other words, consuming cannabis in states where it is legalized can and will get you barred from crossing the border.

**Senator Jaffer:** And the challenge gets even worse, because I live in B.C. When this law goes through, it will be legal in British Columbia. It's legal in Washington state. So for a British Columbian, they think that they are not doing anything wrong. They're going to a state where a certain amount of cannabis is legal, and yet federally it isn't. It's not that easy. People will be confused as to what's happening. I think that there's a lot of work that our government needs to do to protect Canadians.

**Mr. Waldman:** You know, in the same way that there's been a lot of effort about educating people about not taking large amounts of currency across the border, I think the same thing has to happen with Canadians not taking drugs across the border. Even though it's legal in Canada, it's not legal in most contexts to transport marijuana between Canada and the United States after legalization in Canada. Canadians have to

be educated about that, and it has to be made perfectly clear to them that legalization in Canada does not allow you to cross the border.

Maybe it makes sense to put signs up near the border crossings warning Canadians about that. I'm not sure. But there has to be a concerted effort to educate Canadians about what is and is not legal.

### **5) Is the government ensuring that Canadians are informed of these issues?**

Unfortunately, there is little that is currently being done to ensure that Canadians are being informed of these issues, despite the fact that many people could be banned from the United States for life. For now, all that the government has announced is a small information campaign in 2019- a whole year after the bill's passage. Other institutions may have to take up that task.

**Senator Jaffer:** [...] I have not received answers from you on my first question about protecting Canadians. We are going to make it legal to use cannabis here, but we are not telling Canadians that if you cross the border they will have issues. You did say, Mr. Hill, by 2019 you'll have this and by 2019 you'll have that, but this will be law before that. But I don't think you can answer this. We'll just have to get the minister here to answer that. [...]

**Mr. Hill:** Thank you, senator. I'd like to try to explain the communication strategy that is being developed and implemented. With respect to your question, it will be made clear, if it's not clear to date, for Canadians who wish to import any cannabis into the United States, that that is a criminal offence. So entrepreneurs in Canada who are going to be investing and working in the cannabis industry in Canada will understand the domestic legal framework that is being put in place, and they will also understand the implications with respect to the movement of cannabis goods or goods with cannabis in them across the border. It will be made very clear to them that that continues to be criminally prohibited. It continues to be a serious criminal offence to take any amount of cannabis across into the U.S. unless an exception is provided clearly by law.

So we will be doing our utmost to ensure that Canadians understand that so that they do not inadvertently or because of a lack of awareness fall into this unfortunate situation. That is our commitment. That is our objective. We're working in partnership with Transport Canada, Health Canada, Global Affairs, the RCMP, the Public Safety portfolio, to ensure that that communication is comprehensive and timely, so that the information is available before the legislation comes into force. So that is the work we are undertaking.

**Senator Jaffer:** I really appreciate that, and what you are saying gives me some satisfaction, but you're not telling me what you're going to do. I understand you're going to do a campaign. I understand you're going to tell citizens, but by when? We are being pushed to pass this legislation right now. By when are you going to tell Canadians all of that? What is your exact plan?

**Mr. Hill:** We are already communicating to Canadians through, for example, the travel advisory that Global Affairs has on its website. We are already communicating to Canadians through the Canada Border Services Agency website and our interactions with stakeholders and industry and in the not-for-profit sector. So we are already communicating with our stakeholders and partners, and you will see a much more visible communications campaign in the short term, in advance of the legislation coming into force, if it does get Royal Assent.

**6) How will the emerging cannabis industry be affected by the legalization of cannabis?**

Canadian cannabis businesses-which are currently valued at 37 billion dollars- will likely want to work with their American counterparts in the days to come, and there are a variety of legal ways for it to happen, such as the sale of accessories or pipes. However, due to the strict and vague nature of American law, this could still be considered “association with drug trafficking” which would put employees at risk of permanent barring from the United States.

Given that legal cannabis dispensaries are considered drug traffickers under federal American law, this could also put the families of people working for their Canadian counterparts at risk too. Without serious discussions with the United States, many Canadians working for this burgeoning multi-billion dollar industry could find themselves at risk.

**Senator Jaffer:** [...] I have a question for you, Mr. Railton. In your article that you mentioned, “Marijuana and Immigration,” you state:

Providing a government officer with a “reason to believe” that a noncitizen is associated with drug trafficking, which could include a normal association with state-legal marijuana businesses, is enough to make the noncitizen and even his or her family members inadmissible.

This worries me very much. It’s not just the person; the family could be prohibited from entering the United States. It’s like being guilty by association.

Did I understand your article correctly?

**Mr. Railton:** Thank you. First of all, immigration law is a very complicated area of law. May I just say that in trying to sum up the law of marijuana and immigration in my opening comments, I tried to tap on some of the highlights of different issues. But the article referenced working in a state legal operation. Washington State, for instance, has legalized recreational marijuana. We see folks working at stores, working in the production and working in professional positions associated with the businesses engaged in cannabis. The industry itself is growing in scale, so there is a lot of money and business to be done.

The state governments and the people in the states are subject to federal law, but in the United States, the Department of Justice has somewhat kept a hands-off approach to businesses in the states, such as Colorado, Washington and others that have legalized, while this industry develops. The question here is around somebody working in a Canadian legalized operation where, under the federal law of Canada, marijuana is legalized. That circumstance is a little different than where somebody is working for a state legal operation where there's a conflict of laws with the U.S. federal Controlled Substances Act. In Canada, where cannabis is legalized, I don't think working for a Canadian operation would create a basis for inadmissibility if it were strictly in Canada under a legalized regime. But this is one of the places where there are questions.

Now, if a Canadian business wants to do transboundary business with the United States, that is a problem, and we've seen a variety of situations with it over the last few years, where you have folks in Canada who would like to invest in state legal operations or otherwise get involved in them. When those persons are identified, they run a risk for immigration and inadmissibility. And, yes, the family would be involved in such situations.

# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Ken Kunka, Building and Permitting Manager  
**Subject:** **BC Energy Step Code Implementation Strategy**

## Staff Recommendation

THAT Council receives, for information, the BC Energy Step Code Implementation Strategy report dated June 2, 2018;

AND THAT Council direct staff to continue to engage key stakeholders on the proposed Energy Step Code timeline for the City of Penticton as part of an Okanagan regional strategy.

## Executive Summary

To inform Council of the BC Energy Step Code and to obtain Council's endorsement on the proposed implementation timeline and strategy prior to industry wide and community stakeholder engagement.

## Strategic priority objective

Good Governance – engaging with community in the development of major policy that will impact the interests of residents and building industry stakeholders.

Environmental Sustainability – Integration of environmental and socioeconomic values in the decision making process and incorporate strategies in line with the direction of the City's Corporate and Climate Action Plans.

## Background

The City of Penticton Community Climate Action Plan states that in 2007, residential and commercial buildings accounted for 47% of energy consumed, and 20% of our overall GHG emissions. The easiest and most cost effective time to make energy efficiency upgrades is during the construction of new buildings.

## Provincial Climate Leadership Plan

The Province's Climate Leadership Plan, released in 2016, includes several important actions pertaining to reducing emissions in the building sector. These included:

- Accelerating increased energy requirements in the BC Building Code by taking incremental steps to make buildings "net-zero energy ready" by 2032.

- A net-zero energy ready building is designed and built to reduce energy needs to a minimum such that with the inclusion of on-site renewable energy systems, the building has the ability to produce as much energy as it consumes on a yearly basis.
- Developing the “BC Energy Step Code”, consisting of energy efficiency requirements for new buildings that go beyond those in the BC Building Code.

## **The BC Energy Step Code**

The BC Energy Step Code is a provincial standard designed to help both local government and industry incrementally move toward a future in which all new construction across the province is “net-zero energy ready” by 2032. A variety of stakeholders were involved in its development, including the Urban Development Institute, Canadian Home Builders Association, BC Hydro, FortisBC, Architectural Institute of BC, the Association of Professional Engineers and Geoscientists of BC, BC Housing, the Local Government Management Association, as well as a number of local governments.

On April 11, 2017, the Province announced its adoption of the BC Energy Step Code as a technical regulation. It is currently a voluntary compliance path within the BC Building Code (9.36.6) that establishes a series of measurable, performance-based energy-efficiency targets (or steps) that supports market transformation from the current prescriptive energy-efficiency requirements to net-zero energy ready buildings by 2032. The BC Energy Step Code aims to provide consistency across BC by creating a standard set of performance requirements, while offering local governments a simple and effective set of standards to support their energy conservation and greenhouse gas reduction goals.

## **Shifting to a Performance-Based Approach**

The BC Energy Step Code marks an end to the prescriptive approach. Instead, a building’s performance must be proven, demonstrated through whole-building energy modelling and on-site testing to validate how the design, and the constructed building, meet the performance targets associated with each ‘Step’. A “performance” approach is inherently flexible, as it simply establishes a performance target and leaves it to the building team to decide how to meet the target in the most efficient and cost effective manner.

## **How Many Steps Are There?**

The Energy Step Code consists of two broad sets of energy standards that cover:

- “Part 3” buildings – large and/or complex buildings such as large multi-family, commercial, and industrial buildings, and
- “Part 9” buildings – residential buildings three (3) stories and less, and under 600m<sup>2</sup> building area.

Additionally, the Energy Step Code varies between climate zones. Penticton is within Climate Zone 5 (Attachment A – Zone map), and currently, for municipalities outside Climate Zone 4 (Lower Mainland and South Vancouver Island), the BC Energy Step Code only applies to Part 9 residential buildings. For Part 9 buildings, there are five performance target steps, each representing a higher level of performance. Steps 1 through 3 represent the Lower Steps, while Steps 4 and 5 form the Upper Steps (Figure 1).

PATHWAY TO 2032: PART 9 (HOMES)



Figure 1: 'Steps' for Part 9 buildings.

Step 1 is designed to familiarize builders with measuring energy efficiency. Builders will need to use a whole-building energy model to calculate the energy consumption of their buildings as well as have a building airtightness test done. However, the construction of the building remains the same as conventional construction and it only needs to meet the performance of the base BC Building Code. The Step Code forms a framework by which the construction industry can, over time, “step up” the performance of their buildings to the net-zero energy ready level that must be achieved by 2032.

**How the Energy Step Code can be used by Local Governments**

The BC Energy Step Code policy states that the first three years (2017 to 2020) are to serve as a transition period, during which time the Energy Step Code Council\* and member organizations will provide support to communities as they learn to apply the regulation. Recognizing that builders, designers, and trades will need time to build capacity to achieve better performing buildings, the Energy Step Code Council recommends that local governments only cite Lower Steps in their policies and regulations (Steps 1 – 3 for Part 9 residential buildings); upper Steps should only be referenced if significant incentives are being offered.

\*The Energy Step Code Council (ESCC) is comprised of associations representing industry professions and trades, local government and public sector organizations, and utilities and consumer interests. Its role is to build consensus between stakeholders and to support a smooth transition to BC Energy Step Code implementation.

Future iterations\*\* of the BC Building Code will require Energy Step Code compliance, and this transition period is an opportunity for local governments to be proactive by adopting one or more Steps to enable the local market to mature and to spur increased industry capacity for services and products that support higher performing buildings.

\*\*The BC Building Code will be updated two or three times prior to 2032, and the Province will most likely move up the steps with each of the Building Code iterations.

## **Benefits to the City of Penticton and Community**

Showing leadership on the Energy Step Code not only eases the market into an inevitable future, but the City of Penticton can champion an initiative that supports its Community Climate Action Plan and Environmental Sustainability Priority through reduced greenhouse gas emissions and energy use, and its Affordable Housing Strategy by supporting the creation of housing that results in lower utility bills for owners and occupants. Significant additional benefits are associated with higher performing buildings, including:

- Increased comfort – Buildings with high performance building envelopes are more comfortable, with fewer drafts and more consistent temperatures near exterior windows and walls.
- Quieter homes – Homes with better insulation and airtightness are quieter, with less external noise pollution entering the interior spaces.
- Improved indoor air quality – Buildings constructed with performance in mind have balanced ventilation, delivering fresh air to occupants, while expelling stale air and excess moisture. This results in better indoor air quality and health outcomes for occupants, while reducing moisture related problems.
- Increased building durability and ease of maintenance: Buildings built to Energy Step Code requirements require a whole-systems approach, resulting in buildings with better performing building envelopes that manage moisture and increase durability, while also simplifying building heating and cooling systems. Durable buildings with simpler systems reduce the potential for expensive repairs as a building and its systems age.
- Regional economic development: The global green-building market is said to double every three years, with a value of the green building materials market expected to reach \$234 billion by 2019. Since the BC Energy Step Code encourages high performance building envelopes, with many of the components manufactured locally – insulation, windows, framing components – new local economic development opportunities await.
- Climate change adaptation: Buildings with better building envelopes are more adaptable to changing climates, remaining warmer in the winter and cooler in the summer.

## **Early Stakeholder Engagement**

Provincial policy provides guidance for the successful implementation of the BC Energy Step Code. This policy is summarized in the resource titled, The [BC Energy Step Code: A Best Practices Guide for Local Governments](#), where it is suggested that local governments provide industry a minimum of six (6) months' notice before new or expanded requirements for Lower Steps are enforced to allow sufficient time to prepare for change.

## **Regional Engagement & Step Code Education to date has included:**

- July 18, 2017 – Ken Kunka, Building and Permitting Manager, provided an overview of building permit modernization process to Council in Committee of the Whole session. Includes development of a new Building Bylaw for 2018 with consultant Don Lidstone of Lidstone and Company. At that time a general outline of possible step code provisions was discussed.

- December 17, 2017, Building and Permitting Manager reviews preliminary draft of Building Bylaw including the BC Energy Code with the Development Services Advisory Committee (DSAC).
- December 21, 2017, Building Department hosts a year end lunch and learn session, which was attended by 25 stakeholders, outlining progress of building permit process changes and building bylaw including a BC Energy Code outline.
- January 03, 2018 – Ken Kunka meets Ashley Lubyk, Community Energy Specialist, who was specifically hired to implement the BC Energy Code provisions as part of Kelowna’s Climate Action plan.
  - It was determined that the City of Penticton would stay engaged with Ashley Lubyk taking the lead role in creating a regional approach to ensure a consistent approach in stakeholder engagement, education and implementation starting in early 2019.
  - Since this time, the Community Energy Specialist has met regional municipalities to identify synergies for taking a regional approach to implementation; and with key stakeholders (UDI, CHBA-CO, Energy Advisors, ASTT-BC, Okanagan College, and a number of builders and designers) to gather feedback on concerns and to learn what supports industry needs for a smooth transition.
- January 11, staff viewed BC Housing webinar on the BC Energy Step Code, which was open to building officials, designers and registered builders throughout BC.
- January 27 – City staff confirm with the Province that it will move forward with a review and consultation of the BC Energy Step Code.
- March 03 – City participated in South Okanagan Canadian Home Builders Association Step Code overview, which was attended by approximately 50 local developers, builders and designers.
- March 08 – City participates in Central Okanagan local government peer group session which outlined the City of Kelowna’s research and action plan for Council introduction and ongoing stakeholder engagement.
- April 06 – City hosts south Okanagan regional inspectors core Building Bylaw session including a review of implementation steps of the BC Energy Step Code.
- April 20 – City of Kelowna launches regional Energy Step Code stakeholder survey and Step Code webpage (survey closes May 23<sup>rd</sup>).
- May 11 – Building Permit Improvement workshop hosted by the Building Department with regional update from Ashley Lubyk of the City of Kelowna on the regional Step Code progress. This session had 52 participants representing local developers, builders, suppliers and designers.
  - The Step Code session produced an open dialogue ranging from concerns of extra construction costs, which would either be absorbed by the builder or passed onto the consumer to the Step Code implementation creating a more level playing field for builders and that the end consumer would finally have assurance that their home would be physically tested to meet minimum performance provisions outlined by Code. It was felt that many builders and designers in the room are already designing and building homes to at least Step 02.

- May 31 – City of Kelowna hosts regional hands on Energy Code workshop.

**Regional response to BC Energy Step Code**

The first phase of the regional engagement revealed a number of concerns regarding Step Code implementation, including:

- Concerns over additional building costs;
- Lack of technical training for builders, trades, and designers in achieving Step Code compliance;
- Insufficient Energy Advisor capacity;
- Consistency for Implementation, and
- The process of monitoring for compliance.

These are not unanticipated concerns, and the Energy Step Code Council has created (and continues to develop) a wide-range of tools and resources to help local government and industry address the challenges facing Energy Step Code implementation, and City staff intend on using these resources to the fullest extent possible to inform internal staff and the wider building community. City staff have also heard from stakeholders that a clear timeline at the local level is necessary to remove some of the uncertainty as it relates to preparing for the new requirements of the Energy Step Code, particularly in regards to investing in additional training or the hiring of additional staff.

**Regional local government implementation**

Since the initial regional government peer group session the following communities have supported stakeholder engagement for implementation of the first three Energy Code steps:

<b>Community</b>	<b>Date Introduced to Council</b>	<b>Regional approach supported by Council</b>
City of Kelowna	March 26, 2018	Yes
City of West Kelowna	March 27, 2018	Yes
District of Peachland	March 27, 2018	Yes
City of Vernon	April 9, 2018	Yes
Town of Osoyoos	April 16, 2018	Information only To return
District of Summerland	May 14, 2018	Yes
City of Penticton	June 05, 2018	

Of the above noted communities, the City of Kelowna is the only community that has suggested an implementation target date of Step 01 in April of 2019.

**Financial implication**

The BC-Housing-commissioned Metrics Research Report (2017) is a comprehensive analysis of the energy, emissions and economic impacts relating to the BC Energy Step Code. It explores the impacts of Step Code adoption across the province’s numerous climate zones and across a broad range of building archetypes, including both Part 3 and Part 9 buildings. The general cost implications across all climate zones in BC are summarized as such:

The research shows that meeting the requirements of the Lower Steps of the BC Energy Step Code involve only very modest construction premiums. In most situations, builders can achieve the Lower Steps for less

than a 2% construction cost premium above that of a home built to the requirements of the BC Building Code. The construction cost premiums associated with Step 1 compliance is even smaller—just a small fraction of a percent ([Metrics Research Summary Report](#), 2017).

Accounts from the certified Energy Advisors working in the region suggest that airtightness practices utilized by many local builders are likely resulting in homes that already meet Lower Step requirements. Although these accounts are anecdotal, they are in keeping with a recent costing study commissioned by FortisBC. The preliminary results of this study suggest that for single family dwellings (both gas/electric and full electric) and townhomes (full electric), Lower Steps (1 & 2) in Climate Zone 5 can be satisfied with only small improvements to airtightness (to 3.0 air changes per hour) on a building built to the prescriptions found in the current BC Building Code; and townhomes (gas/electric) were shown to comply to Lower Steps (1 & 2) with only modest improvements to mechanical systems (an HRV was suggested) and airtightness (to 3.0 air changes per hour) on buildings constructed to the prescriptions found in the current BC Building Code.

**Industry Incentives**

Fortis and BC Hydro have initiated an incentive program for owner/builders who achieve Step Code performance. Beginning March 29, 2018, Fortis (including FortisBC and Fortis Energy Inc.) is offering incentives to builders in eligible BC communities that achieve Energy Step Code compliance. Eligibility requirements are as follows:

- Applies to builders of single family dwellings, townhouses, row houses, and laneway/carriage houses;
- For builders in Fortis Energy Inc.’s natural gas territory (e.g. West Kelowna, District of Lake Country, City of Vernon, District of Peachland, District of Lake Country), the rebates will be available to builders using both natural gas space and water heating;
- **For builders in Fortis BC’s electric service territory (e.g. City of Kelowna, Summerland, Penticton), the rebates are available to all builders;**
- FortisBC water heater incentives will not be available to those projects reaching Step 2 or higher.

The incentives are as follows:

Description	Incentive per unit
Energy Advisor Support (includes Step 1)	\$500
Step 2	\$1,000
Step 3	\$2,000
Step 4	\$4,000
Step 5	\$8,000
Energy advisor support fees are stacked on the highest Step Code incentive achieved (some exceptions apply for municipalities in the Lower Mainland).	

**Other Types of Incentive**

Many local governments have been reviewing or have already implemented incentives to encourage the implementation of higher energy performing homes. These would include:

- Building permit fee reductions for applicants who achieve a higher step code standard than required within their Bylaws or policies,
- Reductions in setbacks to allow for thicker walls to achieve higher energy performance, and
- Zoning Incentives such as density bonusing to encourage higher energy performance or minimum Step performance to rezone within areas of their community.

The City of Penticton currently has an incentive for encouraging sustainable construction for larger residential and commercial through its Development Cost Charge Reduction Bylaw No. 2010-11.

**Analysis**

Based on the research and stakeholder engagement completed to date, staff recommend continuing to work with other local municipalities and districts in an effort to implement a regional approach in implementing the first three steps of the BC Energy Step Code. Not only with this provide a consistent approach in its implementation through the valley will allow for shared costs in internal and external stakeholder education.

The proposed timelines noted (see Table 01) reflects the current capacity of the local building industry to build to a higher standard, and it provides ample time for local government staff (planning department and building officials) and industry to prepare for new requirements. The January 01, 2019 implementation date, which would require that builders of Part 9 residential buildings meet Step 1 of the Energy Step Code, provides City staff time to complete its engagement process, while giving industry and the City’s internal departments a full year to prepare for the transition to the new Energy Step Code requirements. It is also in line with what other progressive regions are doing in the province.

Table 1: Preliminary Step Code Implementation Timeline for City of Penticton

Building Type	January 15, 2019	January 01, 2020	January 2021
SFD/2/3/4 - plex	Step 01	Step 03	-
Carriage house	Step 01	-	Step 03
Townhouse/Low-rise apartments	Step 01	Step 03	-

Local governments are required to give a minimum of 6 months between the time they notify the Building and Safety Standards Branch of their intent to consult and the referencing of Lower Steps in municipal policies or bylaws. The City of Penticton submitted their Notice of Consultation on the BC Energy Step Code to the Building and Safety Standards Branch on January 27, 2018.

The proposed timeline also meets Provincial regulations to support energy conservation and greenhouse gas reduction objectives, Section 5 of the Building Act (“Unrestricted Matters”) authorizes local governments in BC (except the City of Vancouver) to reference the BC Energy Step Code in their policies and bylaws, and may begin enforcing requirements as of December 15, 2017, subject to notification timelines.

**Next Steps**

Following the completion of the stakeholder and regional engagement process, City staff intends on returning to Council (anticipated for July of 2018) to introduce the modernized Building Bylaw, adopting and requiring Step 1 of the Energy Step Code, beginning January 15, 2019. Additionally, an educational program to support a smooth transition to Energy Step Code adoption will be developed as part of regional approach.

Staff will continue to also review potential Zoning or other development incentives options, such as the DCC reduction bylaw, and provide recommendations for future amendments to the City’s climate action plan and Official Community Plan.

**Alternate recommendations**

1. THAT Council direct staff to continue to engage key stakeholders on the proposed Energy Step Code but decline the proposed implementation dates and refer back to staff for further stakeholder engagement.
2. THAT Council direct staff to decline to continue to participate in a regional approach to BC Energy Step Code consultation.
3. THAT Council not support the implementation of the BC Energy Step Code.

**Attachments**

Attachment A – Climatic Zone Map

Attachment B - Costs to Energy Step Code Adoption

Respectfully submitted,



Ken Kunka ASCT, RBO  
Building and Permitting Manager

Approvals

Director  <i>AK</i>	Chief Administrative Officer  PW
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### Attachment A Climate Zone Map



**Attachment B**  
**Part 9 – Step Code Cost Metrics**

The table below is adapted from the *Metrics Research Study (2017)* and shows the lowest incremental capital costs (% change) for each Step of the BC Energy Step Code framework for Climate Zone 5 across the various Part 9 building archetypes.

Step	Small Single Family Dwelling	Medium Single Family Dwelling	Large Single Family Dwelling	Quadplex	6 Unit Row House	10 Unit MURB
1	0.4%	0.2%	0.2%	0.2%	0.2%	0.1%
2	0.8%	0.0%	-0.3%	0.7%	0.5%	0.3%
3	2.4%	0.0%	-0.3%	0.7%	0.5%	0.3%
4	7.1%	1.5%	0.7%	2.9%	1.7%	0.5%
5	16.2%	4.9%	6.9%	--	4.4%	2.0%

# Council Report

penticton.ca

**Date:** June 5, 2018 **File No:** Civic – PL008243  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Ken Kunka, Building and Permitting Manager  
**Address:** 1035 Westminster Avenue West  
**Subject:** **Liquor Licence - Structural Change Application (Change in Hours)  
Sun Country Lanes**

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## Staff Recommendation

THAT staff be directed to commence public notification of the proposed Structural Change (change in hours) to the Liquor-Primary License for Sun Country Lanes located at 1035 Westminster Ave West;

AND THAT staff report back to Council at their meeting on July 3, 2018 the results of the public consultation for Council's consideration.

## Strategic priority objective

N/A

## Background

On April 16, 2018 the City had received an application from Melissa Kolbe, new owner of Sun Country Lanes (changing to Roll N Stones Fun Centre), seeking a Structural Change to the Liquor Primary Licence with change in hours from Sunday to Saturday 11:00am to 11:00 pm to 09:00am to 02:00am. The establishment is currently undergoing renovations to add an indoor golf and increased lounge area (Attachment B).

The subject property is zoned CT1 - Tourist Commercial and the existing use meets Zoning regulations. There are no restrictions on the hours of operation under the Zoning Bylaw. The property is located in a mixed residential, motel and commercial area (Map – Attachment A). There are no outstanding Building or Fire Code issues in relation to their current and future operations and staff has no records of Bylaw concerns under their previous Licence. The applicant has provided a Community Impact letter for the request in change of house (Attachment C)

In April, staff had completed an initial technical review of the application and provided Local Government/First Nation (LG/FN) Confirmation of Receipt of Application, which has engaged the parallel review process with the Liquor Control and Licencing Branch (LCLB). Local government is requested to complete final local government consideration and provide resolution within 90 days of application. The final resolution must take into consideration:

- The location of the establishment
- The person capacity and hours of service of the establishment,
- The impact of noise on nearby residents,

- The impact on the community if the application is approved, and
- The view of the residents and a description of the method used to gather views.

The uses proposed are defined by the Liquor Control and Licencing Branch (LCLB) as follows:

"Liquor primary" – refers to a licensed establishment where the service of liquor, as opposed to food, is the primary focus of the business.

**Financial implication**

Mandatory public consultation notification costs will be offset through the City’s Liquor application review fees.

**Analysis**

Application notification has been forwarded to the City’s Liquor Licencing Technical Review Committee (LLTRC) for their comments outlined within the required resolution items and City of Penticton Liquor Licencing Policy. The Committee endorses the application with no additional conditions.

As per the Liquor Licencing regulations, staff will also be seeking comments from adjacent property owners and occupants. The consultation radius will be 90m from the property boundaries so that the residential lots located directly north and east are notified. Any public comments as a result of the public notice process will be compiled and forwarded to Council, along with final comments from the LLTRC and staff to the **July 3, 2018** Council meeting, as per the City of Penticton Liquor Licencing Policy. At that time, a full report with final recommendations will be brought forward for Council’s consideration.

Council can choose to support the application as is and move to public consultation or modify the request with further restrictions such as use or hours. Should Council deny the application then the applicant will be informed of Council’s decision and a Council resolution outlining the reason for denial is forwarded to the LCLB.

**Alternate recommendations**

1. THAT Council deny support of the Sun Country Lanes structural change (change in hours) application.
2. Refer back to staff for further review.

**Attachments**

- Attachment A – Public Consultation & Zoning Map
- Attachment B – Proposed Floor plan layout
- Attachment C – Applicant’s Community Impact letter

Respectfully submitted,

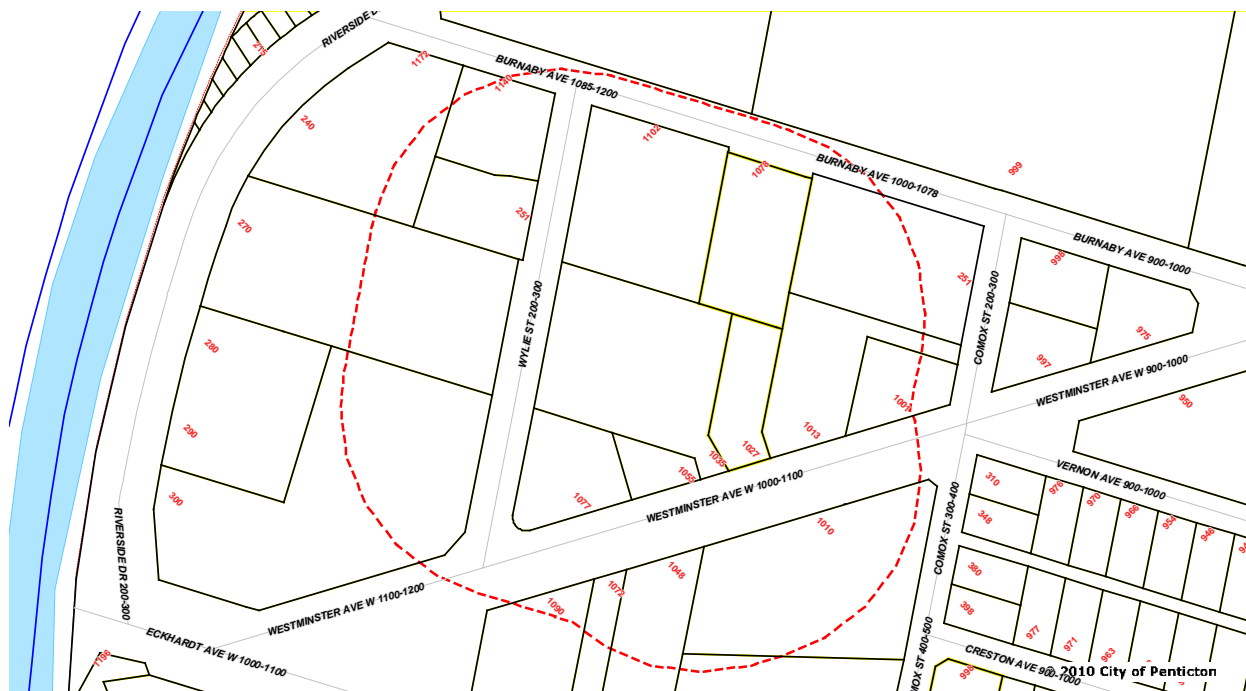
Ken Kunka ASCT, RBO  
Building and Permitting Manager  
LLTRC Chairperson  
Approvals

Director  <i>AK</i>	CAO  PW
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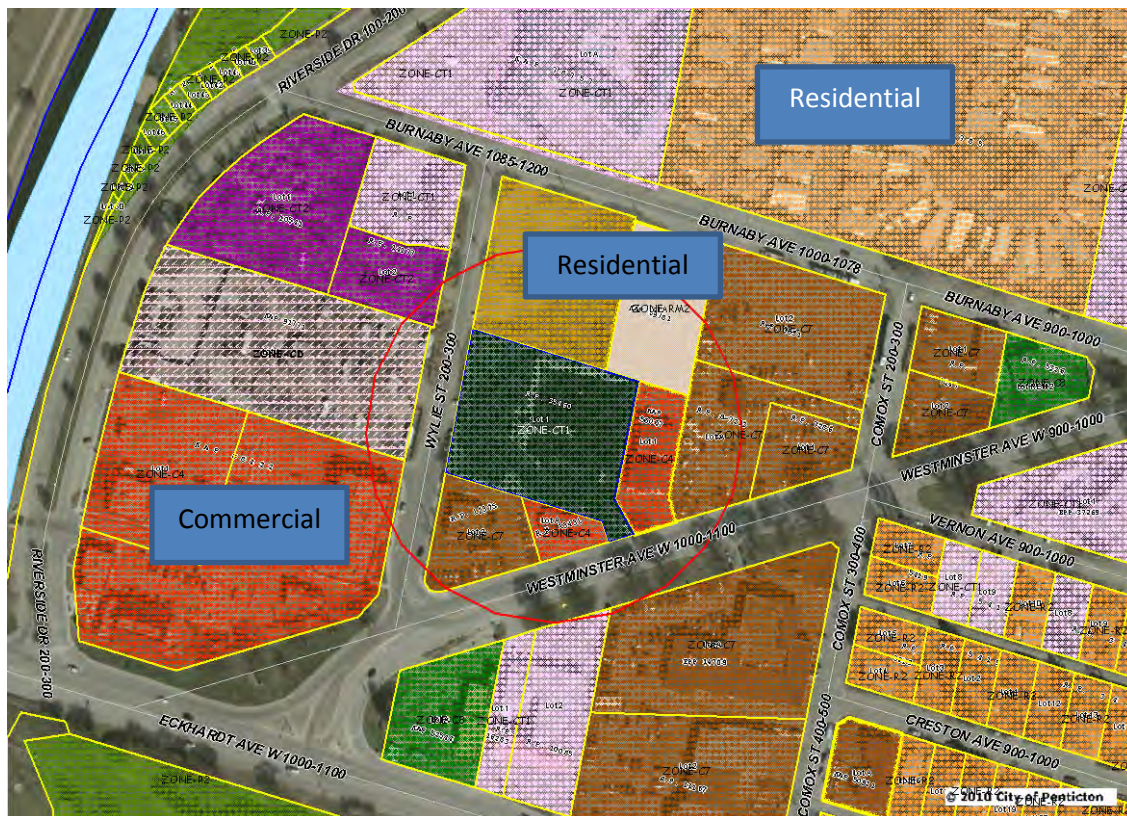
### Attachment A Site Map



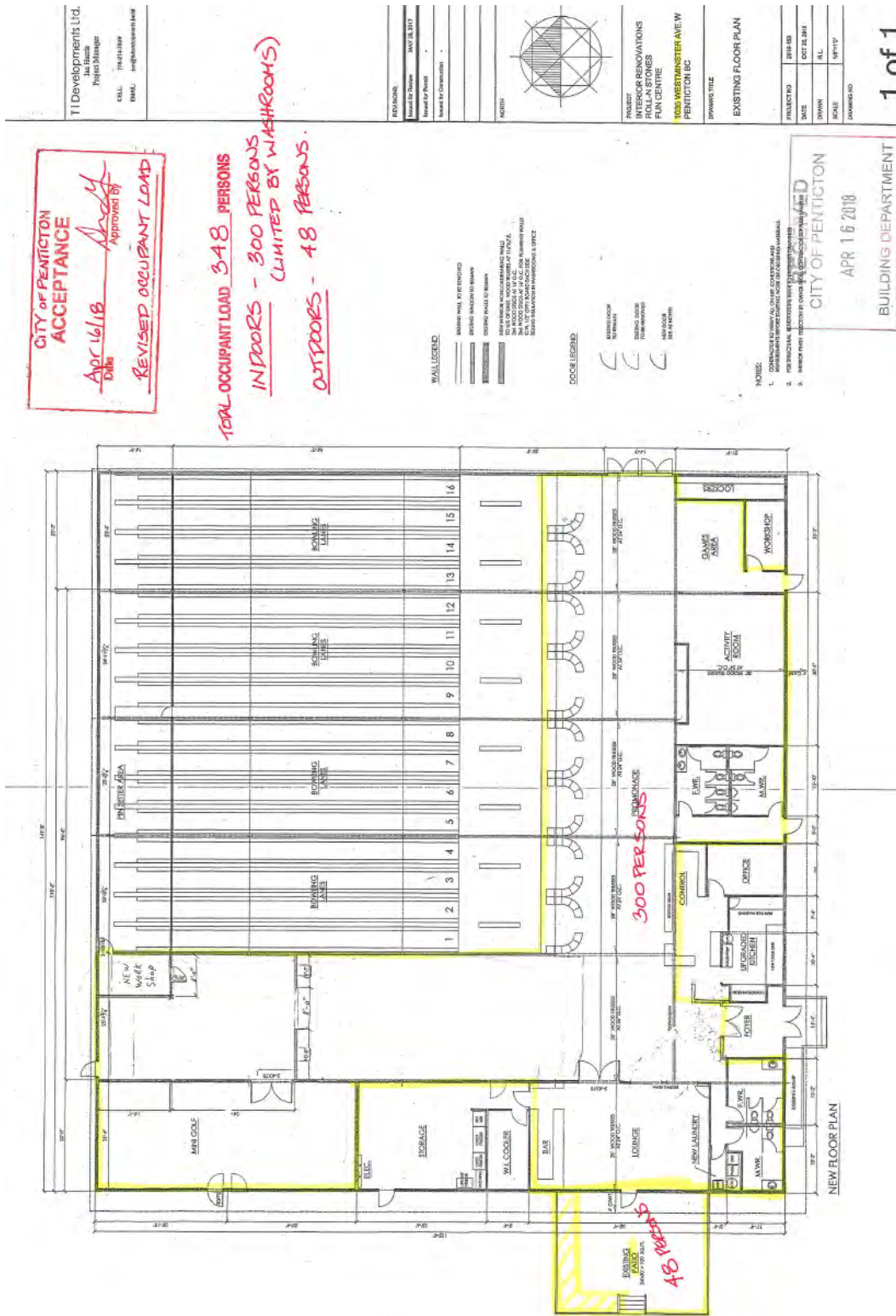
### Public Consultation Map



### Zoning



# Attachment B Proposed Floor Plan Layout



1 of 1

Attachment C  
Applicant Community Impact Letter



1035 Westminster Avenue West  
Penticton, BC V2A 1L4  
Phone: 250-492-5226  
Email: rollnstonesfuncentre@shaw.ca



April 19, 2018

To Whom it May Concern,

We are currently a bowling alley in Penticton, located at 1035 Westminster Avenue West. We purchased this business about 3 years ago and have been listening to our customers and have found that they feel that there isn't a lot to do in Penticton for entertainment. We want to become a more fully encompassing fun centre where families can come and have something to do for everyone. We want to enhance our bowling facility to accommodate this by adding darts, billiards, arcade games and indoor mini golf.

Currently, our liquor license covers only a part of our building and it limits our guests. We would like them to be free to take their drinks to the bowling lanes, to the dart room, arcade and even the bathroom if they are concerned with leaving their drink unattended. Additionally, we are requesting to change our hours of allowed alcohol consumption from 11:00am - 11:00pm to 9:00am - 2:00am. This would allow us to host tournaments that start earlier for those who wish to partake in an alcoholic beverage, as well as stay open later for special events. Just yesterday, we had to say no to the crew from Cirque de Soleil because they wanted to come in after their show and couldn't arrive until 10:30pm. We currently close at 11:00pm and would like the flexibility to remain open and still serve alcohol until later if the crowd is having a good time.

The impact to our community has no negative impacts that we foresee. We would have no need for additional parking as our lot is large enough to accommodate our guests, the traffic would not be affected and the noise levels would not change. The only impacts we see are positive. We would be creating an entertainment facility for all members of the families of our great city. We are seeing a large number of youths come in and enjoy themselves in a safe environment and that can only be a good thing!!

Thank you for taking the time to consider our application and we would love to explain or discuss further if you feel the need.

A handwritten signature in blue ink, appearing to read "Melissa Kolbe".

Melissa Kolbe  
President, Roll N Stones Fun Centre

# Council Report

penticton.ca

**Date:** June 5, 2018 File No: 4000  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Tina Siebert, Bylaw Services Supervisor

**Subject: Pawnbrokers, Secondhand Dealers, Auction Houses Regulations Bylaw No. 2018-42  
Bylaw Notice Enforcement Amendment Bylaw No. 2018-43**

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## Staff Recommendation

THAT Council adopt "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42" ;

AND THAT Council adopt "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43", a bylaw that amends Appendix 13 – Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Bylaw No. 97-68 and increases the fines amounts from \$100 to \$300.

**or**

THAT Council rescind third reading and give third reading as amended to "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42";

AND THAT Council rescind third reading and give third reading as amended to "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43", a bylaw that increases the fine amounts in Appendix 13 to \$450 per offence.

## Background

At the Council meeting on May 22, 2018, staff presented changes to the reporting process for Pawnbrokers and Secondhand Dealers. At this meeting, Council supported the work plan presented by staff and gave three readings to "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42" and "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43". Council indicated they wanted staff to report back with a more solidified enforcement strategy should there be non-compliance of the bylaw.

*Local Government Bylaw Notice Enforcement Act* outlines that a penalty under a Bylaw Notice Enforcement Bylaw may not exceed \$500.

**Analysis**

Staff are proposing the following two options:

- 1) Adopt "Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Amendment Bylaw No. 2018-42" and "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43" as presented May 22, 2018;  
OR
- 2) Rescind third reading and read the bylaws with an increase to all fines to the maximum permitted amount in Bylaw Notice Enforcement Bylaw, Schedule 'A', Appendix 13, to \$450. Each day, staff could issue an additional ticket of \$450 for a new offence. Fine amount is \$400 for early payment and \$500 for late payment.

Should a business fail to comply with the provisions of the bylaw, staff may prepare a report to Council requesting cancellation of the City of Penticton Business License.

**Alternative Recommendation**

In addition to the staff recommendation, Council may direct staff to prepare an amendment to the Municipal Ticketing Information (MTI) Bylaw No. 2012-5021 and increase the Pawnbrokers, Secondhand Dealers and Auction House fine amounts to the maximum \$1000.

**Attachments**

Attachment A – Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42 and Bylaw Notice Enforcement Amendment Bylaw No. 2018-43 (at third reading with \$300 fines)

Attachment B – Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42 and Bylaw Notice Enforcement Amendment Bylaw No. 2018-43 (rescind third and read third as amended with increase to the maximum amount \$500)

Respectfully submitted,

Tina Siebert

Bylaw Services Supervisor

Approvals

Director  AH	Chief Administrative Officer  PW
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**Bylaw No. 2018-42**

*A Bylaw to Amend the Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Bylaw*

---

WHEREAS the Council of the City of Penticton has adopted a Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Bylaw;

AND WHEREAS the Council of the City of Penticton wishes to amend Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Bylaw No. 97-68;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

This bylaw may be cited for all purposes as "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42".

2. **Amendment:**

Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Bylaw No. 97-68 is hereby amended as follows:

2.1 Delete 1. (k) and replace with:

1. (k) "Reporting System" means the secondhand dealer's, pawnbroker's and/or auction house's record referred to in Section 3 of this bylaw;

2.2 Delete 3. (a) and replace with:

3. (a) keep on the premises in which his business is carried on the reporting system approved by the Penticton Royal Canadian Mounted Police (RCMP).

2.3 Delete 3. (b) and replace with:

3. (b) keep a record of all of the following:

- (1) (i) goods, articles, or things received, except household and office furniture; and or
- (ii) estate sale purchases; warehousemen lien seizures, and landlord tenant repossessions, of which only all electronic equipment, power and air tools, precious metals (jewelry), motorized vehicle(s) and bicycle(s) received by such dealers are required to be recorded.
- (iii) government surplus; bank or finance company repossession article(s) seizure; bailiff repossessions; and beer bottles purchased will be exempt from the requirement of being recorded.

Such records shall be recorded on the current reporting system in the English language, and shall be made at the time of such purchase.

2.4 Delete 3. (c) and replace with:

3. (c) The reporting system referred to in sub-paragraph (a) hereof shall at all times be open for inspection by the Licence Inspector, Members of the RCMP, Bylaw Officer or other persons

duly authorized in that behalf by the RCMP, and may be removed from the premises at any time by such person or persons for inspection.

- 2.5 Delete 3. (d) and replace with:
  - 3. (d) All entries made in the reporting system required to be kept hereunder shall be made in plain English language, and no second hand dealer or pawnbroker shall permit any entry so made to be erased, obliterated or defaced.
  
- 2.6 Delete 3. (e) and replace with:
  - 3. (e) Every secondhand dealer, pawnbroker, and auction house shall electronically report the particulars required by section 3 for every article or thing purchased or received by the dealer during the 24 (twenty-four) hours immediately preceding the hour of 11:00 a.m. of the day on which the report is made, except that;
    - (i) no such report shall be required on Sundays or public holidays, but the statement on Monday and any day following a public holiday shall cover the whole period subsequent to 11:00 a.m. on the day on which the last preceding report was made.
  
- 2.7 Delete 5. (b) and replace with:
  - 5. (b) Purchase or receive in the course of his business any goods, articles or things from any person between the hours of 9:00 o'clock in the afternoon and 7:00 o'clock in the forenoon of the following day;
  
- 2.8 Add the following:
  - 5. (e) Purchase or receive goods without obtaining picture identification.
  
- 2.9 Delete 6. (c) and replace with:
  - 6. (c) Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less than \$300.00 and not more than \$5,000.00 for each offence or, in the alternative, by imprisonment for a period not exceeding two months.
  
- 2.10 Delete 6. (d) and replace with:
  - 6. (d) Every person who commits an offence of a continuing nature is liable to a fine not exceeding \$300.00 for each day such offence is continued.

READ A FIRST time this	22	day of	May, 2018
READ A SECOND time this	22	day of	May, 2018
READ A THIRD time this	22	day of	May, 2018
ADOPTED this		day of	, 2018

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Andrew Jakubeit, Mayor

---

Dana Schmidt, Corporate Officer

**The Corporation of the City of Penticton**

**Bylaw No. 2018-43**

*An amendment to regulate enforcement of bylaw notices*

---

WHEREAS pursuant to the *Local Government Bylaw Notice Enforcement Act* and the *Community Charter*, the City may establish fine amounts for contravention of City bylaws;

AND WHEREAS the City of Penticton has adopted "Bylaw Notice Enforcement Bylaw No. 2012 – 5037";

AND WHEREAS the City of Penticton wishes to amend Schedule 'A' to "Bylaw Notice Enforcement Bylaw No. 2012 - 5037";

NOW THEREFORE the Municipal Council of The Corporation of the City of Penticton in open meeting assembled ENACTS as follows:

**1. Title:**

This Bylaw may be cited as the "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43."

**2. Amendment:**

2.1 Amend Schedule 'A' by replacing Appendix 13 – Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Bylaw No. 97-68 in its entirety with the attached Appendix 13.

2.2 Appendix 13 attached hereto forms part of this bylaw.

READ A FIRST time this	22	day of	May, 2018
READ A SECOND time this	22	day of	May, 2018
READ A THIRD time this	22	day of	May, 2018
ADOPTED this		day of	, 2018

---

Andrew Jakubeit, Mayor

---

Dana Schmidt, Corporate Officer

Schedule 'A'

**Appendix 13**

**Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Bylaw No. 97-68**

<b>Description of Offence</b>	<b>Bylaw Section</b>	<b>Column A1 Fine</b>	<b>Column A2 Early Payment Penalty</b>	<b>Column A3 Late Payment Penalty</b>	<b>Column A4 Compliance Agreement Available</b>
Fail to keep reporting system	3(a)	\$300.00	\$290.00	\$310.00	No
Fail to keep proper records	3(b)(2)	\$300.00	\$290.00	\$310.00	No
Erase, obliterate or deface entry	3(d)	\$300.00	\$290.00	\$310.00	No
Fail to report	3(e)	\$300.00	\$290.00	\$310.00	No
Fail to keep goods for 30 days	4(b)	\$300.00	\$290.00	\$310.00	No
Purchase or receive goods from underage person (under 18 yrs.)	5(a)	\$300.00	\$290.00	\$310.00	No
Purchase or receive goods after hours	5(b)	\$300.00	\$290.00	\$310.00	No
Carry on a business without a valid pawnbroker's licence from the City of Penticton	5 (c)	\$300.00	\$290.00	\$310.00	No
Purchase or receive goods with serial number removed	5(d)	\$300.00	\$290.00	\$310.00	No
Fail to obtain picture identification at receipt of goods	5(e)	\$300.00	\$290.00	\$310.00	No

**Bylaw No. 2018-42**

*A Bylaw to Amend the Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Bylaw*

---

WHEREAS the Council of the City of Penticton has adopted a Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Bylaw;

AND WHEREAS the Council of the City of Penticton wishes to amend Pawnbrokers, Secondhand Dealers, and Auction Houses Regulations Bylaw No. 97-68;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

This bylaw may be cited for all purposes as "Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Amendment Bylaw No. 2018-42".

2. **Amendment:**

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2.1 Delete 1. (k) and replace with:

1. (k) "Reporting System" means the secondhand dealer's, pawnbroker's and/or auction house's record referred to in Section 3 of this bylaw;

2.2 Delete 3. (a) and replace with:

3. (a) keep on the premises in which his business is carried on the reporting system approved by the Penticton Royal Canadian Mounted Police (RCMP).

2.3 Delete 3. (b) and replace with:

3. (b) keep a record of all of the following:

- (1) (i) goods, articles, or things received, except household and office furniture; and or
- (ii) estate sale purchases; warehousemen lien seizures, and landlord tenant repossessions, of which only all electronic equipment, power and air tools, precious metals (jewelry), motorized vehicle(s) and bicycle(s) received by such dealers are required to be recorded.
- (iii) government surplus; bank or finance company repossession article(s) seizure; bailiff repossessions; and beer bottles purchased will be exempt from the requirement of being recorded.

Such records shall be recorded on the current reporting system in the English language, and shall be made at the time of such purchase.

2.4 Delete 3. (c) and replace with:

3. (c) The reporting system referred to in sub-paragraph (a) hereof shall at all times be open for inspection by the Licence Inspector, Members of the RCMP, Bylaw Officer or other persons

duly authorized in that behalf by the RCMP, and may be removed from the premises at any time by such person or persons for inspection.

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- 2.6 Delete 3. (e) and replace with:
  - 3. (e) Every secondhand dealer, pawnbroker, and auction house shall electronically report the particulars required by section 3 for every article or thing purchased or received by the dealer during the 24 (twenty-four) hours immediately preceding the hour of 11:00 a.m. of the day on which the report is made, except that;
    - (i) no such report shall be required on Sundays or public holidays, but the statement on Monday and any day following a public holiday shall cover the whole period subsequent to 11:00 a.m. on the day on which the last preceding report was made.
  
- 2.7 Delete 5. (b) and replace with:
  - 5. (b) Purchase or receive in the course of his business any goods, articles or things from any person between the hours of 9:00 o'clock in the afternoon and 7:00 o'clock in the forenoon of the following day;
  
- 2.8 Add the following:
  - 5. (e) Purchase or receive goods without obtaining picture identification.
  
- 2.9 Delete 6. (c) and replace with:
  - 6. (c) Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less than \$300.00 and not more than \$5,000.00 for each offence or, in the alternative, by imprisonment for a period not exceeding two months.
  
- 2.10 Delete 6. (d) and replace with:
  - 6. (d) Every person who commits an offence of a continuing nature is liable to a fine not exceeding ~~\$300.00~~ \$500.00 for each day such offence is continued.

READ A FIRST time this	22	day of	May, 2018
READ A SECOND time this	22	day of	May, 2018
READ A THIRD time this	22	day of	May, 2018
RESCIND THIRD and give THIRD reading as AMENDED		day of	, 2018
ADOPTED this		day of	, 2018

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Andrew Jakubeit, Mayor

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Dana Schmidt, Corporate Officer

**The Corporation of the City of Penticton**

**Bylaw No. 2018-43**

*An amendment to regulate enforcement of bylaw notices*

---

WHEREAS pursuant to the *Local Government Bylaw Notice Enforcement Act* and the *Community Charter*, the City may establish fine amounts for contravention of City bylaws;

AND WHEREAS the City of Penticton has adopted "Bylaw Notice Enforcement Bylaw No. 2012 – 5037";

AND WHEREAS the City of Penticton wishes to amend Schedule 'A' to "Bylaw Notice Enforcement Bylaw No. 2012 - 5037";

NOW THEREFORE the Municipal Council of The Corporation of the City of Penticton in open meeting assembled ENACTS as follows:

**1. Title:**

This Bylaw may be cited as the "Bylaw Notice Enforcement Amendment Bylaw No. 2018-43."

**2. Amendment:**

- 2.1 Amend Schedule 'A' by replacing Appendix 13 – Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Bylaw No. 97-68 in its entirety with the attached Appendix 13.
- 2.2 Appendix 13 attached hereto forms part of this bylaw.

READ A FIRST time this	22	day of	May, 2018
READ A SECOND time this	22	day of	May, 2018
READ A THIRD time this	22	day of	May, 2018
RESCIND THIRD and give THIRD reading as AMENDED		day of	, 2018
ADOPTED this		day of	, 2018

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Andrew Jakubeit, Mayor

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Dana Schmidt, Corporate Officer

Schedule 'A'

**Appendix 13**

**Pawnbrokers, Secondhand Dealers and Auction Houses Regulations Bylaw No. 97-68**

<b>Description of Offence</b>	<b>Bylaw Section</b>	<b>Column A1 Fine</b>	<b>Column A2 Early Payment Penalty</b>	<b>Column A3 Late Payment Penalty</b>	<b>Column A4 Compliance Agreement Available</b>
Fail to keep reporting system	3(a)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No
Fail to keep proper records	3(b)(2)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No
Erase, obliterate or deface entry	3(d)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No
Fail to report	3(e)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No
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Purchase or receive goods after hours	5(b)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No
Carry on a business without a valid pawnbroker's licence from the City of Penticton	5 (c)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No
Purchase or receive goods with serial number removed	5(d)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No
Fail to obtain picture identification at receipt of goods	5(e)	\$300.00 \$450.00	\$290.00 \$400.00	\$310.00 \$500.00	No

# Council Report

penticton.ca

**Date:** June 5, 2018 **File No:** 0340-01  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Laurie Darcus, Director Corporate Services  
  
**Subject: Video Surveillance Policy**

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## Staff Recommendation

THAT Council approve the Video Surveillance Policy as attached to the report dated June 5, 2018.

## Executive Summary

The City of Penticton has installed, and plans to install video surveillance cameras in various public areas. The Office of the Privacy Commissioner (OIPC) recommends that municipalities have a policy in place that includes their 10 guidelines for video surveillance. These 10 points have been covered in the attached policy (see also Analysis below).

## Strategic priority objective

Good Governance – setting policy that provides direction to staff and protects the community.

## Background

The City has installed video surveillance cameras for security purposes at most City facilities. The Office of the Privacy Commissioner has established minimum standards for video surveillance that will ensure compliance with legislation and protect personal privacy as much as possible. One of the standards required is a policy, and the other standards have been incorporated into the policy, such as retention periods, signage required, access rights and suitable locations.

## Financial implication

There is no direct financial implication by approving a policy, however, when surveillance cameras are installed, certain minimum standards will need to be met and costs should be included in budget line items.

## Analysis

According to the OIPC it is imperative that the City approve a policy that protects the privacy of its citizens when municipalities choose to use video surveillance in public areas.

The OIPC 10 recommendations are:

1. Determine whether a less privacy-invasive alternative to video surveillance would meet your needs.
2. Establish the business reason for conducting video surveillance and use video surveillance only for that reason.
3. Develop a policy on the use of video surveillance.
4. Limit the use and viewing range of cameras as much as possible.
5. Inform the public that video surveillance is taking place (e.g. signage).
6. Store any recorded images in a secure location, with limited access, and destroy them when they are no longer required for business purposes.
7. Be ready to answer questions from the public. Individuals have the right to know who is watching them and why, what information is being captured, and what is being done with recorded images.
8. Give individuals access to information about themselves. This includes video images.
9. Educate camera operators on the obligation to protect the privacy of individuals.
10. Periodically evaluate the need for video surveillance.

The policy attached meets the requirements of the OIPC by establishing clear rules for surveillance use and means to protect people's privacy. Once the policy is approved by Council, education will be provided to the staff on the obligations of meeting the policy requirements when planning or installing video surveillance.

Without a thorough policy that guides the actions of staff the City could be challenged for unnecessary invasion of privacy. It is prudent at this time to approve this policy which incorporates the recommendations published by the provincial body that oversees Freedom of Information and Protection of Privacy.

### **Alternate recommendations**

Alternative 1 – Do not approve the Video Surveillance Policy

### **Attachments**

Attachment A – Video Surveillance Policy

Respectfully submitted,

Laurie Darcus  
Director Corporate Services

Chief Administrative Officer  PW
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# Council Policy

Approval date:

**Resolution No.:**

**Subject: Video Surveillance on City Owned Property**

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**Scope:**

The City of Penticton may implement Video Surveillance on City owned property where personal safety or property security matters warrant.

**Goal:**

The purpose of this policy is to set guidelines for the implementation of any Video Surveillance in City owned or occupied buildings or outdoor public space, and set the rules for governing access and disclosure of stored video images.

**Definitions:**

In this policy,

“PERSONAL INFORMATION” means information about an identifiable individual.

“VIDEO SURVEILLANCE” means a system of monitoring activity in an area or building using a television system in which signals are transmitted from a camera to the receivers by cables or telephone links forming a closed circuit.

**Policy:**

The City has a legal right and obligation to protect individuals in or around its buildings and its assets and the right to use Video Surveillance for this purpose. Video Surveillance can be useful in deterring crime and nuisance in unsupervised areas where full time live surveillance is an unreasonable expectation due to the risks involved to City staff, or where costs are prohibitive. It should be acknowledged that Video Surveillance can be construed as an unreasonable invasion of personal privacy and the installation of Video Surveillance equipment should only be considered in unique and exceptional circumstances. It should also be acknowledged the deployment of video surveillance by the City is not intended to infringe on the guaranteed rights and freedoms of individuals in any way by

monitoring personal activity in public spaces. The intended purpose is to safe guard city owned assets and individuals who use those assets.

**Procedures:**

1. Prior to the installation of any Video Surveillance equipment, the department contemplating the installation must consult with Facilities Management, Information Technology services and the City of Penticton Head of Freedom of Information and Protection of Privacy. Information Technology will be responsible for all costs including hardware and services subject to a budget request submitted to Information Technology through the annual budget process.
2. The Head of the Freedom of Information and Protection of Privacy will determine the appropriateness of the installation and determine the legal authority required under the Freedom of Information and Protection of Privacy Act (the Act). Video Surveillance will be considered only after less intrusive security measures have been considered and have been found to be unworkable or inappropriate.
3. The Head of the Freedom of Information and Protection of Privacy will develop any specific procedures required that exceed this policy.
4. Head of the Freedom of Information and Protection of Privacy will provide the information required to be included in signage, to be placed in the location of the Video Surveillance. The department requesting the Video Surveillance will be responsible for signage costs.
5. The manager responsible for Information Technology services will confirm the availability of server, or other technical, capacity and any other technical requirements. If capacity or other technical requirements are required, the department implementing the Video Surveillance will be responsible for the costs.
6. Cameras should be secured to a permanent wall or ceiling, out of reach, and preferably protected from vandalism. Camera range should cover areas needing surveillance, and no more. Cameras are only to be installed in public spaces under this policy. Cameras will not be aimed at areas where people have a heightened expectation of privacy (e.g. washrooms, change rooms, private offices). Cameras should be positioned to reduce capturing images of individuals who are not being targeted, for example positioned to capture images of people on other properties than those owned by the City. Sound is not to be recorded. Appropriate signage will be posted as per 4. above.
7. The City will exercise a high degree of care when using Video Surveillance systems in order to protect the privacy of individuals who visit or work at monitored places. Although Video Surveillance may be warranted for legitimate operational purposes, it must be used in accordance with the Freedom of Information and Protection of Privacy Act.
8. The video recording software and data will be stored on the City's secure servers and data storage infrastructure. Access to the data will be password protected.
9. Video recording equipment will be securely stored in a server room, with controlled access.

10. Those individuals assigned by the Chief Administrative Officer with responsibilities for security with support from Information Technology services will have sole authorization to access and operate the video recording system and stored video recording data, and may grant access to other employees only if it is deemed necessary, and under supervision.
11. Reasons to access video recording data include such instances as:
  - a. The need to identify individuals that have been involved with, or incidents that have resulted from:
    - i. Mischief
    - ii. Criminal behavior
    - iii. Vandalism
    - iv. Harm to another individual
    - v. Theft, including theft from vehicles
    - vi. Other such nuisances that the City finds necessary to investigate
    - vii. Other instances that may arise but access to the data must first be approved by the Head of Freedom of Information and Protection of Privacy, or the Council of the City of Penticton– unless life or safety is at risk, at which point it would be considered an emergency and emergency personnel (Fire, Police, Ambulance, or other) may request access.
    - viii. A personal injury accident
12. All access to video recording data will be logged. Access will be granted through the Information Technology services manager or a designate or a person assigned security responsibilities by the Chief Administrative Officer. Access will require a user name and password granted by the system administrator. Alerts of access will be sent to the system administrator by email, and this logged.
13. Only the data from the estimated time of the incident will be accessed, reviewed and captured on separate media for distribution to law enforcement agencies and the like.
14. Cameras that are turned on for limited periods in the day are preferable to “always on” surveillance e.g. motion activated. Video Surveillance should be limited to the times when the location is open to the public, or subject to unauthorized access.
15. Video data will be retained for approximately 14 – 60 days. Video deletion is directly related to storage availability. The system is designed to fill the storage and then recycle the space through degradation and termination. Data will be deleted, at latest, according to the Records Management policy. Old storage devices must be securely disposed of by shredding, burning or magnetically erasing the images/sounds. When the recorded data/information (that contains personal information about an individual) reveals an incident and the City uses this information to make a decision that directly affects the individual, the data/information should be retained for one year after the decision is made.
16. Video data may be disclosed to police or other appropriate authorities only when the authorities are known and recognized authorities of the City, or court/official documentation is presented requiring access through a written request that can be other than Attachment A.
17. Individuals have the right to access to images relating to them. When disclosing recordings to individuals who appear in them, the organization must ensure that identifying information about any other individuals on the recording is not revealed. This can be done through technologies that mask identity.

18. Any person accessing video data from the system must complete a Disclosure Release Form (Attachment A). These forms will become a permanent record and must be saved into the records or document management system.
19. Video Surveillance and storage of video data is subject to audit and individuals accessing or implementing Video Surveillance may be called upon by other jurisdictional authorities to justify their surveillance interest in any given individual.
20. Should unauthorized disclosure of images occur, staff responsible under the policy will determine the nature of the disclosure, the potential impact to the individuals and if there is a means to reduce same. Individuals whose images have been released must be notified of the breach if their image is publicly available or available to unauthorized sources. Retrieving the images would be preferable. Any disclosure must be reported this to the Head of Freedom of Information and Protection of Privacy, who will report this to the Office of the Information and Privacy Commissioner of British Columbia if the situation has not been resolved.
21. Any employee or contractor of the City failing to adhere to this policy will face discipline and depending of the severity of any breach may be terminated.
22. The Head of Freedom of Information and Protection of Privacy will review with departments the ongoing need for video surveillance at least every two years.

**Exclusions:**

This policy is not applicable to any requirements imposed by another level of government on the RCMP (Royal Canadian Mounted Police) or other police services.

This policy does not apply to videotaping or audio taping of City Council meetings or events.

**Key Areas of Responsibility:**

Action to Take	Responsibility
Appoint those individuals who will have access to the stored video system and data referred to in S. 10 above. These individuals should be responsible for security for the City.	Chief Administrative Officer
Ensure the security of data captured and stored through video surveillance and managing its retention per this policy.	Information Technology Manager
Maintain and update this policy as required.	Head of Freedom of Information and Protection of Privacy
Be aware of this policy, disseminate this policy, and ensure all employees adhere to the policy.	All department heads
Abide by the policy.	Council members, all Staff and contractors where applicable.

**Previous revisions:**

Revision Date	Author

Approval

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## Disclosure Release Form

Name of Requester:

Department:

Telephone/Email:

Date of Request:

Reason for Request for Video Surveillance Footage:

Date and time of Video requested:

Purpose for which Video will be used:

Note that any video surveillance footage obtained by the City must be kept confidential and is subject to the Freedom of Information and Protection of Privacy Legislation. All video must be safely destroyed at the latest one year after a decision is made (e.g. court decision complete, legal action finalized).

Signature:

# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Laurie Darcus, Director of Corporate Services

File No: 3900-30

**Subject: Council Procedure Bylaw No. 2018-35**

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## Staff Recommendation

THAT Council give first, second and third readings to "Council Procedure Bylaw No. 2018-35".

## Executive Summary

Due to the change in timing of the Local Government Elections to October from November there was a need to update the Council Procedure Bylaw to change the timing of the Inaugural Council Meeting. This provided staff with an opportunity to review the entire bylaw and in the process corrected some sections of the current Council Procedure Bylaw, updated some of the bylaw language to include relevant Community Charter references, and recommending adding a new Council Agenda item – Consent Agenda. Specifics are described below.

## Strategic priority objective

Good Governance: It is imperative to review bylaws to ensure that they are up to date, reflect best practices and govern the City as legislatively required.

## Background

The Election Act was amended in the fall of 2017 to change the date of Local Government Elections to the third Saturday in October every four years rather than the 3<sup>rd</sup> Saturday of November as was previous. This required a change to the City's Council Procedure Bylaw to hold the Inaugural Council meeting within the first ten days of November, rather than what was previous established as an Inaugural Meeting the first ten days of December. This prompted a staff review of the full Procedure Bylaw which captured some updates, new additions and corrections.

Key changes are:

#### S. 4 Inaugural Meeting

From

(1) Following a general local election, the first Council meeting must be held on the first Tuesday in December in the year of the election.

To:

(1) Following a general local election, the first Council meeting must be within the first 10 days of November in accordance with s. 124(2)(g) of the *Community Charter* in the year of the election.

#### ``In-Camera`` to ``Closed``

The term ``In-Camera`` was once used to describe meetings where Council met without the ability of the public to attend. Since the *Community Charter* has come into effect, these types of meetings are referred to as ``Closed`` meetings. The *Community Charter* has no reference to in-camera, so language has been changed in the new Council Procedure Bylaw to reflect the *Community Charter* S. 91 & 92.

#### Consent Agenda

An accepted practice that has become popular in other jurisdictions is the Consent Agenda. A Consent Agenda includes items that do not require a decision of Council, but are received for information and inclusion into the official records of the City. Items under a Consent Agenda can include (for example): minutes of Committees to be received; correspondence that does not require a Council motion; information only reports from staff that do not require a presentation. With a Consent Agenda Council may approve the full Consent Agenda through a single resolution. Once moved and seconded, any member may request that any item be removed from the Consent Agenda and discussed and decided separately, the balance of the items would be voted on together for approval.

Each item removed from the Consent Agenda will be debated and voted on by Council separately.

#### **Financial implication**

There are no financial implications.

#### **Analysis**

Changes to the timing of the Inaugural Meeting are necessary and the new timing is compliant with the *Community Charter*. Council may agree or disagree with the other changes noted and provide staff with direction to modify the bylaw.

Council Procedure Bylaw No. 2016-35 will be repealed with the adoption of Council Procedure Bylaw No. 2018-35.

**Alternate recommendations**

That Council direct staff to make changes to the proposed Council Procedure Bylaw No. 2018-35 as passed by resolution at this Council meeting.

**Attachments**

Attachment A – Council Procedure Bylaw No. 2018-35 (NEW)

Attachment B – Council Procedure Bylaw No. 2016-35 (to be repealed)

Respectfully submitted,

Laurie Darcus  
Director of Corporate Services

Approvals

Chief Administrative Officer  PW
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**The Corporation of the City of Penticton  
Council Procedure Bylaw  
Bylaw No. 2018-35**

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**The Corporation of the City of Penticton**

**Bylaw No. 2018-35**

A Bylaw to regulate the proceedings of Council, Council Meetings and other Council reporting bodies

WHEREAS pursuant to the *Community Charter*, Council must, by bylaw, establish general procedures to be followed by Council and committees in conducting their business;

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the City of Penticton, in open meeting assembled ENACTS AS FOLLOWS:

**PART 1 – INTRODUCTION**

**Title**

- 1. This Bylaw may be cited as the “Council Procedure Bylaw No. 2018-35”.

**Definitions**

- 2. In this Bylaw,

“City” means the City of Penticton;

“City Hall” means Penticton City Hall located at 171 Main Street, Penticton, British Columbia;

s. 94(7)

“City Web Site” means the information resource found at an internet address provided by the City, the current home landing page located at [www.penticton.ca](http://www.penticton.ca);

“committee” means a standing, select, or other committee of Council, but does not include COW;

“COW” means the Committee of the Whole Council, which includes the Mayor and all Councillors;

“Corporate Officer” means the Corporate Officer for the City as defined in Section 148 of the *Community Charter* and the Deputy in the absence of the Corporate Officer;

“Council” means the Council of the City of Penticton;

“Mayor” means the mayor (or acting mayor in the Mayor’s absence) of the City;

“Member” means the Mayor or Councillor in relation to Council, or for committees an appointed individual;

“Motion” means a formal proposal made by a Member at a meeting of Council or committee that directs an approval or a specified course of action (see also Resolution);

s.124(2)(e)

“Public Notice Posting Places” means the notice board at City Hall and the City Website;

“Question” means the subject matter of a motion except where referring to public question period;

“Quorum” means:

- (1) In the case of Council, a majority of the number of members of which the council consists under the *Community Charter*; and
- (2) In the case of a committee or other body, a majority of the voting members appointed;

“Resolution” means a formal determination made by Council or Committee that approves or orders a specified course of action (see also Motion).

**Application of rules of procedure**

s.124(2)(a) and (b)

- 3. (1) The provisions of this Bylaw govern the proceedings of Council, COW and all standing and select committees of Council, as applicable.
- (2) In cases not provided for under this Bylaw, Robert’s Rules of Order apply to the proceedings of Council, COW, and Council committees to the extent that those Rules are
  - (a) applicable in the circumstances, and
  - (b) not inconsistent with provisions of this Bylaw or the *Community Charter*.
- (3) The rules of procedure contained in this bylaw except those that are governed by statutory provisions, maybe be temporarily suspended, by unanimous vote of all members present.

**PART 2 – COUNCIL MEETINGS**

**Inaugural Meeting**

s.124(2)(g) s.125(1)

- 4. (1) Following a general local election, the first Council meeting must be within the first 10 days of November in accordance with s. 124(2)(g) of the *Community Charter* in the year of the election.

s.125(2)

- (2) If a quorum of council members elected at the general local election has not taken office by the date of the meeting referred to in subsection (1), the first Council meeting must be called by the Corporate Officer and held as soon as reasonably possible after a quorum has taken office.

**Time and location of meetings**

s.125(2)

- 5. (1) All Council meetings must take place within City Hall except when Council resolves to hold meetings elsewhere. Except in the case of a meeting outside of City boundaries, Council may pass the resolution to hold a meeting outside of City Hall at the commencement of that meeting.

- (2) Regular Council shall establish annually by resolution a schedule of regular meetings and meetings will normally:
  - (a) be held on the first and third Tuesday of each month unless otherwise scheduled by Council resolution, and
  - (b) begin at 1:00 p.m.;
  - (c) be adjourned at 11:00 p.m. at the latest on the day scheduled for the meeting unless Council resolves to proceed beyond that time in accordance with s. 29;
  - (d) when such meeting falls on a statutory holiday, be held on the next day City Hall is open following which is not a statutory holiday.
- (3) Regular Council meetings may:
  - (a) be cancelled by Council; and
  - (b) be postponed to a different day, time and place by the Mayor, provided the Corporate Officer is given at least 2 days written notice and the Corporate Officer will post a notice of the change;
  - (c) be recessed by the Mayor for a short period with a statement of approximate time the meeting will be reconvened.

#### **Notice of Council Meetings**

s.127(1)

6. (1) In accordance with section 127 of the *Community Charter [notice of council meetings]*, Council must approve annually on or before January 30<sup>th</sup> a schedule of the dates, times and places of regular Council meetings and must make the schedule available to the public including posting it at the Public Notice Posting Places.
- (2) In accordance with section 127 of the *Community Charter [notice of council meetings]*, Council must give notice annually on or before January 30<sup>th</sup> of the time and duration that the schedule of regular Council meetings will be available in accordance with section 94 of the *Community Charter*.
- (3) Where revisions are necessary to the annual schedule of regular Council meetings, the Corporate Officer must, as soon as possible, post a notice at the Public Notice Posting Places which indicates any revisions to the date, time and place or cancellation of a regular Council meeting.
- (4) The Corporate Officer need not give public notice of a cancelled or rescheduled meeting in respect of which Council has resolved to exclude the public.

#### **Notice of special meetings**

s.127(2)

7. (1) Except where notice of a special meeting is waived by unanimous vote of all council members under section 127(4) of the *Community Charter*, a notice of the date, hour, and place of a special Council meeting must be given at least 24 hours before the time of meeting, by

- (a) posting a copy of the notice in the Council chambers at City Hall,
- (b) posting a copy of the notice at the Public Notice Posting Places, and
- (c) leaving one copy of the notice for each Council member in the Council member's mailbox at City Hall or forwarding an electronic copy for each member to a City provided electronic device.

s.127(3)

- (2) The notice under subsection (1) must describe in general terms the purpose of the meeting and be signed by the Mayor or the Corporate Officer.

### **Cancelled, Rescheduled, or Called Regular Meetings**

8. The Council may by resolution:

- (1) Cancel or reschedule any regular meeting;
- (2) Change the time or location for holding the meeting; or
- (3) Call an additional regular meeting at the time and place stipulated in the Council resolution.

### **Electronic Meetings**

s. 128

- 9. (1) Provided the conditions set out in subsection 128(2) of the *Community Charter [electronic meetings and participation by members]* are met, a Special of Closed Council meeting may be conducted by means of audio, audio/visual or audio electronic communication facilities provided:
  - (a) The Presiding Member does not participate electronically; and
  - (b) No more than 2 members participate under Section 9 (1) at any one meeting; and
  - (c) Members participate electronically maximum twice annually; and
  - (d) In the case of an interruption in the communication link to the member(s) participating electronically, Council will recess to a maximum of 15 minutes until it is determine whether or not the link can be reestablished. If communications are not reestablished, the meeting will resume without the electronic participant(s) as long as there is quorum present.

### **Annual Meeting**

10. The Corporate Officer must give notice of the Council meeting or other public meeting in respect of which Council has resolved to consider:

- (1) The annual report prepared under section 98 of the *Community Charter*, and
- (2) Submissions and questions from the public;
- (3) By giving notice by:

- (a) Posting notice of the date, time and place of the annual meeting in the public notice posting places; and
- (b) Publishing notice of the date, time and place of the annual meeting in accordance with section 94 of the *Community Charter*.

### **PART 3 - DESIGNATION OF MEMBER TO ACT IN PLACE OF MAYOR**

s. 130

- 11. (1) Annually, in December, Council must from amongst its members designate Councillors to serve on a rotating basis as the member responsible for acting in the place of the Mayor when the Mayor is absent or otherwise unable to act or when the office of the Mayor is vacant.
- (2) Each Councillor designated under section 11(1) must fulfill the responsibilities of the Mayor in his or her absence.
- (3) If both the Mayor and the member designated under section 11(1) are absent from the Council meeting, the Council members present must choose a Councillor to preside at the Council meeting.
- (4) The member designated under section 11(1) or chosen under section 11(3) has the same powers and duties as the Mayor in relation to the applicable matter.

### **PART 4 – COUNCIL PROCEEDINGS**

#### ***Community Charter Provisions***

- 12. Matters pertaining to Council proceedings are governed by the *Community Charter* including those provisions found in Division 3 of Part 4 [*Open Meetings*] and Division 2 of Part 5 [*Council Proceedings*].

#### **Application of Rules in This Part to Other Bodies**

s. 93

- 13. In addition to applying to Council meetings, this Part also applies to meetings of the following (note: other Parts of this Bylaw may also apply to these bodies as applicable):
  - (1) Committee of the Whole (COW);
  - (2) Standing committees;
  - (3) Select committees;
  - (4) An advisory body established by Council;
  - (5) A municipal commission;
  - (6) A body that under the *Community Charter* or other Act may exercise the powers of the City or Council;
  - (7) The Board of Variance;

- (8) The Parcel Tax Roll Review Panel;
- (9) A body prescribed by Provincial Regulation.

### **Attendance of Public at Meetings**

- s. 89 14. (1) Except where the provisions of section 90 of the *Community Charter [meetings that may or must be closed to the public]* apply, all Council meetings must be open to the public.
- s. 92 (2) Before closing a Council meeting or part of a Council meeting to the public, Council must pass a resolution in a public meeting in accordance with section 92 of the *Community Charter [requirements before Council meeting is closed]*, which includes the reason for the closed meeting as described in section 90 of the *Community Charter*.
- (3) Despite section 14(1), the Mayor or the Councillor designated as the member responsible for acting in the place of the Mayor under section 9 may expel or exclude from a Council meeting a person in accordance with section 29(8).

### **Attendance at Closed Meetings**

- 15. (1) Council may allow one (1) or more City officers or employees to attend, or may choose to exclude them from attending closed meetings, as it considers appropriate.
- (2) Council may allow a person other than a City officer or employee to attend closed meetings, if Council considers it necessary and if the person already has knowledge of confidential information or is a lawyer attending to provide legal advice in relation to the matter.
- (3) The minutes of closed meetings must record the names of all persons in attendance.

### **Resolution Required Before Closed Meeting**

- 16. Before a closed meeting is held, Council must state by Resolution passed in a public meeting, the fact that the meeting or part thereof is to be closed, and the basis under the applicable sections of the *Community Charter* under which the meeting or part thereof is to be closed.

### **Bylaws and Closed Meetings**

- 17. Council must not vote on the reading or adoption of a bylaw at a closed meeting.

### **Expulsion from Closed Meetings**

- 18. (1) If the Mayor considers another person at the meeting is acting inappropriately, the Mayor may order that the person is expelled from the meeting.

- (2) If the person expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a Court Order.

**Minutes of meetings to be maintained and available to public**

s.124(2)(c)

- 19. (1) Minutes of the proceedings of Council must be:
  - (a) legibly recorded;
  - (b) certified as correct by the Corporate Officer; and
  - (c) signed by the Mayor or other member presiding at the meeting.
- (2) City staff are authorized to amend the wording of Council’s motions provided the intent of the motion is not altered.
- (3) The minutes of previous meeting and reports of committees may, by resolution of Council, be received into the record.
- (4) Subject to subsection 19(4), and in accordance with section 97(1)(b) of the *Community Charter [other records to which public access must be provided]* minutes of the proceedings of Council must be open for public inspection at City Hall during its regular office hours.

s.97(1)(b)  
s.97(2)

s.97(1)(b)

- (5) Subsection 19(5) does not apply to minutes of a Council meeting or that part of a Council meeting from which persons were excluded under section 90 of the *Community Charter [meetings that may be closed to the public]*.

**Calling meeting to order**

s.124(1)  
s.124(2)(a)

- 20. (1) As soon after the time specified for a Council meeting as there is a quorum present, the Mayor, if present, must take the Chair and call the Council meeting to order, however, where the Mayor is absent, the Councillor designated as the member responsible for acting in the place of the Mayor in accordance with section 11 must take the Chair and call such meeting to order.
- (2) If a quorum of Council is present but the Mayor or the Councillor designated as the member responsible for acting in the place of the Mayor under section 11 are not present at the time at which the meeting is scheduled to begin:
  - (a) the Corporate Officer must call to order the members present, and
  - (b) by resolution the Council members present must choose a member to preside at the meeting.
  - (c) Upon arrival the Mayor or Councillor designated as the member responsible for acting in the place of Mayor will take the chair and preside.

**Adjourning meeting where no quorum**

- 21. If there is no quorum of Council present within 30 minutes of the scheduled time for a Council meeting, the Corporate Officer must:

- (1) record the names of the members present, and those absent; and
- (2) adjourn the meeting until the next scheduled meeting.

### **Agenda**

22. (1) Prior to each Council meeting, the Corporate Officer must prepare an Agenda setting out all the items for consideration at that meeting, noting in short form a summary for each item on the agenda.
- (2) When preparing the agenda prior to the meeting, the Mayor, Chief Administrative Officer or Corporate Officer may in their discretion:
  - (a) vary the order set out in section 23;
  - (b) delete agenda headings if there is not business under those items.
- (3) The deadline for complete submissions to the Corporate Officer of items for inclusion on the Council meeting Agenda must be 12:00 noon on the Monday prior to the meeting.
- (4) The Corporate Officer must make the agenda available to the members of Council and the public on the Friday prior to the meeting.
- (5) Council must not consider any matters not listed on the Agenda unless a new matter for consideration is properly introduced as a late item pursuant to section 24.

### **Order of proceedings and business**

23. (1) The agenda for all regular Council meetings contains the following matters in the order in which they are listed below, however, where appropriate for timing or other reasons, the Corporate Officer may determine an alternative order or variation in the agenda:
  - (a) Call to Order;
  - (b) Introduction of late items;
  - (c) Approval of agenda;
  - (d) Recess to Committee of the Whole
    - To hear all delegations and applicable staff presentations
  - (e) Reconvene Regular Meeting;
  - (f) Adoption of Council minutes;
  - (g) Consent Agenda<sup>1</sup>
    1. Committee and Board Minutes and Reports
    2. Staff Reports for information purposes (No action required)

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<sup>1</sup> Consent Agenda: Council may approve the Consent Agenda through resolution. Once moved and seconded, any member may request that any item be removed from the consent agenda and discussed and decided separately, the balance of the items would be voted on together for approval. Each item removed from the Consent Agenda will be debated and voted on by Council separately.

3. Correspondence (No action required)

4. Release of Closed Meeting items;

- (h) Committee and Board Recommendations;
- (i) Correspondence, Council decision requested;
- (j) Staff Reports;
- (k) Public Question Period;
- (l) Recess to Closed Meeting as required;
- (m) Public and statutory hearings 6:00 p.m.;
- (n) Reconvene Regular Meeting;
- (o) Readings or adoption of bylaws where applicable where required, and approval of permits;
- (p) Land Matters;
- (q) Notice of Motion;
- (r) Business Arising;
- (s) Council Round Table & Public Question Period;
- (t) Adjournment.

- (2) Particular business at a Council meeting must in all cases be taken up in the order in which it is listed on the agenda unless otherwise resolved by Council.
- (3) Public Question Period: At the end of Council business, the public will be afforded an opportunity to address Council. The format must be restricted to questions with respect to items that are on the current agenda and each question must be limited to two (2) minutes, with a total of 15 minutes per Public Question Period. Public Question Period may be extended with approval of Council through an affirmative vote.

**Late Items**

- 24. (1) An item of business not included on the Agenda must not be considered at a Council meeting unless introduction of the late item is approved by Council at the time allocated on the Agenda for such matters.
- (2) If the Council makes a resolution under section 24(1), information pertaining to late items must be distributed to the members.
- (3) The member must, when making the request, inform the Council of the general nature of the business and the reason for urgent consideration.

**Voting at meetings**

- 25. (1) The following procedures apply to voting at Council meetings:
  - (a) when debate on a matter is closed the presiding member must put the matter to a vote of Council members;
  - (b) when the Council is ready to vote, the presiding member must put the matter to a vote by stating something similar to:

"Those in favour raise your hands." and then "Those opposed raise your hands."

- (c) when the presiding member is putting the matter to a vote under paragraphs (a) and (b) a member must not:
  - (i) cross or leave the room, unless excused as a result of not being entitled to vote under the *Community Charter* or if excused by Council;
  - (ii) make a noise or other disturbance; or
  - (iii) interrupt the voting procedure under paragraph (b) unless the interrupting member is raising a point of order;
- (d) if requested by a member, Council must vote separately on each distinct part of a motion that is under consideration;
- (e) after the presiding member finally puts the question to a vote under paragraph (b), a member must not speak to the question or make a motion concerning it, except to defer the motion (there is no debate or discussion on a deferral) or to refer the item back to staff which will supersede the main motion and must be voted on first;
- (f) the presiding member's decision about whether a question has been finally put is conclusive; and
- (g) whenever a vote of Council on a matter is taken, each member present shall signify their vote by raising their hand, failure for a member to raise their hand in favour or opposed, abstaining from voting, is considered to be a vote in favour (affirmative); and
- (h) the presiding member must declare the result of the voting by stating that the question is decided in either the affirmative or the negative and the result will be recorded in the Minutes as "CARRIED UNANIMOUSLY", "CARRIED" or "DEFEATED" as circumstances dictate;
- (i) the names of those who vote negative, against a question, shall be entered into the Minutes.

## **Delegations**

- 26. (1) Delegations or persons wishing to appear before Council to present briefs or submissions may be received by Council at the meeting (typically COW) provided that written notice on a prescribed form including the subject matter is delivered to the Corporate Officer seven (7) days in advance of the preparation of the agenda for that particular meeting, and the Mayor shall have the authority to determine if the said subject matter warrants the delegation to come before Council at that particular meeting and may determine at which meeting of Council such delegation may appear and be heard.

- (2) Each address must be limited to five (5) minutes. Groups defined as a community partner (e.g. other government agencies) delegations must be limited to ten (10) minutes no more than twice per year.
- (3) The Council may waive strict compliance of the time limit by unanimous vote of those members present.
- (4) To be considered each submission must include:
  - (a) The name and address of the person(s) that will address Council;
  - (b) A description of the matter to be presented;
  - (c) The request being made and the reason(s) for making the request;
  - (d) Summary of current and proposed legislation and policy relevant to the request; and
  - (e) A copy of all materials that will be discussed.
- (5) A maximum of four (4) delegations will be scheduled per COW meeting.
- (6) A maximum of two (2) delegations will be heard on any given issue; up to one (1) in favour and up to one (1) opposed in any calendar year.
- (7) Council must not permit a delegation to address a meeting of the Council regarding a bylaw in respect of which a public hearing has been held, where the public hearing is required under an enactment as a pre-requisite to the adoption of the bylaw.
- (8) A delegation must be not be permitted if the purpose is to address an issue which is before the courts or on which Council has authorized legal action.
- (9) The Corporate Officer may schedule delegations to another Council meeting or advisory body as deemed appropriate according to the subject matter of the delegation.
- (10) The Mayor or Corporate Officer may refuse to place a delegation on the agenda if the issue is not considered to fall within the jurisdiction of Council. If the delegation wishes to appeal the Corporate Officer's decision, the information must be distributed under separate cover to Council for their consideration.
- (11) In the event that the Mayor has refused permission for a delegation or person to appear and be heard by Council at any meeting thereof, Council may, if the subject matter of the brief or submission to be presented by such delegation or person is germane to the business then before Council, by affirmative vote permit such delegation or person to appear before it and be heard.

## **Petitions**

27. Petition requests must include:
  - (1) The name and address of the petition presenter;
  - (2) The complete petition;

- (3) The name and address and signature of each person who has signed the petition;
  - (a) Petitions form part of the public record and the names and addresses of the petitioners are considered germane to the topic and will be published on the city website as part of the agenda package;
  - (b) Organizers of petitions must inform those who sign a petition that their names and addresses may become public.

### Points of order

s. 132

28. (1) Without limiting the presiding member's duty under section 132(1) of the *Community Charter [authority of presiding member]*, the presiding member must apply the correct procedure to a motion
  - (a) if the motion is contrary to the rules of procedure in this bylaw, and
  - (b) whether or not another Council member has raised a point of order in connection with the motion.
- (2) When the presiding member is required to decide a point of order
  - (a) the presiding member must cite the applicable rule or authority if requested by another Council member,
  - (b) another member must not question or comment on the rule or authority cited by the presiding member under subsection (2)(a), and
  - (c) the presiding member may reserve the decision until the next Council meeting.

### Conduct and debate

29. (1) The Chair shall at all times conduct the manner and order of speaking to ensure that each member is allowed equal opportunity to speak.
- (2) A Council member may speak to a question or motion at a Council meeting only if that member first addresses the presiding member.
- (3) Members must address the presiding member by that person's title of Mayor, Acting Mayor, or Chair.
- (4) Members must address other non-presiding members by the title Councillor.
- (5) It shall be in order for officers and employees of the City, upon receiving permission from the presiding member to do so, to comment on matters before Council, and in so doing they shall direct their comments to the presiding member and shall confine themselves to the question before Council.
- (6) No member must interrupt a member who is speaking except to raise a point of order.

- (7) If more than one member speaks the presiding member must call on the member who, in the presiding member's opinion, first spoke.
- (8) Members who are called to order by the presiding member
  - (a) must immediately stop speaking,
  - (b) may explain their position on the point of order, and
  - (c) may appeal to Council for its decision on the point of order in accordance with section 132 of the *Community Charter [authority of presiding member]*.
- (9) Members speaking at a Council meeting
  - (a) must use respectful language,
  - (b) must not use offensive gestures or signs,
  - (c) must speak only in connection with the matter being debated,
  - (d) may speak about a vote of Council only for the purpose of making a motion that the vote be rescinded or reconsidered, and
  - (e) must adhere to the rules of procedure established under this Bylaw and to the decisions of the presiding member and Council in connection with the rules and points of order.
- (10) If a member does not adhere to subsections (8) and (9), the presiding member may order the member to leave the member's seat, and
  - (a) if the member refuses to leave, the presiding member may cause the member to be removed by a peace officer from the member's seat , and
  - (b) if the member apologizes to the Council, Council may, by resolution, allow the member to retake the member's seat.
- (11) A member may require the question being debated at a Council meeting to be read at any time during the debate if that does not interrupt another member who is speaking.
- (12) The following rules apply to limit speech on matters being considered at a Council meeting:
  - (a) a member may speak more than once in connection with the same question only
    - (i) with the permission of Council, or
    - (ii) if the member is explaining a material part of a previous speech without introducing a new matter;
  - (b) a member who has made a substantive motion to the Council may reply to the debate;

s. 132

s. 133(1)

s. 133(2)

- (c) a member who has moved an amendment, the previous question, or an instruction to a committee may not reply to the debate;
- (d) a member may speak to a question, or may speak in reply, for longer than a total time of 15 minutes only with the permission of Council.

### **Motions generally**

30. (1) Council may debate and vote on a motion only if it is first made by one Council member and then seconded by another.
- (2) A motion that deals with a matter that is not on the agenda of the Council meeting at which the motion is introduced may be introduced with Council's approval through the notice of motion process per subsection (6) and (7) below.
- (3) A Council member may make only the following motions, when the Council is considering a question:
- (a) to refer to committee;
  - (b) to amend;
  - (c) to lay on the table;
  - (d) to postpone indefinitely;
  - (e) to postpone to a certain time;
  - (f) to move the previous question;
  - (g) to adjourn.
- (4) A motion made under subsections (3)(c) to (g) is not amendable or debatable.
- (5) Council must vote separately on each distinct part of a question that is under consideration at a Council meeting if requested by a Council member.
- (6) Notice of Motion Process: Members may give notice of motion respecting an item which the Councillor intends to present by giving a copy of such motion to the Corporate Officer during a meeting of Council and upon the member being acknowledged by the Chair and the Notice of motion being read. Alternatively, the member may submit the notice of motion ahead of time to the Corporate Officer who will circulate to the rest of Council if time permits prior to the meeting.

A copy of the motion may be distributed to each member of Council and shall appear in the minutes of meeting referred to in Section 30 (6) above as a notice of motion. The Corporate Officer shall place the motion and any supporting materials, which the member presenting the motion should provide, on the agenda of the next Council meeting or other future meeting designated by the member bringing forward the notice of motion for consideration.

### **Motion to commit**

31. Until it is decided, a motion made at a Council meeting to refer to committee precludes an amendment of the main question.

### **Motion for the main question**

32. (1) In this section, "main question", in relation to a matter, means the motion that first brings the matter before the Council.
- (2) At a Council meeting, the following rules apply to a motion for the main question, or for the main question as amended:
  - (a) if a member of Council moves to put the main question, or the main question as amended, to a vote, that motion must be dealt with before any other amendments are made to the motion on the main question; and
  - (b) if the motion for the main question, or for the main question as amended, is decided in the negative, the Council may again debate the question, or proceed to other business.

### **Amendments generally**

33. (1) A Council member may, without notice, move to amend a motion that is being considered at a Council meeting.
- (2) An amendment may propose removing, substituting for, or adding to the words of an original motion.
- (3) A proposed amendment must be reproduced in writing by the mover if requested by the presiding member.
- (4) A proposed amendment must be decided or withdrawn before the motion being considered is put to a vote unless there is a call for the main question.
- (5) An amendment may be amended once only.
- (6) An amendment that has been defeated by a (negative) vote of Council cannot be proposed again.
- (7) A Council member may propose an amendment to an adopted amendment.
- (8) The presiding member must put the main question and its amendments in the following order for the vote of Council:
  - (a) a motion to amend a motion amending the main question;
  - (b) a motion to amend the main question , or an amended motion amending the main question if the vote under subparagraph (a) is positive;
  - (c) the main question.

### **Reconsideration by Council Member**

34. (1) Subject to subsection (5), a Council member who voted with the majority either for against a motion may, at the next Council meeting,

- (a) move to reconsider a matter on which a vote, other than to postpone indefinitely, has been taken, and
  - (b) move to reconsider an adopted bylaw after an interval of at least 24 hours following its adoption.
  - (c) Council must not discuss the main matter referred to in subsection (1) unless a motion to reconsider that matter is adopted in the affirmative.
- (2) A vote to reconsider must not be reconsidered.
- (3) Council may only reconsider a matter that has not
- (a) had the approval or assent of the electors and been adopted,
  - (b) been reconsidered under subsection (1) or section 131 of the *Community Charter [mayor may require Council reconsideration of a matter]*,
  - (c) been acted on irreversibly by an officer, employee, or agent of the City.
- (4) If a motion to reconsider is defeated, the subject matter of the resolution or proceeding may not be open for consideration by the Council within six months except by way of a new and substantially different motion.
- (5) Subject to applicable enactments, the Council may by resolution, rescind the most recent reading of a proposed bylaw, other than first reading, and then give the proposed bylaw that reading with or without amendment.
- (6) The conditions that applied to the adoption of the original bylaw, resolution, or proceeding apply to its rejection under this section.
- (7) A bylaw, resolution, or proceeding that is reaffirmed under subsection (1) or section 131 of the *Community Charter [mayor may require Council reconsideration of a matter]* is as valid and has the same effect as it had before reconsideration.

### **Privilege**

35. (1) In this section, a matter of privilege refers to any of the following motions:
- (a) fix the time to adjourn;
  - (b) adjourn;
  - (c) recess;
  - (d) raise a question of privilege of the Council;
  - (e) raise a question of privilege of a member of Council.
- (2) A matter of privilege must be immediately considered when it arises at a Council meeting.

- (3) For the purposes of subsection (2), a matter of privilege listed in subsection (1) has precedence over those matters listed after it.

### **Reports from committees**

36. Council may take any of the following actions in connection with a resolution it receives from COW or any committee, task force or other body appointed by Council:
  - (a) agree or disagree with the resolution, support or deny support;
  - (b) amend the resolution;
  - (c) refer the resolution back to COW or committee, etc.;
  - (d) postpone its consideration of the resolution.

### **Adjournment**

37. (1) A Council may continue a Council meeting after 11 p.m. only by unanimous affirmative vote of the Council members present.
- (2) A motion to adjourn either a Council meeting or the debate at a Council meeting is always in order if that motion has not been preceded at that meeting by the same motion.
- (3) Subsection (2) does not apply to either of the following motions:
  - (a) a motion to adjourn to a specific day;
  - (b) a motion that adds an opinion or qualification to a preceding motion to adjourn.

## **PART 5 – BYLAWS**

### **Copies of proposed bylaws to Council members**

s.124(2)(a)

38. A proposed bylaw may be introduced at a Council meeting only if a copy of it has been delivered to each Council member at least 24 hours before the Council meeting, or all Council members unanimously agree to waive this requirement.

### **Form of bylaws**

39. A bylaw introduced at a Council meeting must:
  - be printed;
  - have a distinguishing name;
  - have a distinguishing number;
  - contain an introductory statement of purpose;
  - be divided into sections if applicable.

**Bylaws to be considered separately or jointly**

- 40. Council must consider a proposed bylaw at a Council meeting either:  
  
separately when directed by the presiding member or requested by another Council member, or jointly with other proposed bylaws in the sequence determined by the presiding member.

**Reading and adopting bylaws**

- 41. (1) The presiding member of a Council meeting may
  - (a) have the Corporate Officer read a synopsis of each proposed bylaw or group of proposed bylaws, and then
  - (b) request a motion that the proposed bylaw or group of bylaws be read;
- (2) The readings of the bylaw may be given by stating its title and object.
- (3) A proposed bylaw may be debated and amended at any time during the first three readings unless prohibited by the *Community Charter* and, if amended, a motion at third reading shall be "to give the bylaw third reading as amended".
- (4) Subject to section 882 of the *Local Government Act [OCP adoption procedures]*, each reading of a proposed bylaw must receive the affirmative vote of a majority of the Council members present.
- (5) In accordance with section 135 of the *Community Charter [requirements for passing bylaws]*, Council may give two or three readings to a proposed bylaw at the same Council meeting.
- (6) Despite section 135(3) of the *Community Charter [requirements for passing bylaws]*, and in accordance with section 890(9) of the *Local Government Act [public hearings]*, Council may adopt a proposed official community plan or zoning bylaw at the same meeting at which the plan or bylaw passed third reading.
- (7) All bylaws which have not completed the requirements to be adopted after a 2-year period may be deemed stale dated and closed.
- (8) The Corporate Officer is hereby authorized to consolidate one or more of the bylaws of the municipality pursuant to Section 139 [*consolidation of bylaws*] of the *Community Charter*.

s.135(2)

**Bylaws must be signed**

- s.135(6) 42. After a bylaw is adopted, and signed by the Corporate Officer and the presiding member of the Council meeting at which it was adopted, the Corporate Officer must have it placed in the City's records for safekeeping and endorse upon it:
  - s.148(a) the City's corporate seal, the dates of its readings and adoption; and,
  - s.148(f) the date of Ministerial approval or approval of the electorate if applicable.

**PART 6 - RESOLUTIONS**

**Form of resolution**

- 43. A resolution introduced at a Council meeting must be printed and have a distinguishing number and once voted on in the affirmative becomes effective from the date and time passed.

**PART 7 - COMMITTEE OF THE WHOLE (COW)**

**Going into Committee of the Whole**

- 44. (1) At any time during a council meeting, Council may by resolution go into COW.
- (2) In addition to subsection (1), a meeting, other than a standing or select committee meeting, to which all members of Council are invited to consider but not to decide on matters of the City's business, is a meeting of COW.

**Notice for COW meetings**

s.124(2)(d)

- 45. (1) Subject to subsection (2) a notice of the day, hour and place of a COW meeting must be given at least 24 hours before the time of the meeting by:
  - (a) posting a copy of the notice at the Public Notice Posting Places; and
  - (b) leaving a copy of the notice for each Council member in the Council member's mailbox at City Hall or forwarding an electronic copy for each member to a City provided electronic device or email.
- (2) Subsection (1) does not apply to a COW meeting that is called, in accordance with section 45, during a Council meeting for which public notice has been given under section 6 or 7.

s.124(2)(c)  
s.145

**Minutes of COW meetings to be maintained and available to public**

s.97(1)(c)

- 46. (1) Minutes of the proceedings of COW must be
  - (a) legibly recorded,
  - (b) certified by the Corporate Officer,
  - (c) open for public inspection in accordance with section 97(1)(c) of the *Community Charter [other records to which public access must be provided]*.

**Presiding members at COW meetings and Quorum**

- 47. (1) The Mayor or Acting Mayor shall preside in COW.
- (2) The quorum of COW is the majority of Council members.

### **Points of order at meetings**

48. The presiding member must preserve order at a COW meeting and, subject to an appeal to other members present, decide points of order that may arise.

### **Conduct and debate**

49. The following rules apply to COW meetings:
- (1) a member may speak any number of times on the same question;
  - (2) a member must not speak longer than a total of five (5) minutes on any one question.

### **Voting at meetings**

50. (1) Votes at a COW meeting must be taken in accordance with section 25.
- (2) The presiding member must declare the results of voting.

### **Reports**

51. (1) COW may consider reports only if
- (a) they are printed and the members each have a copy, or
  - (b) a majority of the Council members present decide without debate that the requirements of paragraph (a) do not apply.
- (2) The COW's reports to Council must be presented by the Corporate Officer at the next regular Council Meeting unless otherwise directed by Council or in cases where additional information is required for Council to consider a motion.

## **PART 8 – COMMITTEES**

### **Appointment of Committees except Standing Committees and Other Bodies**

52. Council shall appoint all representatives on committees and all boards, commissions, or other bodies to which the City is entitled to appoint representatives except standing committees.

### **Standing Committees**

53. The Mayor must establish standing committees for matters the Mayor considers would be better dealt with by committee and must appoint persons to those committees. At least half of the members of a standing committee must be Council members. The Mayor shall be an ex officio of each standing committee.

### **Duties of Standing Committees**

s. 141

54. (1) Standing committees must consider, inquire into, report, and make recommendations to Council about all of the following matters:

- (a) matters that are related to the general subject indicated by the name of the committee;
  - (b) matters that are referred by Council;
  - (c) matters that are referred by the Mayor.
- (2) Standing committees must report and make recommendations to Council at all of the following times:
- (a) in accordance with the schedule of the committee's meetings;
  - (b) on matters that are referred by Council or assigned by the Mayor;
    - i) as required by Council or the Mayor, or
    - ii) at the next Council meeting if the Council or Mayor does not specify a time.

### **Select Committees**

55. Council may establish and appoint Select Committees to consider and enquire into any matter and to report their findings and opinions to Council. At least one member of a Select Committee must be a Council member.

s. 142

### **Duties of Select Committees**

56. (1) Select committees must consider, inquire into, report, and make recommendations to Council about the matters referred to the committee by the Council.
- (2) Select committees must report and make recommendations to Council at the next Council meeting unless Council specifies a different date and time.

### **Advisory Committees**

57. Council may establish and appoint advisory committees to consider and make recommendations on matters set out in the committee's terms of reference or matters referred by Council and to report their findings and opinions only to Council unless otherwise specifically authorized in writing by Council.

### **Schedule of committee meetings**

58. (1) At its first meeting after its establishment a standing or select committee must establish a regular schedule of meetings to be held at City Hall unless otherwise stated in the terms of reference for the committee.
- (2) The chair of a committee may call a meeting of the committee in addition to the scheduled meetings or may cancel a meeting.

### Notice of committee meetings

- s.124(2)(d) 59. (1) Subject to subsection (2), after the committee has established the regular schedule of committee meetings, including the times, dates and places of the committee meetings, notice of the schedule must be given by:
- (a) posting a copy of the schedule on the City's website; and
  - (b) providing a copy of the schedule to each member of the committee.
- (2) Where revisions are necessary to the annual schedule of committee meetings, the Corporate Officer must, as soon as possible, post a notice at the Public Notice Posting Places and/or the City's website which indicates any revisions to the date, time and place or cancellation of a committee meeting.
- (3) The chair of a committee must cause a notice of the day, time and place of a meeting called under section 59(2) to be given to all members of the committee at least 24 hours before the time of the meeting.

### Attendance at Committee meetings

60. Council members who are not members of a committee may attend the meetings of the committee.

### Minutes of committee meetings to be maintained and available to public

- s.124(2)(c)  
s.97(1)(c) 61. (1) Minutes of the proceedings of a committee must be
- (a) legibly recorded,
  - (b) certified as correct and signed by the committee secretary once approved by the committee, and
  - (c) open for public inspection in accordance with section 97(1)(c) of the *Community Charter* [other records to which public access must be provided].
- (2) Sections (a), (b) and (c) shall only apply to meetings of the following, unless this bylaw provides for other procedures for taking of minutes by one or more bodies referred to in this subsection, the body is exempted by regulation, or to the extent they are modified by regulations:
- (a) an advisory body, standing or select committee established by Council;
  - (b) a municipal commission established under section 143 of the *Community Charter*;
  - (c) a body that under the *Community Charter* or any other Act may exercise the powers of Council;
  - (d) the Board of Variance;
  - (e) a parcel tax review panel established under section 204 of the *Community Charter*; and

(f) a body prescribed by regulation.

**Quorum**

62. The quorum for a committee is a majority of all of its members unless otherwise noted in the terms of reference for that committee.

**Conduct and debate**

63. (1) The rules and procedures of Council defined in this bylaw must be observed during committee meetings, so far as is possible and unless as otherwise provided in this Bylaw.

**Voting at meetings**

64. Council members attending a meeting of a committee of which they are not a member must not vote on a question.

**PART 9 – GENERAL**

65. If any section, subsection or clause of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this bylaw.

66. This bylaw may not be amended or repealed and substituted unless Council first gives notice in accordance with section 94 of the *Community Charter [public notice]*.

**Repeal**

67. "Council Procedure Bylaw No. 2016-35" and all amendments thereto are hereby repealed upon adoption of this bylaw.

READ A FIRST time this	day of	, 2018
READ A SECOND time this	day of	, 2018
READ A THIRD time this	day of	, 2018
ADOPTED this	day of	, 2018

Notice of intention to proceed with this bylaw was published on the \_\_ day of \_\_\_\_, 2018 and the \_\_ day of \_\_\_\_, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

\_\_\_\_\_  
Andrew Jakubeit, Mayor

\_\_\_\_\_  
Dana Schmidt, Corporate Officer

**The Corporation of the City of Penticton  
Bylaw No. 2016-35**

*A bylaw of the Corporation of the City of Penticton  
to regulate the proceedings of Council and Council Meetings*

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WHEREAS pursuant to Section 124 of the *Community Charter*, Council must, by bylaw, establish general procedures to be followed by Council and committees in conducting their business;

NOW THEREFORE BE IT RESOLVED THAT Municipal Council of the City of Penticton, in open meeting assembled ENACTS AS FOLLOWS:

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**PART 1 – INTRODUCTION**

**Title**

- 1. This Bylaw may be cited for all purposes as the “Council Procedure Bylaw No. 2016-35”.

**Definitions**

- 2. In this Bylaw:

“**Chair**” means the Mayor, Acting Mayor, or presiding officer appointed under the *Community Charter* or this Bylaw, who is chairing a meeting;

“**City**” means the Corporation of the City of Penticton;

“**City Hall**” means Penticton City Hall located at 171 Main Street, Penticton, British Columbia;

“**City Web Site**” means the information resource found at the internet address [www.penticton.ca](http://www.penticton.ca);

“**COW**” means the Committee of the Whole which includes the Mayor and all Councillors;

“**Community Charter**” means *Community Charter* S.B.C. c. 26 and any amendments thereto;

“**Committee**” means a standing, select, or other committee of Council, but does not include COW;

“**Corporate Officer**” means the Corporate Officer for the City as defined in Section 148 of the *Community Charter* and the Deputy;

“**Council**” means the City Council of the City;

“**Councillor**” means a Councillor of the City;

“**Closed meeting**” means an in-camera meeting to consider subject matter that is included in section 90 of the *Community Charter*;

“**Inaugural meeting**” means the meeting at which members elected at the most recent general local election are sworn in;

“**Mayor**” means the mayor or acting mayor of the City;

“**Member**” means the Mayor or a Councillor;

**“Motion”** means a formal proposal made by a member at a meeting of Council or committee that directs an approval or a specified course of action;

**“Public Notice Posting Places”** means the notice board at City Hall, and the City Web Site unless having made reasonable efforts the Corporate Officer is unable to effect such posting to the website;

**“Question”** means the subject matter of a motion;

**“Quorum”** means:

- (1) In the case of Council, a majority of the number of members of which the Council consists under the Community Charter; and
- (2) In the case of a committee or other body, a majority of the voting members appointed;

**“Resolution”** means a formal determination made by Council or a Committee that approves or orders a specified course of action.

### **Application of Rules of Procedure**

3. (1) The provisions of this bylaw govern the proceedings of Council, COW and all committees established by Council, as applicable.
- (2) In cases not provided for under this bylaw, Roberts Rules of Order shall apply to the proceedings of Council, COW, and committees to the extent that those Rules are:
  - (a) applicable in the circumstances; and
  - (b) not inconsistent with provisions of this bylaw or the *Community Charter*.
- (3) The rules of procedure contained in this bylaw except those that are governed by statutory provisions, may be temporarily suspended, by unanimous vote of members.

## **PART 2 – COUNCIL MEETINGS**

### **Inaugural Meeting**

4. (1) Following a general local election, the first Council meeting must be held on the first Tuesday in December in the year of the election.
- (2) If a quorum of members elected at the general local election has not taken office by the date of the meeting referred to in subsection (1), the first Council meeting must be called by the Corporate Officer and held as soon as reasonably possible after a quorum has taken office.

### **Time and location of meetings**

5. (1) All Council meetings must take place within City Hall except when Council resolves by Council Resolution to hold meetings elsewhere. Except in the case of a meeting outside of City boundaries, Council may pass the resolution to hold a meeting outside of City Hall at the commencement of that meeting.

- (2) Council shall establish annually by resolution a schedule of regular meetings:
  - (a) that are held on the first and third Tuesdays of each month;
  - (b) that begin at 1:00 pm;
  - (c) that are adjourned at 11:00 pm on the day scheduled for the meeting unless Council resolves to proceed beyond that time in accordance with s. 36;
  - (d) if the day in 2(a) falls on a statutory holiday, the regular meeting will be held on the next business day.
  
- (3) Regular Council meetings may:
  - (a) be cancelled by Council; and
  - (b) be changed to a different day, time and place by the Mayor, provided the Corporate Officer is given at least 7 days written notice thereof;
  - (c) Be recessed by the Mayor for a short period with a statement of approximate time the meeting will be reconvened.
  
- (4) In the event of the death, illness, resignation or removal from office or absence from the City of the Mayor, a meeting of Council may be called by the Corporate Officer upon receipt of a requisition to the Corporate Officer, signed by at least two members of Council. Due notice of the said meeting shall be given to each Councillor in the manner required by the *Community Charter*.

### **Notice of Council Meetings**

6. (1) A schedule of the date, time and place of regular Council meetings shall be made available to the public and notice shall be given annually, on or before January 30<sup>th</sup> of the availability of the schedule in accordance with Section 94 of the *Community Charter*.
  
- (2) Where revisions are necessary to the annual schedule of regular Council meetings, the Corporate Officer must, as soon as possible, post a notice at the Public Notice Posting Places which indicates any revisions to the date, time and place or cancellation of a regular Council meeting.
  
- (3) The Corporate Officer need not give public notice of a cancelled or rescheduled meeting in respect of which Council has resolved to exclude the public.

### **Notice of Special Meetings**

7. (1) Except where notice of a special meeting is waived by unanimous vote of all members under section 127(4) of the *Community Charter*, a notice of the date, time, and place of a special Council meeting must be given at least 24 hours before the time of meeting, by:
  - (a) posting a copy of the notice at the Public Notice Posting Places; and
  - (b) leaving one copy of the notice for each member in the member's mailbox at City Hall, or
  - (c) forwarding an electronic copy for each member to a City provided electronic device.
  
- (2) The notice under subsection (1) must describe in general terms the purpose of the meeting and be signed by the Corporate Officer.

### **Cancelled, Rescheduled, or Called Regular Meetings**

8. The Council may by resolution:
  - (1) Cancel or reschedule any regular meeting;
  - (2) Change the time or location for holding the meeting; or
  - (3) Call an additional regular meeting at the time and place stipulated in the resolution.

### **Electronic Participation at Special Meetings**

9.
  - (1) Provided the conditions set out in subsection 128(2) of the *Community Charter* are met, a member of council who is unable to attend an In-Camera or a Special Council meeting may participate in the meeting by means of audio/visual or audio electronic communication devices.
  - (2) The Presiding Member must not participate electronically.
  - (3) No more than 2 members may participate under Section 9 (1) at a time.
  - (4) Members may participate electronically twice annually.
  - (5) In the case of an interruption in the communication link to the member(s) participating electronically, Council will recess to a maximum of 15 minutes until it is determined whether or not the link can be re-established. If communications are not re-established, the meeting will resume without the electronic participant(s).

### **Annual Meeting**

10. The Corporate Officer must give notice of the Council meeting or other public meeting in respect of which Council has resolved to consider:
  - (1) The annual report prepared under section 98 of the *Community Charter*, and
  - (2) Submissions and questions from the public;
  - (3) By giving notice by:
    - (a) Posting notice of the date, time and place of the annual meeting in the public notice posting places; and
    - (b) Publishing notice of the date, time and place of the annual meeting in accordance with section 94 of the *Community Charter*.

## **PART 3 - DESIGNATION OF MEMBER TO ACT IN PLACE OF MAYOR**

### **Deputy Mayor**

11.
  - (1) Annually, in December, Council must from amongst its members designate Councillors to serve on a rotating basis as the member responsible for acting in the place of the Mayor when the Mayor is absent or otherwise unable to act or when the office of the Mayor is vacant.

- (2) Each Councillor designated under section 11(1) must fulfill the responsibilities of the Mayor in his or her absence.
- (3) The member designated under section 11(1) has the same powers and duties as the Mayor.

## **PART 4 – ATTENDANCE OF PUBLIC MEETINGS**

### **Application of Rules in This Part to Other Bodies**

12. In addition to applying to Council meetings, this Part also applies to meeting of the following:
  - (1) COW;
  - (2) Standing committees;
  - (3) Select committees;
  - (4) An advisory body established by Council;
  - (5) A municipal commission established under Section 143 of the *Community Charter*;
  - (6) A body that under the *Community Charter* or other Act may exercise the powers of the City or Council;
  - (7) The Board of Variance established under Section 899 of the Local Government Act;
  - (8) The Parcel Tax Roll Review Panel established under Section 204 of the *Community Charter*;
  - (9) A body prescribed by Provincial Regulation.

### **Open Meetings**

13. Except where the provisions of section 90 of the *Community Charter* apply, all Council meetings must be open to the public.

### **In-Camera Meetings May be Held**

14. A Council meeting or part thereof may be closed to the public, and shall be called an In-Camera meeting, if the subject matter being considered relates to the matters as specified in section 90 of the *Community Charter*.

### **In-Camera Meetings Must be Held**

15. A Council meeting or part thereof must be closed to the public, and shall be called an In-Camera meeting, if the subject matter being considered relates to the matters as set out in section 90(2) of the *Community Charter*.

### **Attendance at In-Camera Meetings**

16. (1) Council may allow one (1) or more City officers or employees to attend or exclude them from attending In-Camera meetings, as it considers appropriate.
- (2) Council may allow a person other than a City officer or employee to attend In-Camera meetings, if Council considers it necessary and in the case of In-Camera meetings under section 14 of this bylaw if the person already has knowledge of confidential information or is a lawyer attending to provide legal advice in relation to the matter.
- (3) The minutes of In-Camera meetings must record the names of all persons in attendance.

### **Resolution Required Before In-Camera Meeting**

17. Before an In-Camera meeting is held, Council must state by Resolution passed in a public meeting, the fact that the meeting or part thereof is to be closed, and the basis under the applicable sections 14 or 15 under which the meeting or part thereof is to be closed.

### **Bylaws and In-Camera Meetings**

18. Council must not vote on the reading or adoption of a bylaw at an In-Camera meeting.

### **Expulsion from In-Camera Meetings**

19. (1) If the Mayor considers another person at the meeting is acting inappropriately, the Mayor may order that the person is expelled from the meeting.
- (2) If the person expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a Court Order.

## **PART 5 – COUNCIL PROCEEDINGS**

### **Calling a Meeting to Order**

20. As soon after the time specified for a Council meeting as there is a quorum present the Mayor must take the Chair and call the meeting to order.
  - (1) If a quorum is present but neither the Mayor nor Acting Mayor are present at the time at which the meeting is scheduled to begin:
    - (a) The Corporate Officer must call the meeting to order; and
    - (b) By resolution the Council must appoint a Councillor as Chair for that meeting until the Mayor or Acting mayor arrives;
    - (c) Upon arrival, the Mayor or Acting Mayor will preside.

### **No Quorum**

21. If there is no quorum of Council present within thirty (30) minutes of the scheduled time for a Council meeting, the Corporate Officer must:

- (1) record the names of the members present, and those absent; and
- (2) adjourn the meeting until the next scheduled meeting.

### **Agenda**

22. (1) Prior to each Council meeting, the Corporate Officer must prepare an agenda setting out all the items for consideration at that meeting.
- (2) When preparing the agenda prior to the meeting, the Mayor and Corporate Officer may in their discretion:
  - (a) vary the order set out in section 23;
  - (b) delete agenda headings if there is no business under those items.
- (3) The deadline for complete submissions to the Corporate Officer of items for inclusion on the Council meeting agenda must be 12:00 noon on the Monday a week prior to the Council meeting.
- (4) The Corporate Officer must make the agenda available to members of Council and the public on the Friday afternoon prior to the meeting.
- (5) If a portion of an agenda refers to items to be considered at a meeting from which the public is excluded, that portion of the agenda must not be made available to the public.
- (6) Council must not consider any matters not listed on the agenda unless a new matter for consideration is properly introduced as a late item.

### **Order of Proceedings**

23. (1) The agenda for all regular Council meetings shall include the following:
  - (a) Call to Order;
  - (b) Introduction of Late Items;
  - (c) Adoption of Agenda;
  - (d) Recess to Committee of the Whole;  
- To hear all Delegations and Staff presentations that don't require a Council decision
  - (e) Reconvene Regular Meeting;
  - (f) Adoption of Minutes;
  - (g) Committee and Board Reports;
  - (h) Correspondence;
  - (i) Staff Reports;
  - (j) Recess to In-Camera;
  - (k) Public Hearing at 6:00 p.m.;
  - (l) Reconvene Regular Meeting;
  - (m) Reconsideration of Bylaws and Permits;
  - (n) Land Matters;
  - (o) Notice of Motion;
  - (p) Business Arising from In-Camera;
  - (q) Public Question Period;
  - (r) Adjournment.

- (2) Particular business at a Council meeting must in all cases be taken up in the order in which it is listed on the agenda unless otherwise resolved by Council.

### **Late Items**

24. An item of business not included on the agenda must not be considered at a Council meeting unless introduction of the late item is approved by Council prior to adoption of the agenda.

Any member may in a meeting, without notice, request the addition of an item of business which the member deems to be urgent.

The member must, when making the request, inform the Council of the general nature of the business and the reason for urgent consideration.

### **Voting at Meetings**

25. (1) The following procedures apply to voting at Council meetings:
  - (a) when debate on a matter is closed the Mayor must put the matter to a vote of members;
  - (b) when Council is ready to vote, the Mayor must put the matter to a vote by stating: "Those in favour raise your hands." and then "Those opposed raise your hands";
  - (c) when the Mayor is putting the matter to a vote under paragraphs (a) and (b) a member must not:
    - (i) make a noise or other disturbance; or
    - (ii) interrupt the voting procedure under paragraph (b) unless the interrupting member is raising a point of order; or
    - (iii) leave a meeting once a vote on a matter has been called unless excused as a result of not being entitled to vote under the *Community Charter*.
- (2) If requested by a member, Council must vote separately on each distinct part of a motion that is under consideration.
- (3) After the Mayor puts the question to a vote under paragraph (b), a member must not speak to the question or make a motion concerning it.
- (4) The Mayor's decision about whether a question has been finally put is conclusive.
- (5) Whenever a vote of Council on a matter is taken, each member present shall signify their vote by raising their hand.
- (6) In the case of a vote on a motion, a tie vote means that the required majority was not achieved and the motion is defeated.
- (7) The presiding member must declare the result of the vote by stating that the question is decided in either the affirmative or the negative and shall be recorded in the Minutes as "CARRIED UNANIMOUSLY", "CARRIED" or "DEFEATED" as circumstances dictate.
- (8) Should a member abstain from voting upon any question, they shall be regarded as having voted in the affirmative.
- (9) The names of those who vote against the question shall be entered upon the minutes.

## **Delegations**

26. (1) Delegations or persons wishing to appear before Council to present briefs or submissions may be received by Council at the meeting provided that written notice of the subject matter is delivered to the Corporate Officer seven (7) days in advance of the preparation of the agenda for that particular meeting, and the Mayor shall have the authority to determine if the said subject matter warrants the delegation to come before Council at that particular meeting and may determine at which meeting of Council such delegation may appear and be heard.
- (2) Each address must be limited to five (5) minutes. Community Partner delegations must be limited to ten (10) minutes no more than twice per year.
- (3) The Council may waive strict compliance of the time limit by unanimous vote of those members present.
- (4) To be considered each submission must include:
- (a) The name and address of the person(s) that will address Council;
  - (b) A description of the matter to be presented;
  - (c) The request being made and the reason(s) for making the request;
  - (d) Summary of current and proposed legislation and policy relevant to the request; and
  - (e) A copy of all materials that will be discussed.
- (5) A maximum of four (4) delegations per regular meeting of Council.
- (6) A maximum of two (2) delegations will be heard on any given issue; up to one (1) in favour and up to one (1) opposed in any calendar year.
- (7) The Mayor shall refuse to schedule a delegation on an agenda if the issue is not considered to fall within the jurisdiction of the Council.
- (8) In the event that the Mayor has refused permission for a delegation or person to appear and be heard by Council at any meeting thereof, Council may, if the subject matter of the brief or submission to be presented by such delegation or person is germane to the business then before Council, by affirmative vote permit such delegation or person to appear before it and be heard.
- (9) The Mayor must not permit a delegation to address a meeting of the Council:
- (a) regarding a bylaw in respect of which a public hearing has been held, where the public hearing is required under an enactment as a pre-requisite to the adoption of the bylaw; or
  - (b) If the purpose is to address an issue which is before the courts or on which Council has authorized legal action.

## **Petitions**

27. Petition requests must include:
- (1) The name and address of the petition presenter;
  - (2) The complete petition;

- (3) The name and address of each person who has signed the petition;
  - (a) Petitions form part of the public record and the names and addresses of the petitioners are considered germane to the topic and will be published on the city website as part of the agenda package;
  - (b) Unless excused as a result of not being entitled to vote under the *Community Charter*, no member may leave a meeting once a vote on a matter has been called.
- (4) Any member present who does not indicate their objection shall be deemed to have voted in the affirmative on the question;
- (5) If the votes of the members present at the time of the vote are equal for and against a motion, the motion is defeated.

### **Points of Order**

28. (1) Without limiting the Presiding Member's duty under the *Community Charter*, the presiding member must apply the correct procedure to a motion:
  - (a) if the motion is contrary to the rules of procedure in this bylaw; and
  - (b) whether or not another member has raised a point of order in connection with the motion.
- (2) When the Presiding Member is required to decide a point of order:
  - (a) the Presiding Member must cite the applicable rule or authority if requested by another member;
  - (b) another member must not question or comment on the rule or authority cited by the Presiding Member under subsection (2)(a); and
  - (c) the Presiding Member may reserve the decision until the next Council meeting.

### **Conduct and Debate**

29. (1) The Chair shall at all times conduct the manner and order of speaking to ensure that each member is allowed equal opportunity to speak.
- (2) A member may speak to a question or motion at a meeting only if that member first addresses the presiding member.
- (3) Members must address the Presiding Member by that person's title of Mayor or Acting Mayor, or Chair.
- (4) Members must address other non-presiding members by the title Councillor.
- (5) It shall be in order for officers and employees of the City, upon receiving permission from the Presiding Member to do so, to comment on matters before Council, and in so doing they shall direct their comments to the Presiding Member and shall confine themselves to the question before Council.
- (6) No member must interrupt another member who is speaking except to raise a point of order.
- (7) If more than one member speaks the Presiding Member must call on the member who, in the Presiding Member's opinion, first spoke.

- (8) Members who are called to order by the Presiding Member:
  - (a) must immediately stop speaking;
  - (b) may explain their position on the point of order; and
  - (c) may appeal to Council for its decision on the point of order in accordance with section 132 of the *Community Charter*.
  
- (9) Members speaking at a Council meeting:
  - (a) must use respectful language;
  - (b) must not use offensive gestures or signs;
  - (c) must speak only in connection with the matter being debated;
  - (d) may speak about a vote of Council only for the purpose of making a motion that the vote be reconsidered; and
  - (e) must adhere to the rules of procedure established under this bylaw and to the decisions of the Mayor and Council in connection with the rules and points of order.
  
- (10) If a member does not adhere to subsection (8) and (9), the Presiding Member may order the member to leave the member's seat; and
  - (a) if the member refuses to leave, the Presiding Member may cause the member to be removed by a peace officer from the member's seat ; and
  - (b) if the member apologizes to the Council, Council may, by Resolution, allow the member to retake the member's seat.
  
- (11) A member may require the question being debated at a Council meeting to be read at any time during the debate if that does not interrupt another member who is speaking.
  
- (12) The following rules apply to limit speech on matters being considered at a Council meeting:
  - (a) a member may speak more than once in connection with the same question only:
    - (i) with the permission of Council; or
    - (ii) if the member is explaining a material part of a previous speech without introducing a new matter;
  
- (13) A member who has made a substantive motion to Council may reply to the debate.
  
- (14) A member who has moved an amendment, the previous question, or an instruction to a committee may not reply to the debate.
  
- (15) A member may speak to a question, or may speak in reply, for longer than a total time of five (5) minutes only with the permission of Council.

### **Motions Generally**

- 30. (1) Members may give notice of motion respecting an item which the Councillor intends to present by giving a copy of such motion to the Corporate Officer during a meeting of Council and upon the member being acknowledged by the Chair and the Notice of motion being read.
  
- (2) A copy of the motion shall be distributed to each member of Council and shall appear in the minutes of meeting referred to in Section 30 (1) as a notice of motion. The Corporate Officer shall place the motion on the agenda of the next Council meeting or other future meeting designated by the member bringing forward the notice of motion for consideration.

- (3) Council may debate and vote on a motion only if it is first made by one member and then seconded by another.
- (4) A motion that deals with a matter that is not on the agenda of the Council meeting at which the motion is introduced may be introduced with Council's approval through the notice of motion process.
- (5) A Council member may make only the following motions, when Council is considering a question:
  - (a) to refer to staff;
  - (b) to refer to a committee;
  - (c) to amend;
  - (d) to lay on the table;
  - (e) to postpone indefinitely;
  - (f) to postpone to a certain time;
  - (g) to move the previous question;
  - (h) to adjourn.
- (6) A motion made under subsections (5)(c) to (h) is not amendable or debatable.
- (7) Every motion shall be stated clearly by the mover and shall be repeated if necessary until the Corporate Officer signifies that he has the motion in writing. The mover alone may make introductory remarks and when duly moved and seconded, the question shall be open for consideration.
- (8) Only the mover with consent of the seconder may withdraw motions.
- (9) The Mayor or Corporate Officer shall read every question before Council to the meeting prior to the question being put.
- (10) Council must vote separately on each distinct part of a question that is under consideration at a Council meeting if requested by a member.
- (11) Names of mover and seconder of motions will not be recorded in the minutes.

### **Motion for the Main Question**

31. (1) In this section, "main question", in relation to a matter, means the motion that first brings the matter before the Council.
- (2) At a Council meeting, the following rules apply to a motion for the main question, or for the main question as amended:
  - (a) if a member moves to put the main question, or the main question as amended, to a vote, that motion must be dealt with before any other amendments are made to the motion on the main question; and
  - (b) if the motion for the main question, or for the main question as amended, is defeated, Council may again debate the question, or proceed to other business.
- (3) Until it is decided, a motion made at a Council meeting to refer to staff or committee precludes an amendment of the main question.

## **Amendments Generally**

32. (1) A member may, without notice, move to amend a motion that is being considered at a Council meeting.
- (2) An amendment may propose removing, substituting for, or adding to the words of an original motion.
- (3) A proposed amendment must be decided or withdrawn before the motion being considered is put to a vote unless there is a call for the main question.
- (4) An amendment may be amended once only.
- (5) An amendment that has been defeated by a vote of Council cannot be proposed again.
- (6) A member may propose an amendment to an adopted amendment.
- (7) The Mayor must put the main question and its amendments in the following order for the vote of Council:
  - (a) a motion to amend a motion amending the main question;
  - (b) a motion to amend the main question, or an amended motion amending the main question if the vote under subparagraph (a) is positive;
  - (c) the main question.

## **Reconsideration by Member**

33. (1) Subject to subsection (5), a member who voted with the majority either for or against a motion may, at the next Council meeting:
  - (a) move to reconsider a matter on which a vote, other than to postpone indefinitely, has been taken; and
  - (b) move to reconsider an adopted bylaw after an interval of at least 24 hours following its adoption.
- (2) Council must not discuss the main matter referred to in subsection (1) unless a motion to reconsider that matter is adopted in the affirmative.
- (3) A vote to reconsider must not be reconsidered.
- (4) Council may only reconsider a matter that has not:
  - (a) had the approval or assent of the electors and been adopted;
  - (b) been acted on irreversibly by an officer, employee, or agent of the City.
- (5) If a motion to reconsider is defeated, the subject matter of the resolution or proceeding may not be open for consideration by the Council within six months except by way of a new and substantially different motion.
- (6) Subject to applicable enactments, the Council may by resolution, rescind the most recent reading of a proposed bylaw, other than first reading, and then give the proposed bylaw that reading with or without amendment.

## **Privilege**

34. (1) In this section, a matter of privilege refers to any of the following motions:
- (a) fix the time to adjourn;
  - (b) adjourn;
  - (c) recess;
  - (d) raise a question of privilege of Council;
  - (e) raise a question of privilege of a member of Council.
- (2) A matter of privilege must be immediately considered when it arises at a Council meeting.
- (3) For the purposes of subsection (2), a matter of privilege listed in subsection (1) has precedence over those matters listed after it.

## **Reports from Committees**

35. Council may take any of the following actions in connection with a resolution it receives from COW or a committee:
- (a) support or deny support for the resolution;
  - (b) amend the resolution prior to support or denial;
  - (c) refer the resolution back to COW or a committee;
  - (d) postpone its consideration of the resolution.

## **Adjournment**

36. (1) A Council may continue a Council meeting after 11:00 pm only by a unanimous affirmative vote of members present.
- (2) A motion to adjourn either a Council meeting or the debate at a Council meeting is always in order if that motion has not been preceded at that meeting by the same motion.

## **Attendance of Public at Meetings**

37. (1) Except where the provisions of section 90 of the *Community Charter* apply, all Council meetings must be open to the public.
- (2) Before closing a Council meeting or part of a Council meeting to the public, Council must pass a Resolution in a public meeting in accordance with section 90 of the *Community Charter*.

## **Minutes of meetings to be maintained and available to public**

38. (1) Minutes of the proceedings of Council must be:
- (a) legibly recorded;
  - (b) certified as correct by the Corporate Officer; and
  - (c) signed by the Mayor or other member presiding at the meeting.
- (2) City staff are authorized to amend the wording of Council's motions provided intent of the motion is not altered.
- (3) The minutes of the previous meeting and reports of committees may, by Resolution of Council, be received.

- (4) Subject to subsection (3), and in accordance with section 97(1)(b) of the *Community Charter* minutes of the proceedings of Council must be open for public inspection at City Hall during regular office hours.
- (5) City staff is authorized, once the item has been dealt with in a public forum, to release any In-Camera meeting Resolution with respect thereto.
- (6) Subsection 4 does not apply to minutes of a Council meeting or that part of a Council meeting from which persons were excluded under section 90 of the *Community Charter*.

## **PART 6 – BYLAWS**

### **Form of Bylaws**

39. A bylaw introduced at a Council meeting must:
- (1) be printed;
  - (2) have a distinguishing name;
  - (3) have a distinguishing number;
  - (4) contain an introductory statement of purpose.

### **Bylaws to be considered separately or jointly**

40. Council must consider a proposed bylaw at a Council meeting either:
- (1) separately when directed by the Mayor or requested by another member; or
  - (2) jointly with other proposed bylaws in the sequence determined by the Presiding member.

### **Reading and Adopting Bylaws**

41. (1) The Presiding Member of a Council meeting may:
- (a) have the Corporate Officer read a synopsis of each proposed bylaw or group of proposed bylaws; and then
  - (b) request a motion that the proposed bylaw or group of bylaws be read.
- (2) The readings of the bylaw may be given by stating its title and object.
- (3) A proposed bylaw may be debated and amended at any time during the first three readings unless prohibited by the *Community Charter* and if amended a motion at third reading shall be “to give the bylaw third reading as amended”.
- (4) Unless otherwise specified by statute, each reading of a proposed bylaw must receive the affirmative vote of a majority of the members present.

- (5) In accordance with section 135 of the *Community Charter*, Council may give two or three readings to a proposed bylaw at the same Council meeting.
- (6) Notwithstanding section 135(3) of the *Community Charter*, and in accordance with section 890(9) of the *Local Government Act*, Council may adopt a proposed official community plan or zoning bylaw at the same meeting at which the plan or bylaw passed third reading.
- (7) All bylaws which have not completed the requirements to be adopted after a 2-year period will be deemed stale dated and closed.
- (8) The Corporate Officer is hereby authorized to consolidate one or more of the bylaws of the municipality pursuant to Section 139 of the *Community Charter*.

### **Bylaws must be signed**

42. After a bylaw is adopted, and signed by the Corporate Officer and the Mayor of the Council meeting at which it was adopted, the Corporate Officer must have it placed in the City's records for safekeeping and endorse upon it:
  - (1) the City's corporate seal;
  - (2) the dates of its readings and adoption; and
  - (3) the date of Ministerial approval or approval of the electorate if applicable.

### **Bylaw Requiring Provincial or Electoral Approvals**

43. Where a bylaw requires approval of the Lieutenant Governor in Council, a Minister, Inspector of Municipalities, or the approval or assent of the electors, approval or assent must be obtained after the bylaw has received third reading and before it is adopted.

## **PART 7 - RESOLUTIONS**

### **Form of Resolution**

44. A Council Resolution is effective from the date and time passed, must be printed and have a distinguishing number.

## **PART 8 - COMMITTEE OF THE WHOLE**

### **Going into Committee of the Whole**

45. (1) At any time during a Council meeting, Council may by Resolution go into a COW.
- (2) In addition to subsection (1), a meeting, other than a standing or select committee meeting, to which all Council members are invited to consider but not to decide on matters of the City's business, is a meeting of COW.

### **Notice for COW Meetings**

46. (1) Subject to subsection (2) a notice of the day, time and place of a COW meeting must be given at least 24 hours before the time of the meeting by:
- (a) posting a copy of the notice at the Public Notice Posting Places; and
  - (b) leaving a copy of the notice for each member in the member's mailbox at City Hall or forwarding an electronic copy for each member to a City provided electronic device.
- (2) Subsection (1) does not apply to a COW meeting that is called, in accordance with section 45 during a Council meeting for which public notice has been given under section 6 or 7.

### **Minutes of COW Meetings to be Maintained and Available to Public**

47. (1) Minutes of the proceedings of COW must be:
- (a) legibly recorded;
  - (b) certified by the Corporate Officer; and
  - (c) open for public inspection in accordance with section 97(1)(c) of the *Community Charter*.

### **Presiding Members at COW Meetings and Quorum**

48. (1) The Mayor shall preside as the Presiding Member in a COW meeting.
- (2) The quorum of COW is four members.

### **Points of Order at Meetings**

49. The Presiding Member must preserve order at a COW meeting and, subject to an appeal to other members present, decide points of order that may arise.

### **Conduct and Debate**

50. The following rules apply to COW meetings:
- (1) a member may speak any number of times on the same question;
  - (2) a member must not speak longer than a total of five (5) minutes on any one question.

### **Voting at Meetings**

51. (1) Votes at a COW meeting must be taken in accordance with Section 25.
- (2) The Presiding Member must declare the results of voting.

### **Reports**

52. (1) COW may consider reports and bylaws only if:
- (a) they are printed and the members each have a copy, or
  - (b) a majority of the members present decide without debate that the requirements of paragraph (a) do not apply.

- (2) The COW's reports and recommendations to Council must be presented by the Corporate Officer at the next regular Council meeting.

## **PART 9 – COMMITTEES**

### **Appointment of Committees except Standing Committees and Other Bodies**

53. Council shall appoint all representatives on committees and all boards, commissions, or other bodies to which the City is entitled to appoint representatives except standing committees.

### **Standing Committees**

54. The Mayor must establish standing committees for matters the Mayor considers would be better dealt with by committee and must appoint persons to those committees. At least half of the members of a standing committee must be Council members. The Mayor shall be an ex officio of each standing committee.

### **Duties of Standing Committees**

55. (1) Standing committees must consider, inquire into, report, and make recommendations to Council about all of the following matters:
  - (a) matters that are related to the general subject indicated by the name of the committee;
  - (b) matters that are referred by Council;
  - (c) matters that are referred by the Mayor.
- (2) Standing committees must report and make recommendations to Council at all of the following times:
  - (a) in accordance with the schedule of the committee's meetings;
  - (b) on matters that are referred by Council or assigned by the Mayor;
    - (i) as required by Council or the Mayor, or
    - (ii) at the next Council meeting if the Council or Mayor does not specify a time.

### **Select Committees**

56. Council may establish and appoint Select Committees to consider and enquire into any matter and to report their findings and opinions to Council. At least one member of a Select Committee must be a Council member.

### **Duties of Select Committees**

57. (1) Select Committees must consider, inquire into, report, and make recommendations to Council about the matters referred to the committee by the Council.
- (2) Select Committees must report and make recommendations to Council at the next Council meeting unless Council specifies a different date and time.

### **Advisory Committees**

58. Council may establish and appoint advisory committees to consider and make recommendations on matters set out in the committee's terms of reference or matters referred by Council to report their findings and opinions only to Council unless otherwise specifically authorized in writing by Council.

### **Schedule of Committee Meetings**

59. (1) At its first meeting after its establishment a standing or select committee must establish a regular schedule of meetings to be held at City Hall.
- (2) The chair of a committee may call a meeting of the committee in addition to the scheduled meetings or may cancel a meeting.

### **Notice of Committee Meetings**

60. (1) Subject to subsection (2), after the committee has established the regular schedule of committee meetings, including the times and dates of the committee meetings, notice of the schedule must be given by:
- (a) posting a copy of the schedule on the City's website; and
  - (b) providing a copy of the schedule to each member of the committee.
- (2) Where revisions are necessary to the annual schedule of committee meetings, the Corporate Officer must, as soon as possible, post a notice at the Public Notice Posting Places which indicates any revisions to the date, time and place or cancellation of a committee meeting.
- (3) The chair of a committee must cause a notice of the date and time of a meeting called under section 59 (2) to be given to all members of the committee at least 24 hours before the time of the meeting.

### **Attendance at Committee meetings**

61. Council members who are not members of a committee may attend the meetings of the committee.

### **Minutes of committee meetings to be maintained and available to public**

62. (1) Minutes of the proceedings of a committee must be:
- (a) legibly recorded,
  - (b) signed by the committee secretary in attendance once approved by the committee;
  - (c) open for public inspection in accordance with section 97(1)(c) of the *Community Charter*.
- (2) Sections (a), (b) and (c) shall only apply to meetings of the following, unless this bylaw provides for other procedures for taking of minutes by one or more bodies referred to in this subsection, the body is exempted by regulation, or to the extent they are modified by regulations:
- (a) an advisory body established by Council;
  - (b) a municipal commission established under section 143 of the *Community Charter*;
  - (c) a body that under the *Community Charter* or any other Act may exercise the powers of Council;
  - (d) the Board of Variance;

- (e) a parcel tax review panel established under section 204 of the *Community Charter*; and
- (f) a body prescribed by regulation.

### **Quorum**

63. Save and except for advisory committees the quorum for a committee is a majority of all of its appointed members.

### **Council Rules and Procedures to Apply**

64. For certainty, the rules and procedures of Council for this bylaw shall be observed in the COW and committees as far as may be applicable.

### **Conduct and Debate**

65. (1) The rules of the Council procedure must be observed during committee meetings, so far as is possible and unless as otherwise provided in this bylaw.
- (2) Council members attending a meeting of a committee, of which they are not a member, may participate in the discussion only with the permission of a majority of the committee members present.

### **Voting at Meetings**

66. Council members attending a meeting of a committee of which they are not a member must not vote on a question.

## **PART 10 - COMMISSIONS**

### **Schedule of Commission Meetings**

67. (1) At its first meeting after its establishment, a commission must establish a regular schedule of meetings.
- (2) The Chair of a Commission may call a meeting of the Commission in addition to the scheduled meetings or may cancel a meeting.

### **Notice of Commission Meetings**

68. (1) Subject to subsection (2), after the Commission has established the regular schedule of Commission meetings, including the dates and times of the Commission meetings, notice of the schedule must be given by:
- (a) posting a copy of the schedule on the city website; and
  - (b) providing a copy of the schedule to each member of the Commission.
- (2) Where revisions are necessary to the annual schedule of the Commission meetings, the Corporate Officer must, as soon as possible, post notice at the Public Notice Posting Places which indicates any revisions to the date and time for cancellation of a Commission meeting.

- (3) The Chair of a Commission must cause a notice of the date and time of a meeting called under section 68 (2) to be given to all members of the Commission at least 24 hours before the time of the meeting.

### **Minutes of Commission Meetings to be Maintained and Available to the Public**

69. Minutes of the proceedings of a Commission must be:
  - (1) legibly recorded;
  - (2) signed by the Chair or a member presiding at the meeting, and open for public inspection in accordance with section 97(1)(c) of the *Community Charter*.

### **Quorum**

70. The quorum of a Commission is a majority of all of its appointed members.

### **Conduct and Debate**

71. The rules of the Council procedure must be observed during Commission meetings, so far as is possible and unless as otherwise provided in this bylaw.

## **PART 11 – GENERAL**

### **Correspondence**

72. All correspondence addressed to “The Mayor and Council”, “City Council” or similar shall be forwarded to the Corporate Officer and all Council members and upon request of Council, be placed on the next Council meeting agenda for consideration.

### **Question Period**

73. At the end of Council business, the public will be afforded an opportunity to address Council. The format must be restricted to questions with respect to items that are on the current agenda and each question must be limited to two (2) minutes.

### **Severability**

74. If any section, subsection, clause or portion of this bylaw is for any reason held to be invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the Bylaw is deemed to have been adopted without the severed section, subsection, clause, phrase or portion.

**Repeal**

75. City of Penticton Procedure Bylaw No. 2004-23(2004) and amendments thereto is repealed upon the adoption hereof.

READ A FIRST time this	18 day of	July, 2016
READ A SECOND time this	18 day of	July, 2016
READ A THIRD time this	18 day of	July, 2016
ADOPTED this	2 day of	August, 2016

Notice of intention to proceed with this bylaw was published on the 22 day of July, 2016 and the 27 day of July, 2016 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

*Original signed by*

---

Andrew Jakubeit, Mayor

*Original signed by*

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Dana Schmidt, Corporate Officer

# Council Report

penticton.ca

**Date:** June 5, 2018 File No:  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Laurie Darcus, Director of Corporate Services

**Subject:** **Election Bylaw No. 2018-34**  
**Signage Regulations Amendment Bylaw No. 2018-31**  
**Political Signage Regulations Bylaw No. 2018-32**  
**Bylaw Notice Enforcement Amendment Bylaw No. 2018-33**

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## Staff Recommendation

THAT Council give first, second and third readings to Election Bylaw No. 2018-34;

AND THAT Council give first second and third readings to Sign Regulations Amendment Bylaw No. 2018-31;

AND THAT Council give first, second and third readings to Political Signage Regulations Bylaw No. 2018-32 and repeal the Political Signage Policy dated April 7, 2009;

AND THAT Council give first, second and third readings to Bylaw Notice Enforcement Amendment Bylaw No. 2018-33.

## Analysis

These four bylaws are a result of Council discussions that have taken place since the last general election in 2014 and are required to be adopted by July 9<sup>th</sup> to apply to the 2018 election.

### Election Bylaw

Election Bylaw No. 2018-34 includes direction received from Council in 2014 as shown in Attachment A, as well as a general overhaul of the bylaw to modernize it and update the legislation references to the 2015 *Local Government Act*. Significant changes have been made to help alleviate voter wait times including the addition of a third advance poll and a second polling station for general election day.

A small number of concerned individuals (3) have asked that Council consider funding a manual recount to confirm the vote tabulating unit results. They argue that this would dispel any concerns about the machines. One other individual has requested that voting machines not be used at all, and that we revert back to manual counting. The costs to do a manual recount are estimated to be between \$4500 - \$6500 (as this has not been done before this is only an estimate and actual costs would likely be at the higher end of that spectrum).

In speaking to Elections BC, they strongly recommended against a post- election manual count unless it is directed by judicial review. Judicial recounts are clearly defined and regulated in the *Local Government Act*. They also advised that the vote tabulating machines that the City of Penticton uses have been shown to be accurate. A manual count has not been included in this bylaw, therefore If Council would prefer a manual recount, a motion should be passed to provide that direction.

### Signage Regulations and Political Signage Regulations Bylaws

The amendment to the Signage Regulations Bylaw is strictly to remove all reference to political signage so that it can be housed in its own stand alone record. The new Political Signage Regulations Bylaw houses regulations that were previously contained in policy only and therefore much more difficult to enforce. The intent of these changes is to make expectations and regulations much clearer and enforceable.

### Bylaw Notice Enforcement

This bylaw is a simple amendment to enable enforcement for the Political Signage Regulation Bylaw. Once notice has been provided to remove signage to comply with the bylaw, if a candidate or elector organization does not remove the sign, our bylaw enforcement team will now be able to ticket.

### **Alternate recommendations**

THAT Council give first reading to Election Bylaw No. 2018-34 and refer it back to staff with direction.

THAT Council give first reading to Sign Regulations Amendment Bylaw No. 2018-31 and refer it back to staff with direction.

THAT Council give first reading to Political Signage Regulations Bylaw No. 2018-32 and refer it back to staff with direction.

THAT Council give first reading to Bylaw Notice Enforcement Amendment Bylaw No. 2018-33 and refer it back to staff with direction.

### **Attachments**

Attachment A – December 2014 Council Resolution re: Elections

Attachment B – Election Bylaw No. 2018-34

Attachment C – Sign Regulations Amendment Bylaw No. 2018-31

Attachment D– Political Signage Regulations Bylaw No. 2018-32

Attachment E – Bylaw Notice Enforcement Amendment Bylaw No. 2018-33

Respectfully submitted,  
Laurie Darcus  
Director of Corporate Services

Concurrence

Chief Administrative Officer  PW
---

**December 2014 Council Resolution re: Elections**

- 527/2014            It was MOVED and SECONDED  
                         THAT Council direct staff to amend Elections Procedures Bylaw No. 2002-39 to  
                         require ten signatures for candidate nominations.
- 528/2014            It was MOVED and SECONDED  
                         THAT Council postpone discussions of an amendment to the Elections  
                         Procedures Bylaw No. 2002-39 to include signage restrictions to a maximum  
                         two per lot or every 100 feet to February 2015.
- 529/2014            It was MOVED and SECONDED  
                         THAT Council direct staff to add a second polling station on general voting  
                         day.
- 530/2014            It was MOVED and SECONDED  
                         THAT Council direct staff to amend Elections Procedures Bylaw No. 2002-39 to  
                         add a third advance voting opportunity.

**Bylaw No. 2018-34**

*A Bylaw to establish various procedures for the conduct of elections.*

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WHEREAS under the *Local Government Act*, Council may, by bylaw, determine various procedures and requirements to be applied to the conduct of elections and assent voting;

AND WHEREAS Council wishes to establish voting procedures and requirements under that authority;

NOW THEREFORE, the Council of the City of Penticton, in open meeting assembled, enacts as follows:

**1. Title**

This Bylaw may be cited for all purposes as "Election and Assent Voting Bylaw No. 2018-34".

**2. Definitions**

2.1 In this Bylaw the following terms have the following meanings:

**Acceptable mark** means a completed mark which the **vote counting unit** is able to identify, which has been made by an elector in the space provided on the **ballot** opposite the name of any candidate or opposite either 'yes' or 'no' on any other voting question.

**Automated vote counting system** means a system that counts and records votes and processes and stores election or any voting results which comprises:

- (a) a number of **ballot scan vote counting units**;
- (b) a number of **portable ballot boxes** into which voted **ballots** are deposited where a **vote counting unit** is not functioning or being used which will therefore be counted after the close of voting on general voting day.

**Ballot** means a single ballot card designed for use in an **automated vote counting system**, which shows:

- (a) the names of all of the candidates for each of the offices to be filled; and
- (b) all of the choices on all of the bylaws or other matters on which the opinion or assent of the electors is sought.

**Ballot return override procedure** means the use, by an election official, of a device on a **vote counting unit**, which causes the unit to accept a **returned ballot**.

**Election headquarters** means the location determined by the Chief Election Officer for that purpose.

**Memory card** means a computer software cartridge which is inserted into the **vote counting unit** and into which is pre-programmed the names of all the candidates for each of the offices to be filled, and the alternatives of "yes" or "no" for each question on the **ballot**, and which records and retains information on the number of acceptable marks made for each.

**Portable ballot box** means a ballot box, for use in the election, where a **vote counting unit** is not being used at the time of voting.

**Results tape** means the printed record generated from a **vote counting unit** at the close of voting on general voting day, which shows the number of votes for each candidate for each of the offices to be filled, and the number of votes for and against each bylaw or other matters on which the opinion or assent of the electors is sought.

**Returned ballot** means a voted **ballot** which was inserted into the **vote counting unit**, but which was not accepted and which was returned to the elector with an explanation of the **ballot** marking error which caused the **ballot** not to be accepted.

**Secrecy sleeve** means an open-ended folder or envelope used to cover **ballots** to conceal the choices made by each elector.

**Vote counting unit** means the device into which voted **ballots** are inserted and which scans each **ballot** and records the number of votes for each candidate and for and against each question on which the opinion or assent of the electors is sought.

### 3. **Minimum number of nominators**

(a) As authorized under section 86 of the *Local Government Act*, the minimum number of qualified nominators required to make a nomination for office as a member of council shall be 10.

### 4. **Access to nomination endorsement documents**

(a) As authorized under section 89(7) of the *Local Government Act*, public access to nomination documents will be available for viewing on the city website until 30 days after the declaration of the election results.

(b) As authorized under section 89 and 93 of the *Local Government Act*, public access to elector organization endorsement documents will be available for viewing on the city website until 30 days after the declaration of the election results.

### 5. **Elector registration**

(a) As authorized under section 75 of the *Local Government Act*, a list of registered electors is maintained. Advance registration is available for both resident and non-resident electors.

### 6. **Advance Voting Opportunities**

#### 6.1 **Required Advance Voting**

(a) As required under section 107 of the *Local Government Act*, in addition to the required advance voting opportunity on the 10<sup>th</sup> day before general voting day, an additional advance voting opportunity will be held. As soon as practicable after the declaration of an election by voting, the chief election officer will establish the dates and locations for the advance voting opportunities. The voting hours will be from 8 a.m. to 8 p.m.

#### 6.2 **Additional Advance Voting**

(a) As authorized under section 108 of the *Local Government Act*, the Council authorizes the chief election officer to establish a date for an additional voting opportunity to be held in advance of general voting day and to designate the voting place and set the voting hours for the voting opportunity.

## **7. Special Voting Opportunities**

- (a) As authorized under section 109 of the *Local Government Act*, special voting opportunities may be provided, and the chief election officer is hereby authorized to establish the dates, locations, and voting hours within the limits set out in section 99 of the *Local Government Act*, for the special voting opportunities.
- (b) The following restrictions apply as to who may vote at the special voting opportunities:
  - (i) The persons who may vote pursuant to this special voting opportunity are electors who on the date on which a special voting opportunity is held and before the end of the voting hours for the special voting opportunity, have been admitted as patients to the hospital or residents of a nursing home and qualify as electors. Hospital, nursing home staff and visitors may vote at the special voting opportunity.
- (c) The number of candidate representatives who may be present at a special voting opportunity is limited to one.

## **8. General Voting Opportunities**

- (a) As authorized under section 105 of the *Local Government Act*, as soon as practicable after the declaration of an election by voting, the chief election officer will designate voting place(s) for general voting day. The voting place(s) on general voting day will be open from 8:00 a.m. to 8:00 p.m.

## **9. Additional General Voting Opportunities**

- (a) As authorized under section 132 of the *Local Government Act*, curbside voting may be used at the place of voting for those electors unable to enter the voting place because of physical disability or impaired mobility.

## **10. Mail Ballot Voting**

- (a) As authorized under section 110 of the *Local Government Act*, voting and elector registration may be done by mail for those electors who expect to be absent from the municipality on general voting day and at the time of all advance voting opportunities.
- (b) The following electors are permitted to vote by mail ballot and to register to vote by mail:
  - (i) those persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity;
  - (ii) persons who expect to be absent from Penticton on general voting day and at the times of all advance voting opportunities.
- (c) The following procedures for voting and elector registration must apply:
  - (i) Sufficient record will be kept by the chief election officer so that challenges of the elector's right to vote may be made in accordance with the intent of section 126 of the *Local Government Act*;

(ii) a person exercising the right to vote by mail under the provisions of section 110 may be challenged in accordance with, and on the grounds specified in section 126 of the *Local Government Act*, until 4:30 pm two days before general voting day.

(d) The time limits in relation to voting by mail ballot will be determined by the chief election officer.

(e) As provided in the *Local Government Act*, to be counted, a mail ballot must be received by the chief election officer before the close of voting on general voting day.

## 11. Order of names on ballot

(a) The names of candidates on the ballot shall be arranged in alphabetical order by their surnames and if two or more candidates have the same surname, the names of those candidates shall be arranged alphabetically in order of their first given names.

## 12. Number of scrutineers at voting places

(a) As authorized under section 120 of the *Local Government Act*, the number of scrutineers for each candidate that may attend at an election is one scrutineer for each ballot box in use.

## 13. Number of scrutineers for assent voting

(a) As authorized under section 181 of the *Local Government Act*, for assent voting, the number of scrutineers for the question and the number of scrutineers against the question that may attend at each voting place is one scrutineer.

## 14. Use of Voting Machines

14.1 Council hereby provides for the use of an **automated vote counting system** for the conduct of elections and voting on bylaws or other matters on which the opinion or assent of the electors is sought.

## 15. Automated Voting Procedures

15.1 The presiding election official for each voting place shall offer, and if requested, ensure that a demonstration of how to vote using a **vote counting unit** is provided to an elector, as soon as such elector enters the voting place and before a **ballot** is issued.

15.2 Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing **ballots**, who, upon fulfilment of the requirements of the *Local Government Act*, shall then provide a **ballot** to the elector, a **secrecy sleeve** if requested by the elector, the ballot marking instrument, and any further instructions the elector requests.

15.3 Upon receiving a **ballot** the elector shall immediately proceed to a voting compartment to vote.

15.4 The elector may vote only by making an **acceptable mark** on the **ballot**:

- (a) beside the name of each candidate of choice, up to the maximum number of candidates to be elected for each of the offices to be filled; and
- (b) beside either 'yes' or 'no' in the case of each bylaw or other matter on which the assent or opinion of the electors is sought.

- 15.5 Once the elector has finished marking the **ballot**, the elector must either place the **ballot** into the **secrecy sleeve**, if one has been requested, or turn the ballot upside down and proceed to the **vote counting unit**, and under the supervision of the election official in attendance, insert the **ballot** directly or from the **secrecy sleeve**, if applicable, into the **vote counting unit** without the **acceptable marks** on the **ballot** being exposed.
- 15.6 If, before inserting the **ballot** into the **vote counting unit**, an elector determines that a mistake has been made when marking the **ballot**, or if the **ballot** is returned by the **vote counting unit**, the elector may return to the voting compartment to correct the ballot or request a replacement **ballot** by informing the election official in attendance.
- 15.7 Upon being informed of the replacement **ballot** request, the presiding election official shall issue a replacement **ballot** to the elector and mark the **returned ballot** "spoiled" and shall retain all such spoiled **ballots** separately from all other **ballots**, and they shall not be counted.
- 15.8 If the elector declines the opportunity to obtain a replacement **ballot** and has not damaged the **ballot** to the extent that it cannot be reinserted into the **vote counting unit**, the election official shall, using the **ballot return override procedure**, reinsert the **returned ballot** into the **vote counting unit** to count any **acceptable marks** which have been made correctly.
- 15.9 Any **ballot** counted by the **vote counting unit** is valid and any acceptable marks contained on such **ballots** will be counted, subject to any determination made under a judicial recount.
- 15.10 Once the **ballot** has been inserted into the **vote counting unit** and the unit indicates that the **ballot** has been accepted, the elector must immediately leave the voting place.
- 15.11 During any period that a **vote counting unit** is not functioning, the election official supervising the unit shall insert all **ballots** delivered by the electors during this time, into a **portable ballot box**, on the understanding that if the **vote counting unit**:
  - (a) becomes operational, or
  - (b) is replaced with another **vote counting unit**,

the **ballots** in the **portable ballot box** shall, as soon as reasonably possible, be removed by an election official and, under the supervision of the presiding election official, shall be inserted into the **vote counting unit** to be counted.

- 15.12 Any **ballots** which were temporarily stored in the **portable ballot box** during a period when the **vote counting unit** was not functioning, which are returned by the **vote counting unit** when being counted shall, through the use of the **ballot return override procedure** and under the supervision of the presiding election official, be reinserted into the **vote counting unit** to ensure that any **acceptable marks** are counted.

## 16. Advance voting opportunity procedures

- 16.1 **Vote counting units** shall be used at all advance voting opportunities and voting procedures at the advance voting opportunities shall follow, as closely as possible, those described in this Bylaw.
- 16.2 At the close of voting at each advance voting opportunity, the presiding election official in each case shall ensure that:

- (a) no additional **ballots** are inserted in the **vote counting unit**;
- (b) the **portable ballot box** is secured to prevent insertion of any **ballots**;
- (c) the **results tapes** in the **vote counting unit** are not generated; and
- (d) the **memory card** of the **vote counting unit** is secured.

16.3 At the close of voting at the final advance voting opportunity, the presiding election official shall:

- (a) ensure that any remaining **ballots** in the **portable ballot box** are inserted into the **vote counting unit**;
- (b) secure the **vote counting unit** so that no more **ballots** can be inserted; and
- (c) deliver the **vote counting unit** together with the **memory card** and all other materials used in the election to the chief election officer at **election headquarters**.

## 17. Special voting opportunity procedures

17.1 Unless the chief election officer determines it is practical to use a **vote counting unit**, a **portable ballot box** as defined herein, shall be used for all special voting opportunities. The presiding election official appointed to attend at each special voting opportunity shall proceed in accordance with this Bylaw so far as applicable, except that the voted **ballots** shall be deposited into the **portable ballot box** supplied by the presiding election official.

17.2 The presiding election official at a special voting opportunity shall ensure that the **portable ballot box** is secured when not in use and at the close of voting at the final special voting opportunity, the presiding election official shall seal the **portable ballot box** and return it together with all other election materials to the custody of the chief election officer.

17.3 If a **vote counting unit** is in use at a special voting opportunity, the presiding election official appointed to attend the special voting opportunity shall follow the procedures outlined in this Bylaw as if it were an advance voting opportunity.

## 18. Procedures after close of voting on general voting day

18.1 After the close of voting on general voting day, each presiding election official shall undertake all of the following, generally in the order stipulated:

- (a) ensure that any remaining **ballots** in the **portable ballot box** are inserted into the **vote counting unit**;
- (b) secure the **vote counting unit** so that no more **ballots** can be inserted;
- (c) generate three copies of the **results tape** from the **vote counting unit**;
- (d) communicate the result to **election headquarters** immediately;
- (e) account for the unused, spoiled and voted **ballots** and place them, packaged and sealed separately, together with the **memory card** from the **vote counting unit** and one copy of the **results tape**, into the ballots and results box;
- (f) complete the ballot account and place the duplicate copy in the ballots and results box;
- (g) seal the ballots and results box;
- (h) place the voting books, list of electors, the original copy of the ballot account, one copy of the **results tape**, completed registration cards, keys and all completed forms into the election materials box; and
- (i) deliver, or have available for pick-up, the sealed ballots and results box, **vote counting unit** and the election materials box, to the chief election officer at **election headquarters**.

18.2 Except 15.11 and 15.12, all **portable ballot boxes** used in the election will be opened, under the direction of the chief election officer, at the close of voting on general voting day and all ballots shall be removed and inserted into a **vote counting unit** to be counted, after which the provision of Sections 18.1 (a) to (h), so far as applicable, shall apply.

18.3 Upon the fulfilment of the provisions of section 18, the chief election officer shall, to obtain the election results, direct an election official to place the results in a spreadsheet, which may be used for display indicating the total results.

## 19. **Judicial recount**

19.1 If a judicial recount is requested after the preliminary election results are announced, it shall be conducted under the direction of the chief election officer using the **automated vote counting system** and generally in accordance with the following procedure:

- (a) the **memory cards** of all **vote counting units** will be cleared;
- (b) a **vote counting unit** will be designated for each voting place;
- (c) all voted **ballots** will be removed from the sealed election materials boxes, except spoiled ballots, and reinserted in the appropriate **vote counting unit** under the supervision of the chief election officer;
- (d) any **ballots** returned by the **vote counting unit** during the recount process shall, through the use of the **ballot return override procedure**, be reinserted in the **vote counting unit** to ensure that any **acceptable marks** are counted; and
- (e) to obtain election results, the chief or deputy chief election officer shall place the results of each voting place on spreadsheets so as to tally the total election results.

## 20. **Resolution of tie vote after judicial recount**

- (a) In the event of a tie vote after a judicial recount, the tie vote will be resolved by conducting a lot in accordance with section 151 of the *Local Government Act*.

## 21. **General**

21.1 Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.

21.2 If any part, section, sentence, clause, phrase or word of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the Bylaw had been adopted without the invalid portion.





**Bylaw No. 2018-32**

*A Bylaw to regulate the size, appearance and location of political signage within the City of Penticton.*

---

WHEREAS under the *Local Government Act*, Council may, by bylaw, regulate political signage within the City of Penticton;

AND WHEREAS Council wishes to establish regulations under that authority;

NOW THEREFORE, the Council of the City of Penticton, in open meeting assembled, enacts as follows:

**1. Title**

This Bylaw may be cited for all purposes as "Political Signage Regulations Bylaw No. 2018-32".

**2. Definitions**

"POLITICAL SIGNAGE" Means a sign(s) that pertains to an election by the voters in the City of Penticton for City Council, School Board, Provincial and Federal Government or assent voting.

"SIGN LOCATIONS" Means the areas permitted within this Bylaw as shown in orange on Schedule A attached to and forming part of this Bylaw that have been dedicated as the only authorized areas, besides private property, where election signs may be located within the boundaries of the City of Penticton.

"GENERAL VOTING DAY" Means polling day under the *Canada Elections Act* or 'general voting day' under the *Local Government Act*, *School Act* (BC) or *Election Act* (BC), whichever is applicable.

**3. Location**

- (a) Political signage is permitted on public lands within the orange areas identified in Schedule A - Sign Locations.
- (b) Political signage is permitted on private lands, but does not include the public boulevard fronting private lands.

**4. Restrictions**

Political signage must not:

- (a) Be installed prior to the end of the nomination period for a local election or prior to a federal or provincial election being called;
- (b) Remain on public or private land for longer than 7 days after General Voting Day;
- (c) exceed a maximum of 16 square feet per permitted location identified in Schedule A – Sign Locations;
- (d) be supported by pins or anchors that penetrate deeper than 6 inches into the ground without first obtaining a utility locate from BC One Call;
- (e) be located within 1 metre of a fire hydrant;



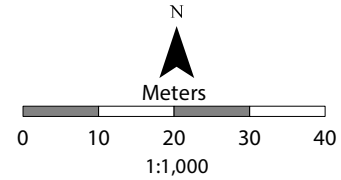


# Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 1

Vancouver Hill/Front Street Roundabout



- 150 -  
**Terms of Use :** The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.



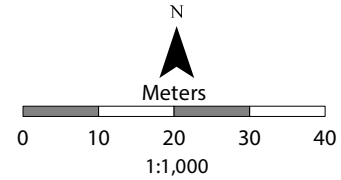


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 2

North City



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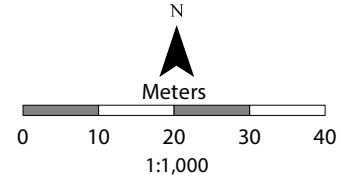


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 3

South Okanagan Events Centre Site



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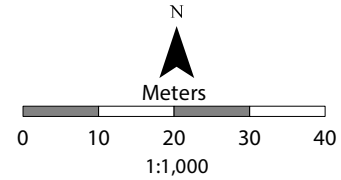


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 4

Main and Martin Street - Penticton Library and Museum



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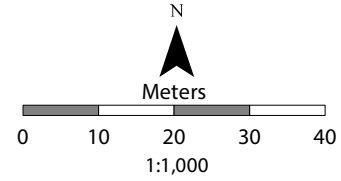


## Schedule A - Sign Locations

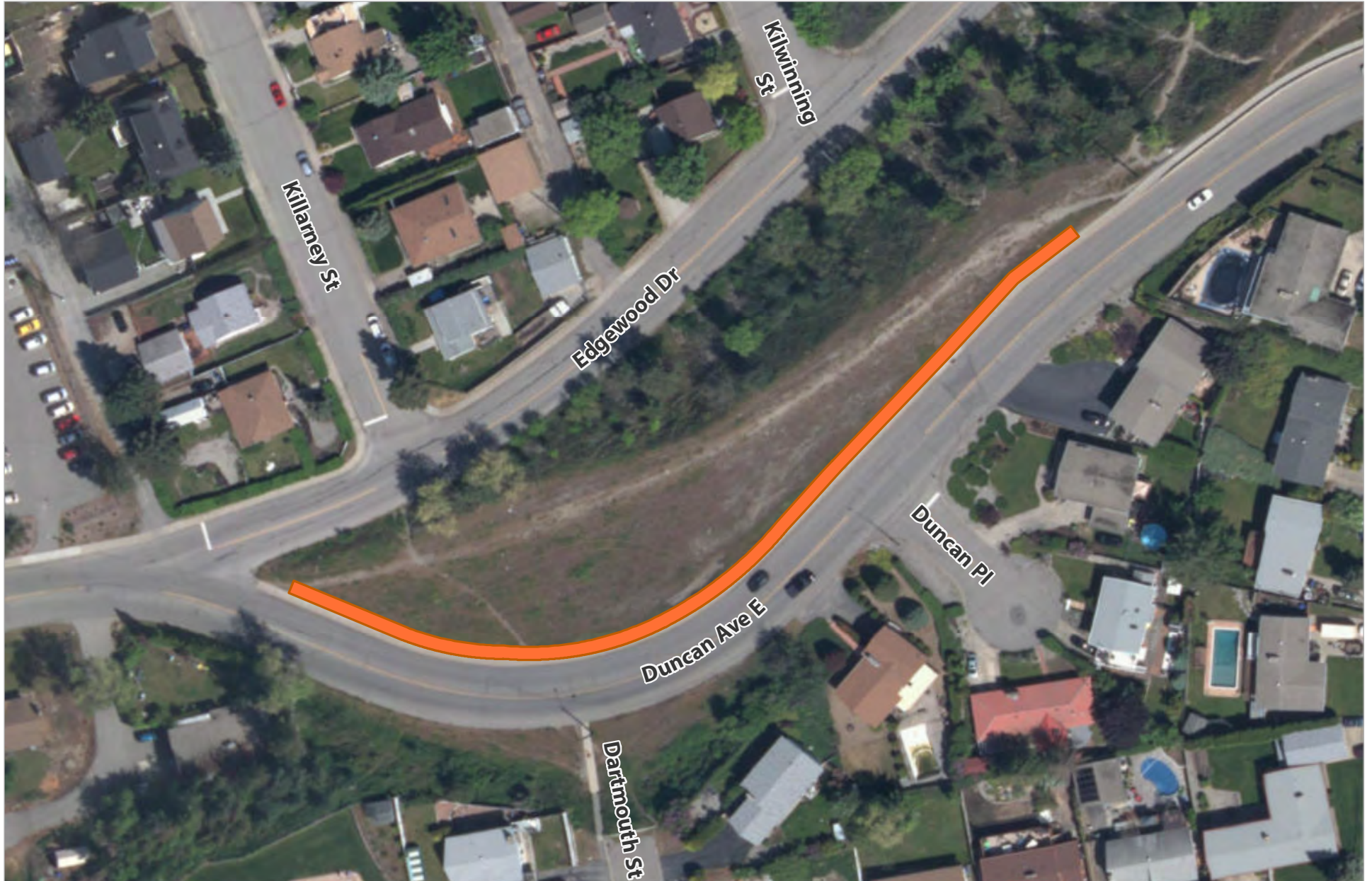
Political Signage Bylaw No. 2018-32

Appendix 5

Duncan Avenue East-Duncan Hill



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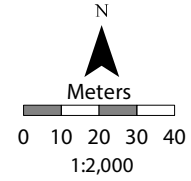


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 6

Channel Parkway



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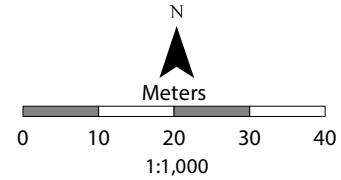


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 7

Sudbury Beach



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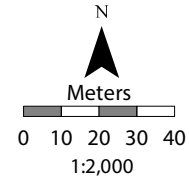


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 8

Skaha Park



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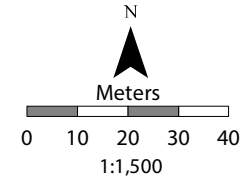


# Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 9

Riverside Park



- 158 -  
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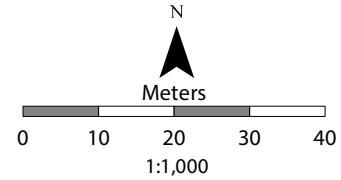


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 10

1099 Main Street



- 159 -  
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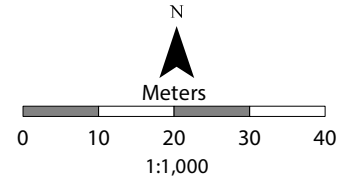


## Schedule A - Sign Locations

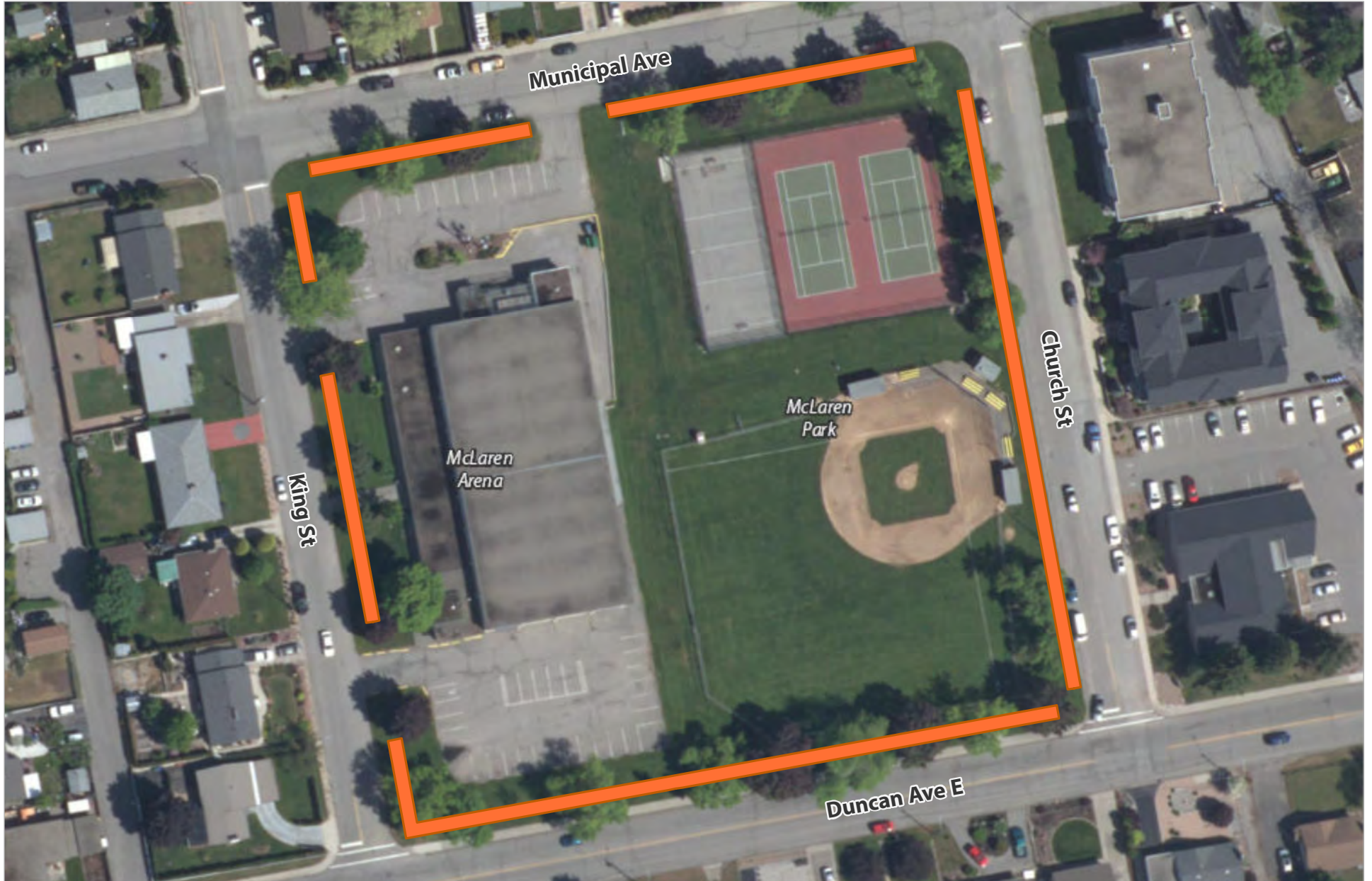
Political Signage Bylaw No. 2018-32

Appendix 11

McLaren Arena



- 160 -  
**Terms of Use :** The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.



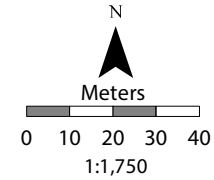


# Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 12

City Yards



**Terms of Use :** The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.



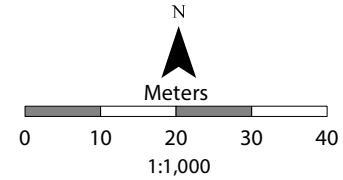


## Schedule A - Sign Locations

Political Signage Bylaw No. 2018-32

Appendix 13

Robinson Park/Penticton Senior's Centre



- 162 -  
**Terms of Use :** The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.



**The Corporation of the City of Penticton**

**Bylaw No. 2018-33**

*An amendment to regulate enforcement of bylaw notices*

---

WHEREAS pursuant to the *Local Government Bylaw Notice Enforcement Act* and the *Community Charter*, the City may establish fine amounts for contravention of City bylaws;

AND WHEREAS the City of Penticton has adopted "Bylaw Notice Enforcement Bylaw No. 2012 – 5037";

AND WHEREAS the City of Penticton wishes to amend Schedule 'A' to "Bylaw Notice Enforcement Bylaw No. 2012 - 5037";

NOW THEREFORE the Municipal Council of The Corporation of the City of Penticton in open meeting assembled ENACTS as follows:

**1. Title:**

This Bylaw may be cited as the "Bylaw Notice Enforcement Amendment Bylaw No. 2018-33."

**2. Amendment:**

2.1 Amend Schedule 'A' by updating Appendices Index and by adding:

Appendix 22 – Political Signage Regulations Bylaw No. 2018-32

2.2 Appendix 22 attached hereto forms part of this bylaw.

READ A FIRST time this                      day of    , 2018

READ A SECOND time this                      day of    , 2018

READ A THIRD time this                      day of    , 2018

ADOPTED this                                      day of    , 2018

---

Andrew Jakubeit, Mayor

---

Dana Schmidt, Corporate Officer

APPENDIX 22

**POLITICAL SIGNAGE REGULATIONS BYLAW NO. 2018-32**

<b>Description of Offence</b>	<b>Bylaw Section</b>	<b>Column A1 Fine</b>	<b>Column A2 Early Payment Penalty</b>	<b>Column A3 Late Payment Penalty</b>	<b>Column A4 Compliance Agreement Available</b>
Erect a sign prior to the end of nomination period or prior to the election being called.	4 (a)	\$100.00	\$90.00	\$110.00	No
Failure to remove a sign seven days after General Voting Day.	4 (b)	\$100.00	\$90.00	\$110.00	No
Failure to comply with the requirements of the bylaw.	5 (a)	\$100.00	\$90.00	\$110.00	No

**Bylaw No. 2018-40**

*A Bylaw to Amend Zoning Bylaw 2017-08*

---

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the *Local Government Act*;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2017-08;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2018-40".

2. **Amendment:**

2.1 Zoning Bylaw 2017-08 is hereby amended as follows:

Rezone Lot 2, District Lots 2710 and 38215 Similkameen Division Yale District Plan 20419, located at 1386 Commercial Way, from M3 (Wrecking Yard) to M1 (General Industrial).

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	22	day of	May, 2018
A PUBLIC HEARING was held this	5	day of	June, 2018
READ A SECOND time this		day of	, 2018
READ A THIRD time this		day of	, 2018
ADOPTED this		day of	, 2018

Notice of intention to proceed with this bylaw was published on the 25 day of May, 2018 and the 30 day of May, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

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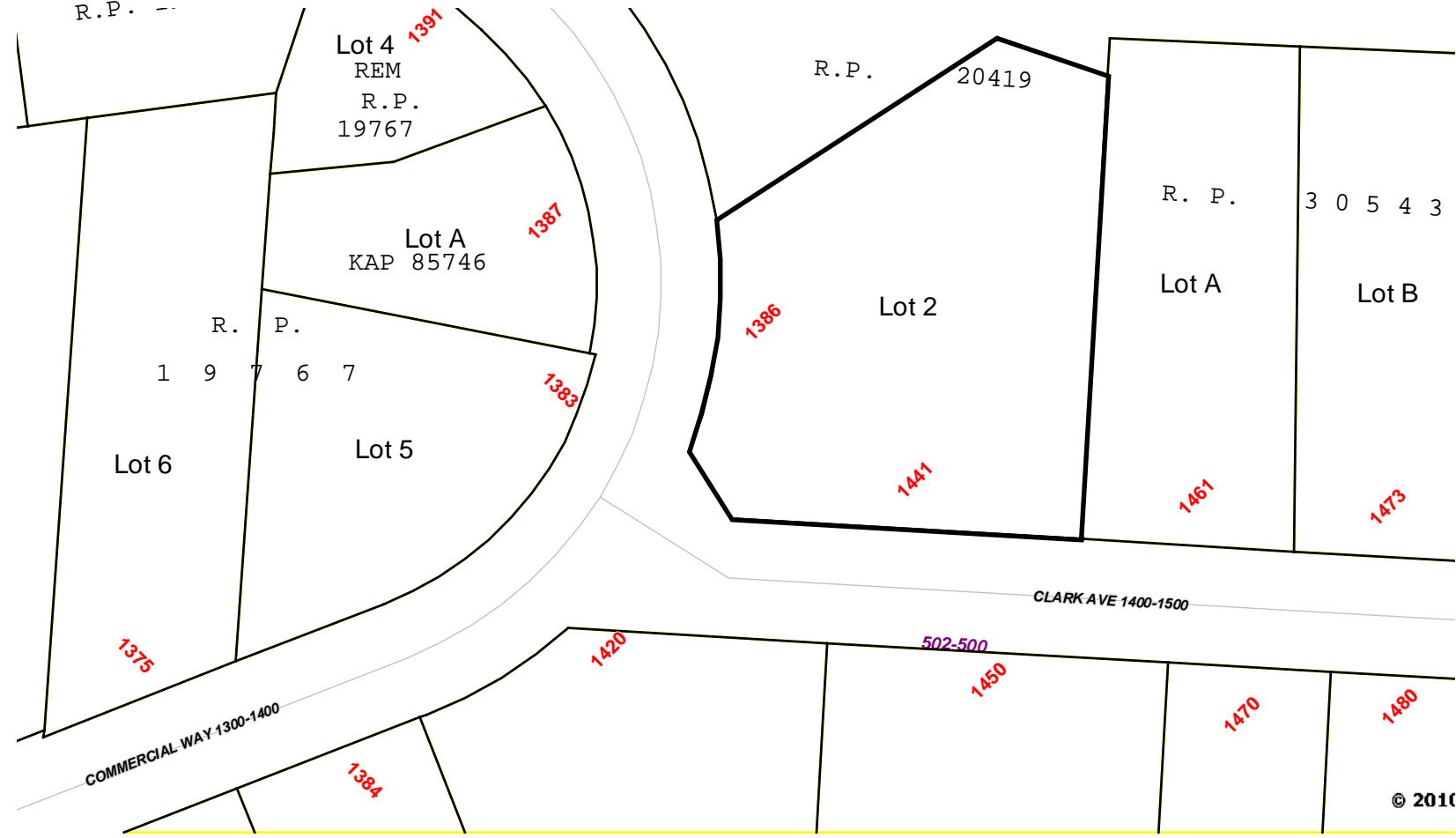
Andrew Jakubeit, Mayor

---

Dana Schmidt, Corporate Officer

# Rezone 1386 Commercial Way

Lot: From M3 (Wrecking Yard) to M1 (General Industrial)



## City of Penticton – Schedule 'A' Zoning Amendment Bylaw No. 2018-40

Date: \_\_\_\_\_

Corporate Officer: \_\_\_\_\_

# Council Report

penticton.ca

**Date:** June 5, 2018 **File No:**  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Bregje Kozak, Director – Recreation & Facilities  
**Subject:** Spectra Venue Management, SOEC Facilities Operation & Management Agreement

## Staff Recommendation

THAT Council authorize staff to finalize the extension of Spectra Venue Management's (Spectra) Facilities Operation & Management Agreement for the South Okanagan Event Centre (SOEC);

AND THAT Council direct the Mayor and Corporate Officer to execute the agreement.

## Strategic priority objective

*Fiscal Sustainability* - Ensure City Services are delivered in an economical and sustainable manner.

*Community Building* - Invest in the long term planning of indoor and outdoor parks and recreational infrastructure.

*Economic Vitality* - Invest in the development of strategic partnerships locally, regionally with First Nations, governments, industry and the business community.

## Background

The existing Facilities Operation and Management agreement between Spectra and the City of Penticton commenced on January 1, 2014 with an expiry date of June 30, 2019 and an extension option up to (5) years, through to June 30, 2024. The agreement includes terms and conditions related to the operation, management, maintenance and repair of the SOEC facilities on behalf of the City, including the South Okanagan Event Centre and Okanagan Hockey Training Facility, the Penticton Trade and Convention Centre and Memorial Arena.

On January 9, 2018, Spectra submitted their formal request for a contract extension to June 30, 2024, and an additional (5) year extension option to June 30, 2029, along with modified terms and conditions.

Subsequently, staff engaged the services of Jonathan Huggett, to act as an advisor to the City to review and analyze options, and provide a recommendation. In response to Spectra's request for renewal and in discussion with the consultant, the City considered its options as follows:

1. Renew the operating contract with Spectra,
2. Run a competition for a new operator along the lines of the 2013 RFP or;
3. Operate the facility directly using municipal staff.

Staff analyzed the options and recommended proceeding with **Option 1**, as follows:

- 1. Option 1, Renew Spectra agreement (Recommended Option)** - Spectra knows the local market and have established relationships, community connections and a proven track record in our community. The number of events at the SOEC site continues to increase year after year and a recent Economic Impact report identified a total economic spin-off of about \$34 million for the facilities operated and managed by Spectra, with a direct impact estimate of approximately \$25 million. This does not include any of Okanagan Hockey Group's (OHG) economic impact estimates, reported to be about \$19 million annually.

The current fee for service in place for the Facilities and Operation Agreement is also competitive and the business relationship model (risk/reward profile) works well for the City of Penticton. Having a long-term, reliable and known local partner is critical to continuing to expand and grow current and new revenue generating opportunities, and therefore this is the recommended option.

- 2. Option 2, Run a competitive RFP** - In March 2013, the City issued separate RFPs for Food and Beverage, Management, Ticketing and Marketing. Key responses were received from Spectra, RG Properties and SMG, plus some ticketing companies. After an extensive evaluation and procurement process, the City stayed with Spectra because they knew the market and were able to provide best value for Penticton.

Running another competitive RFP is unlikely to yield different results from those of 2013. An RFP process is time consuming and expensive for both the City and proponents and should only be used if serious consideration needs to be given to replace the current vendor. This option is not recommended.

- 3. Option 3, Operate the facility using municipal staff** - The City does not have the expertise or resources to operate the facility with municipal staff. This option is not recommended.

Based on the above information, the City commenced negotiations with Spectra for a new Facilities Operation & Management Agreement. Since the structure of the agreement remains largely unchanged, it was determined that the final negotiated agreement would take the form of the original agreement, modified by an amendment.

The proposed amendments include the following:

	Original agreement:	Proposed amendment:
Term:	January 1, 2014 to June 30, 2019 plus one (5) year renewal option to June 30, 2024.	Extend existing agreement to June 30, 2028 plus two (5) year renewal options. Term, if extended for two options, will expire on June 30, 2038.
Base Management Fee:	\$272,000 annually.	\$272,000 annually plus CPI (capped at 3%).
Performance Based Incentive:	As per Article 9. Performance based bonus/penalty fee.	Incentive to remain the same except it will be capped at \$100,000 and penalty fee has been removed.
Ticketing:	Current agreement is with Paciolan for provision of ticketing services.	Agreement to be extended under same terms and conditions, but removal of penalty clause.  Paciolan to provide \$60,000 cash contribution (amortized over 10 year period) to be used for any purpose directly related to operation of the SOEC.
Marketing Fund:	The original agreement included a marketing fund to help bring new events to the City. Since the agreement was initiated, Spectra has been establishing new events without use of the funds. As a result, Spectra is requesting that the funds be converted to capital for use at the SOEC site.	Remove marketing fund from agreement. Replace with cash contribution to be used for any purpose directly related to operation of the SOEC: <ul style="list-style-type: none"> <li>- \$150,000 currently in the marketing fund will be released to the City by July 31, 2018</li> <li>- Spectra will provide an additional \$15,000 contribution by July 31, 2018.</li> </ul> <p><i>Note: \$90,000 of the marketing fund to be amortized over a 10-year period.</i></p>

### Financial implication

The financial implications of the extension of this agreement will result in a level of funding for the SOEC Complex operation that is consistent with the 2018-22 financial plan.

The recommended agreement will also result in the addition of a further \$150,000 contribution from Spectra Venue Management towards capital contributions over the ten year term.

## Analysis

Spectra has been involved in operating the SOEC since its first year in 2008. In 2013, the City ran a competitive RFP process where Spectra returned as the successful proponent. Now entering their tenth year of operation, Spectra has been successfully improving their net operating income, number of events, food and beverage sales and total net income for the site as follows:

	Net Operating Income Complex wide (After Facility Fee to City)	Number of Events	Food and Beverage Totals (Gross - Complex Wide)
2014	- 1,114,201	192	2,061,750
2015	- 1,080,244	196	2,111,620
2016	- 1,115,457	202	2,252,250
2017	- 1,041,459	245	2,887,441

The result of Spectra’s success operating the SOEC has also resulted in significant economic impact to the City. Earlier this year, Spectra engaged a third party to provide an economic impact report for the site, which identified approximately \$25 million in direct spending related to SOEC events and activities.

A legal review has been completed on the proposed amendments and staff are ready to finalize the document pending Council direction.

Once the agreement is finalized, staff will request that Spectra prepare a preliminary business plan as soon as possible. Since the City’s control is largely driven through budget approvals, staff will work closely with Spectra to ensure the city’s interests are reflected in the business plan, with the goal of matching operating costs to revenue expectations.

The role of the SOEC Select Committee also remains unchanged. The committee’s mandate is to provide advice to Spectra and recommendations to staff and Council as required on matters referring to the SOEC as follows:

- Review potential events at the SOEC;
- Review annual audited financial statements;
- Review SOEC annual budget; and
- Bring forward any matters that will benefit the operation of the SOEC.

In summary, the City wishes to extend Spectra’s operating agreement with some minor modified terms and conditions. The terms of the contract are consistent with a typical facilities operating and management agreement, with the following key highlights:

- Spectra to be responsible for use, operation, management, maintenance and repair of the SOEC facilities.

- Reimbursement of operating costs as projected in the financial budget prepared by the operator covering staffing, maintenance and other operating costs.
- All other terms and conditions are consistent with the amendments as noted above.

**Alternate recommendations**

THAT Council direct staff to initiate a competitive RFP process for the operation and management of the SOEC.

OR

THAT Council provide alternate direction to staff.

**Attachments**

None

Respectfully submitted,



Bregje Kozak  
Director, Recreation and Facilities

Approvals

Chief Financial Officer <i>JWB</i>	Chief Administrative Officer PW
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# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Randy Houle, Planner I  
**Address:** 2753 Evergreen Drive

File No: 2018 PRJ-086

**Subject: Development Variance Permit PL2018-8216**

---

## Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8216" for Lot 24 District Lot 2710 Similkameen Division Yale District Plan EPP62484, located at 2753 Evergreen Drive, a permit to increase the maximum height of a retaining wall within a required yard from 1.2m to 4.5m;

AND THAT staff be directed to issue "Development Variance Permit PL2018-8216."

## Background

The subject property (Attachment A) is zoned R1 (Large Lot Residential) and designated by the City's Official Community Plan as LR (Low Density Residential). Photos of the site as they exist today are included as Attachment D. The property is part of the Avery Heights subdivision, approved in 2015 and currently under construction. The surrounding properties are zoned R1 (Large Lot Residential). The property is on the outside edge of the larger subdivision and is adjacent to a large single-family lot (2764 Cedar Road) that is intended for future subdivision, as shown on the Cedar Road Area Plan (Attachment E).

Prior to the redevelopment of the lands as part of the Avery Heights Subdivision, the topography of the land in this area featured a steeply sloped grade, with rock outcropping as shown in the images in Attachment D. This necessitated the need for significant regrading to create residential lots and usable driveways. Because of the challenging topography, significant retaining walls are used throughout the subdivision. Most of the retaining walls were approved through the subdivision process, however, some were to be dealt with through the building permit process, on a site by site basis, as the house designs were developed. That is the case with the subject property where the post subdivision grade did not work with the house design envisioned for the lot.

The owner of the subject property hired a consultant to design and a qualified contractor to install a large (8.5m at its highest point) retaining wall along the south property line of the property, which is shared with 2764 Cedar Road. The wall was intended to create the desired buildable lot.

A retaining wall over 1.2m in height requires a building permit prior to construction. The subject wall was constructed without issuance of a City permit or the City being aware that the wall was under construction until after it was completed.

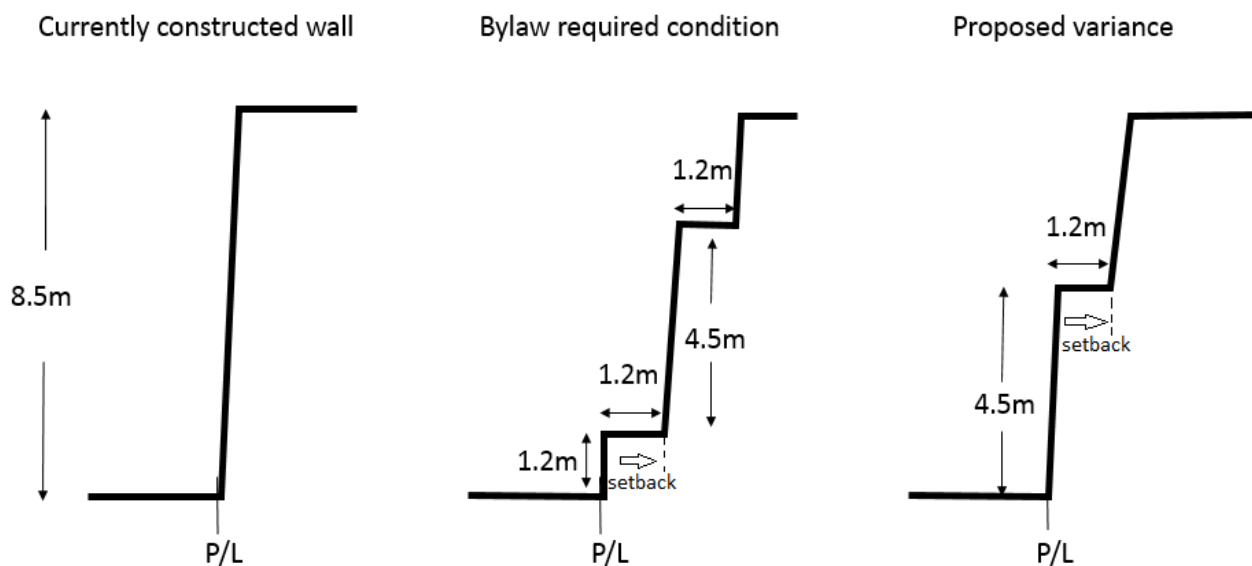
Section 5.6.2.1 of the City's Zoning Bylaw states that retaining walls that are located within any required yards must not exceed a height of 1.2m. The Zoning Bylaw also restricts the total height of a retaining wall elsewhere on the lot (outside of any required yards) to 4.5m. On December 19 2017, Council approved a variance on the subject property and the majority of lots in Avery Place, which increased the maximum allowable height of a retaining wall within a setback from 1.2m to 2.5m. Council has recently supported increases in retaining wall heights in other areas, most notably along Partridge Drive where a variance to increase a wall to 4.5m in a yard was approved.

### Proposal

The property owner is proposing to lower the height of the subject retaining wall to 4.5m at the property line, step it back 1.2m, and then continue the height of the wall. To do so, the applicant is requesting a Development Variance Permit to vary the following section of Zoning Bylaw No. 2017-08:

- Section 5.6.2.1: to increase the maximum height of a retaining wall within a required yard from 1.2m to 4.5m.

The following graphic shows the height of the wall that has been constructed compared to the bylaw requirements, in addition to the height of the variance that is being proposed.



### Financial implication

N/A

### Technical Review

This application was forwarded to the City's Technical Planning Committee (TPC) and reviewed by the Engineering and Public Works Departments. The City has received as-built drawings from the applicant's Engineering firm for the constructed wall and have no concerns with structural integrity.

## Analysis

### *Support Development Variance Permit PL2018-8216*

When considering a variance to a City bylaw, staff encourages Council to be mindful of any constraints on the property that makes following the bylaw difficult or impossible; whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

### *Section 5.6.2.1: to increase the maximum height of a retaining wall within a required yard from 1.2m to 4.5m.*

The 1.2m (4ft) maximum allowable height of a retaining wall in a setback is intended to negate the visual impacts that a retaining wall could have on neighbouring properties. Staff feel that the height of the current wall at 8.5m (28ft) is significant and approval to allow the wall to remain would have a negative impact on the neighbour to the south. In discussions with staff, the property owner has agreed to propose a variance to Council which would lower the height of the wall to 4.5m within the setback, step it back 1.2m outside of the setback, and then construct it to its ultimate height. The retaining wall is constructed of an attractive Allan Block material instead of a cast-in-place wall and this was intended to make the wall more attractive to the neighbouring property.

Furthermore, as the neighbouring property redevelops, it will likely be raised up as lots are created, further reducing the overall height of the wall and impact. As it stands now, the wall is set well back from the residential house on the property. The Cedar Road Area Plan that was created for this area in 2009 (Attachment E) identifies three single-family lots that would back onto the property where the retaining wall is located. The Cedar Road Area Plan identifies the eventual redevelopment of the adjacent parcels of land, provides guidance in terms of its future subdivision potential and identifies the land as a future growth area for the City. Construction of this development depends on the timing and needs of the property owners.

Staff consider this an acceptable compromise and keeping with the general intent of the zoning bylaw wall terracing provisions.

### *Support an amended DVP PL2018-8216 to allow the full height to remain OR Deny Development Variance Permit PL2018-8216*

Council may consider that the wall is already constructed and that there would be a significant hardship to alter the wall to step it back as envisioned in the variance request. Council may feel that even if the wall is reconstructed in accordance with the terracing provisions of the bylaw, there wouldn't be much of an improvement to the experience from the neighbouring property. If that is the case, Council may wish to support the wall as it currently exists (8.5m in height) and approve a revised variance allowing the wall to remain as is. If this is the case, staff would recommend that the property owner allow the neighbouring property to fill against the wall when that property redevelops. This will be a significant savings at the time of subdivision for the neighbouring property owner, the layout of which would confirm to the Cedar Road Area Plan.

Alternatively, Council may feel while the impact on the neighbours may be significant, the wall should have been built under the bylaws. If that is the case, Council should deny the variance request outright. This

would mean that the property owner would have to lower the wall to the recently approved 2.5m height and then rebuild the wall stepped back 1.2m to its ultimate height. This would be a significant cost to the property owner.

**Alternate Recommendations**

1. THAT Council approve "Development Variance Permit PL2018-8216" for Lot 24 District Lot 2710 Similkameen Division Yale District Plan EPP62484, located at 2753 Evergreen Drive, a permit to increase the maximum height of a retaining wall within a required yard from 1.2m to 8.5m and Section 10.1.2.4.ii increasing the maximum height of an accessory structure from 4.5m to 8.5m, with the condition that when 2764 Cedar Road redevelops that they may fill against the wall.
2. THAT Council deny "Development Variance Permit PL2018-8216."
3. THAT DVP PL2018-8216 be referred back to staff to work with the applicant as directed by Council.


**Attachments**

- Attachment A: Subject Property Location Map
- Attachment B: Zoning Map
- Attachment C: OCP Map
- Attachment D: Photos of Subject Property
- Attachment E: Cedar Road Area Plan
- Attachment F: Site Plan
- Attachment G: Retaining Wall Location
- Attachment H: Retaining Wall Section and Design
- Attachment I: Development Variance Permit PL2018-8216

Respectfully submitted,

Randy Houle  
Planner I

Approvals

DDS  	CAO  PW
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Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map

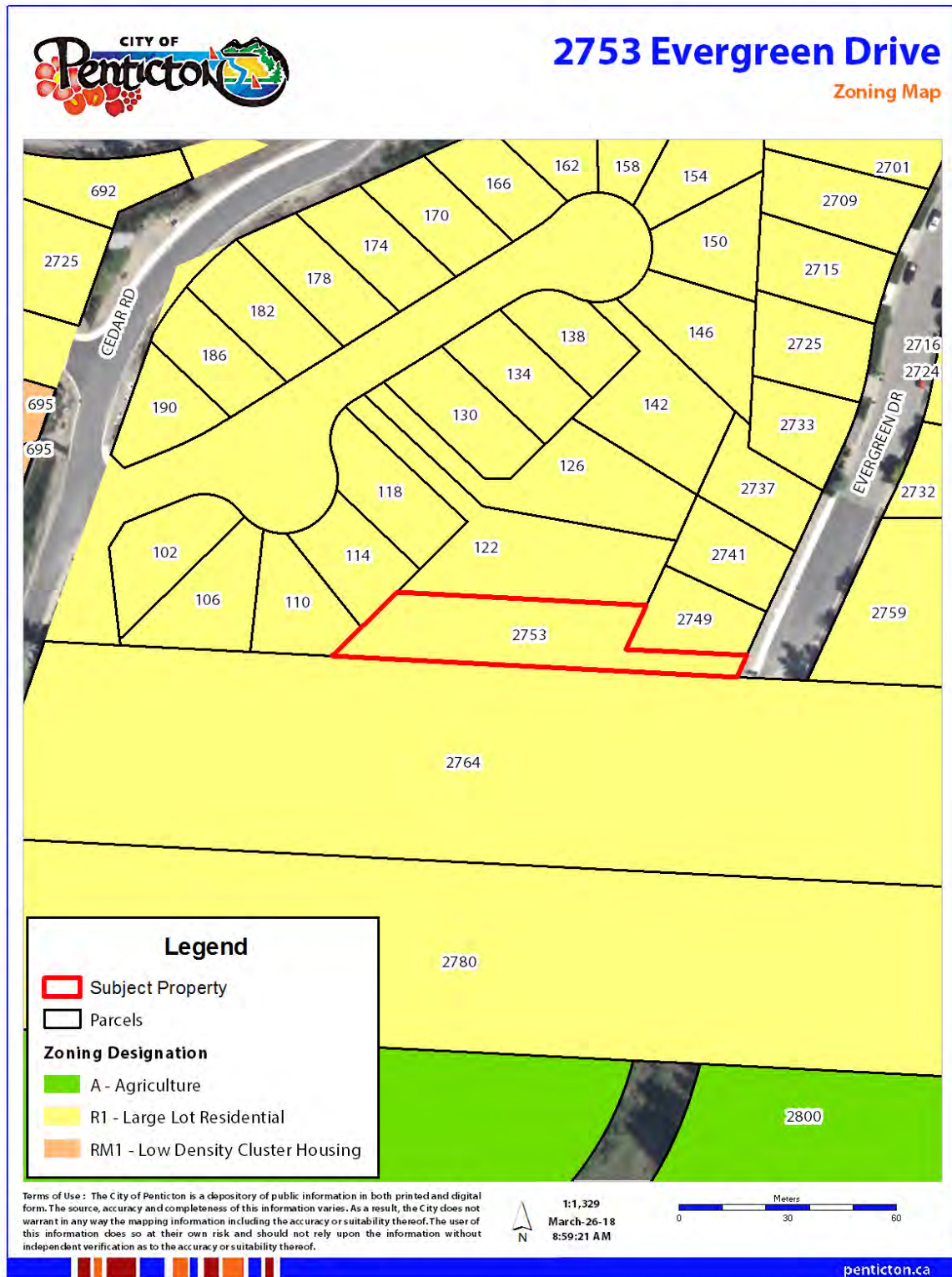


Figure 2: Zoning Map



Attachment D – Photos of Subject Property



Figure 4: West Elevation



Figure 5: South Elevation looking east



Figure 6: South Elevation looking west



Figure 7: East Elevation



Figure 8: East Elevation showing potential building site

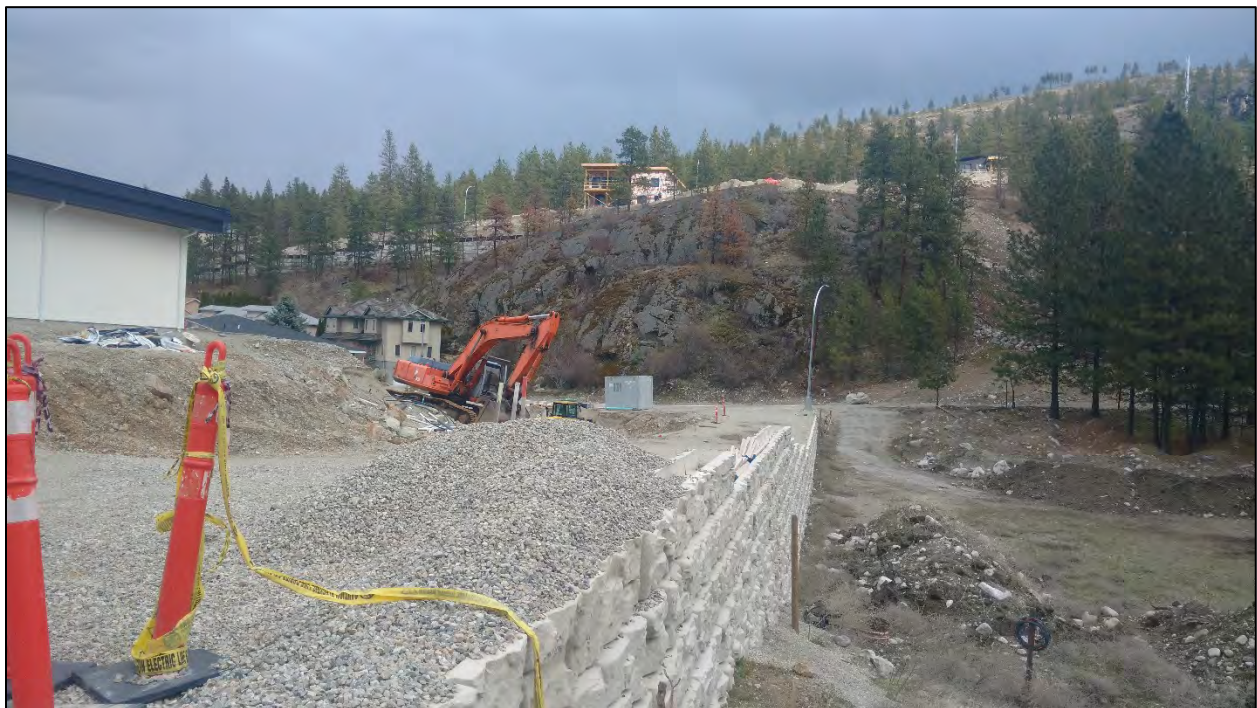


Figure 9: West Elevation showing driveway access to Evergreen Drive



Figure 10: Aerial image of subject property showing the grade of the lot prior to development



Figure 11: Image of hillside where the retaining wall now exist (pre-development)

Attachment E – Cedar Road Area Plan (2009)

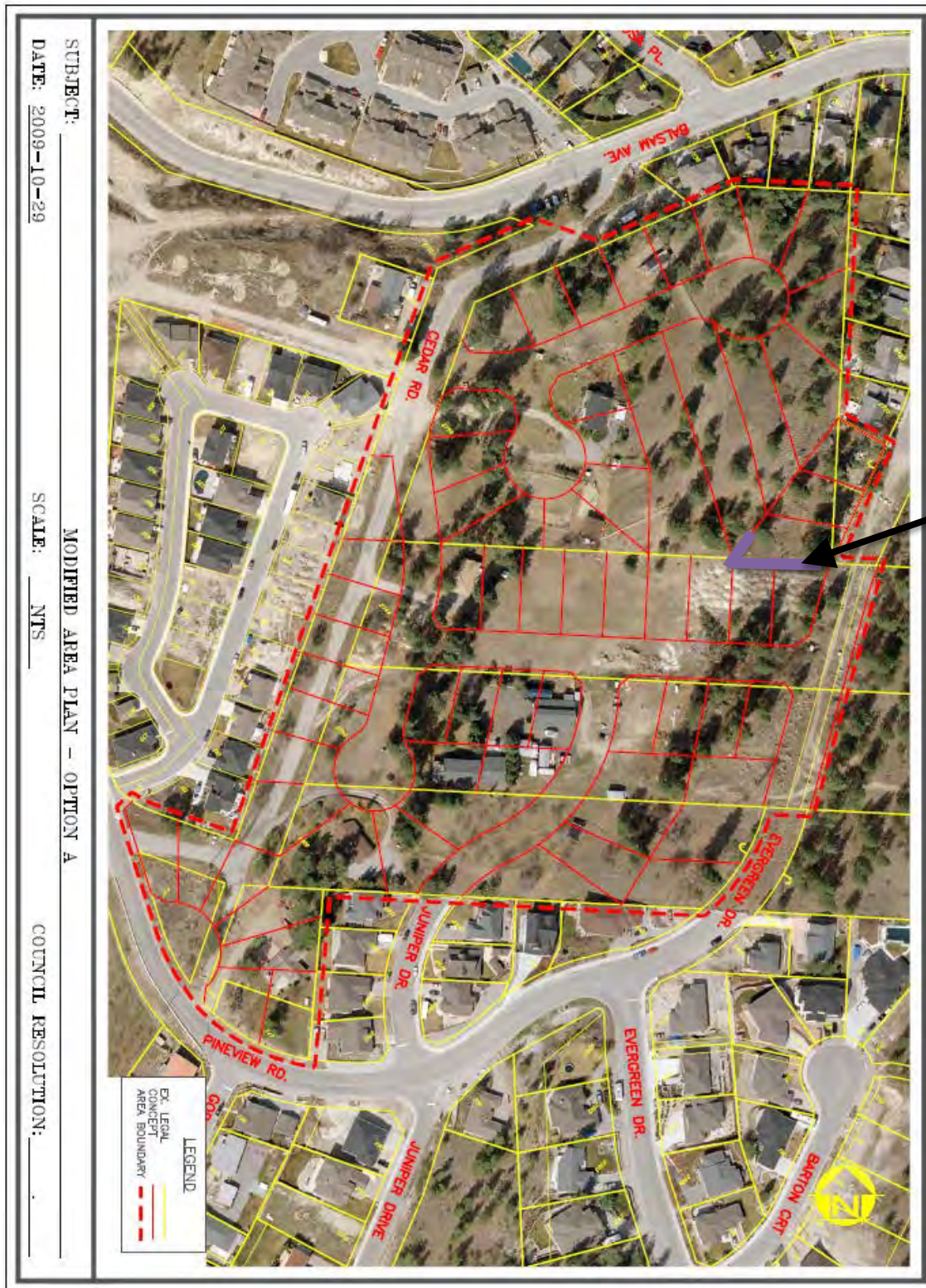


Figure 10: Cedar Road Area Plan

### Attachment F – Site Plan

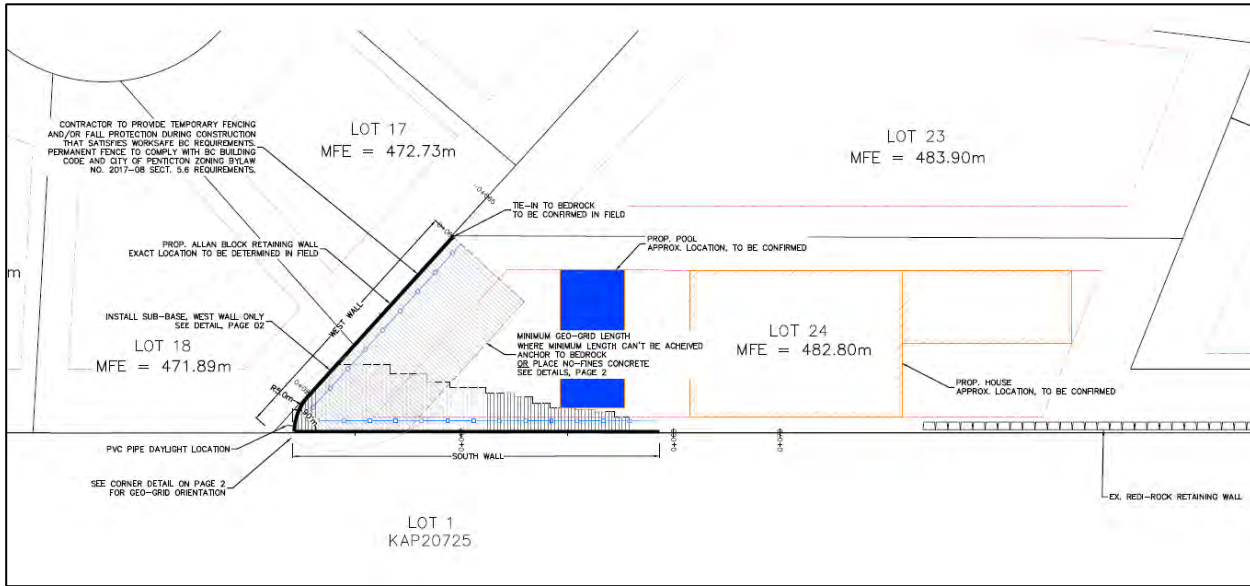


Figure 10: Site Plan

### Attachment G- Retaining Wall Location

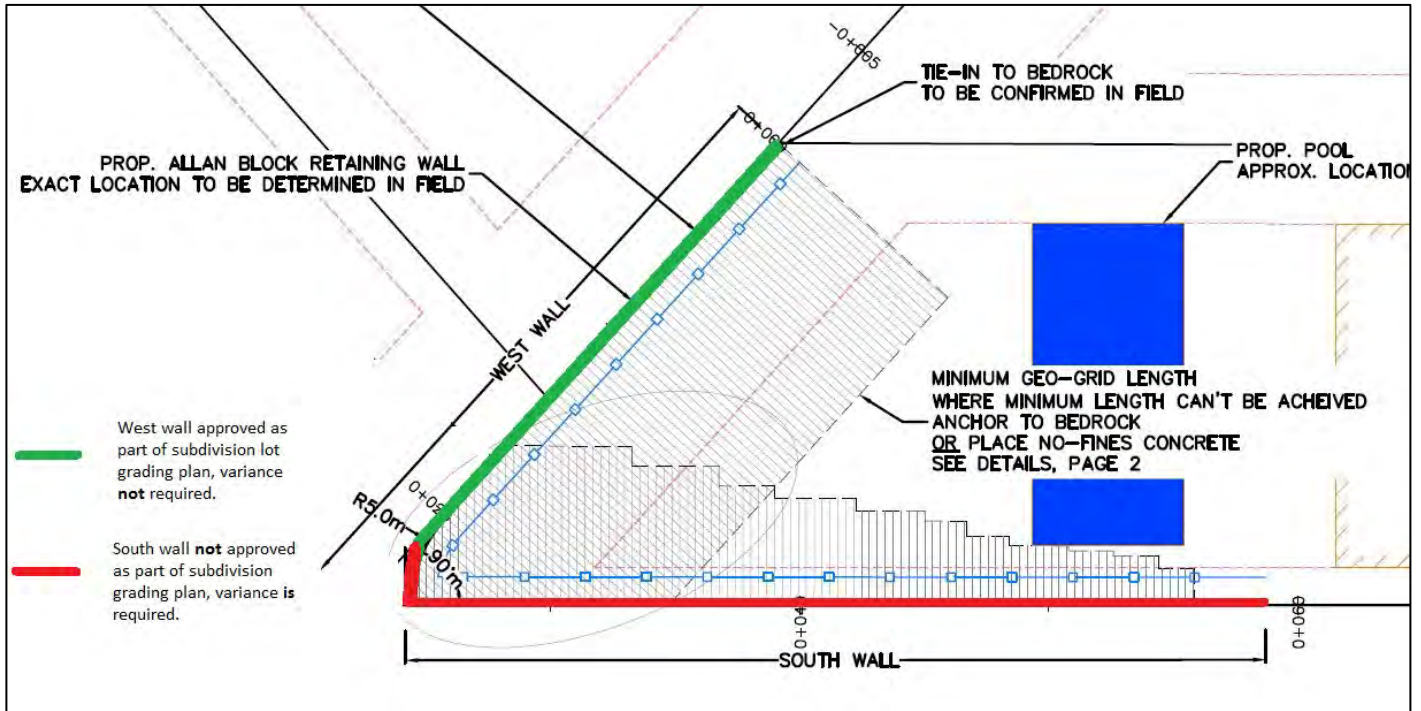


Figure 11: Retaining Wall Location

### Attachment H- Retaining Wall Section and Design

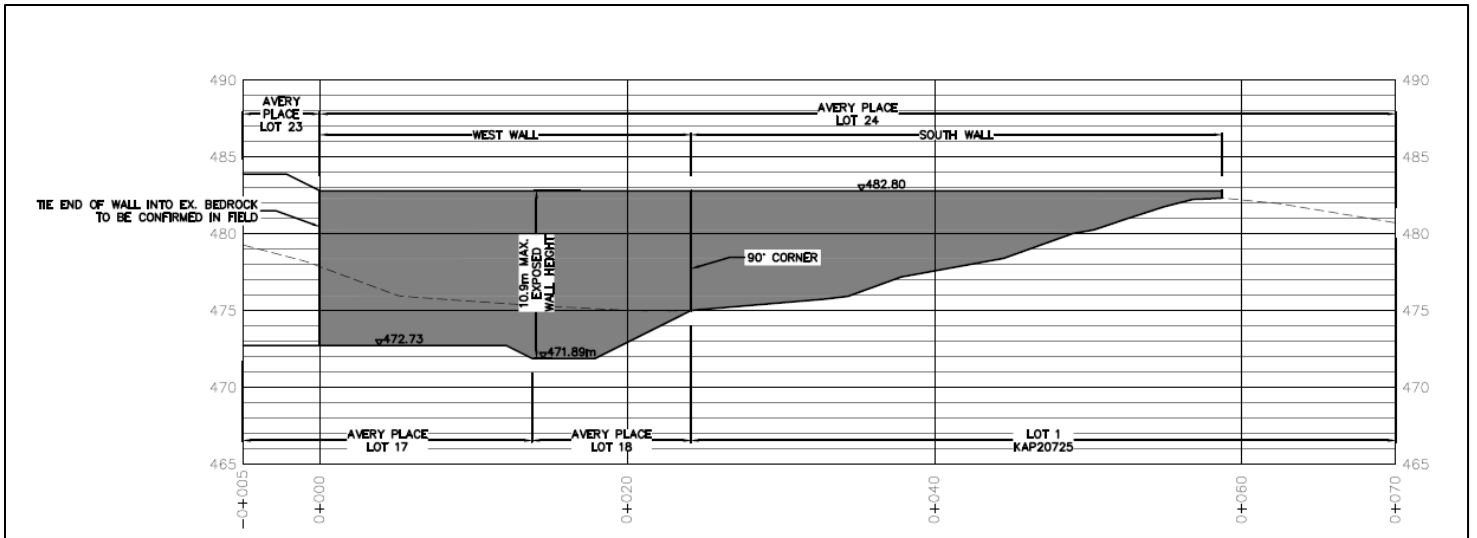


Figure 12: Cross Section

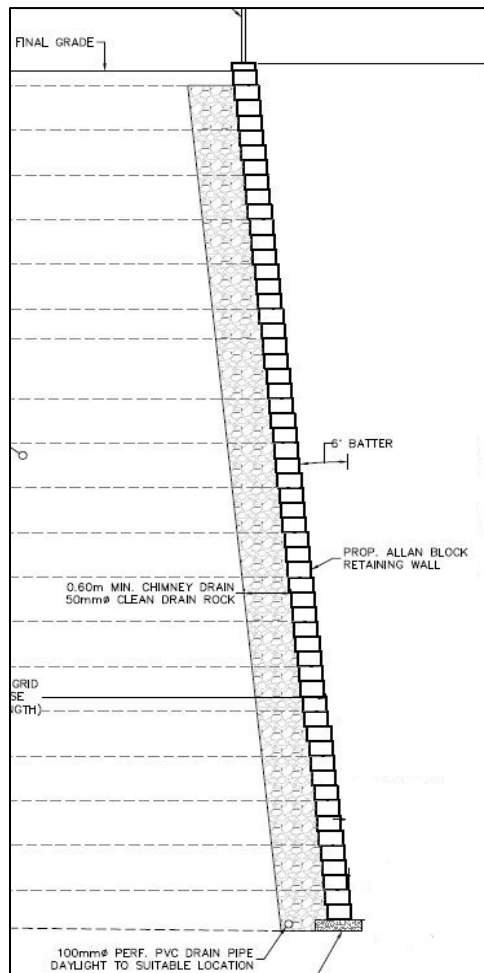



Figure 13: Retaining Wall Design

Attachment I - Development Variance Permit PL2018-8216



**CITY OF**  
**Penikese**  
MAINE

City of Penikese  
111 Main St., Penikese B.C. | V1A 5G8  
www.penikese.ca | info@penikese.ca

## Development Variance Permit

**Permit Number: DVP PL2018-8216**

Name:  
Address:

**Conditions of Permit**

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
Legal: Lot 24 District Lot 2710 Similkameen Division Yale District Plan EPP62484  
Civic: 2753 Evergreen Drive  
PID: 029-904-919
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following section of Zoning Bylaw 2017-08 to allow for the construction of a retaining wall.
  - Section 5.6.2.1: to increase the maximum height of a retaining wall within a required yard from 1.2m to 4.5m.

**General Conditions**

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the 22 day of May, 2018

Issued this \_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

137-695 Pineview Road  
Penticton, B.C.  
V2A 6J7

2018 04 30

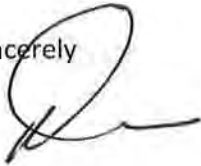
Mayor Andrew Jakubeit  
Coun. Helena Konanz  
Coun. Andre Martin  
Coun. Max Picton  
Coun. Tarik Sayeed  
Coun. Judy Sentes  
Coun. Campbell Watt

Dear City Council:

Re: 2753 Evergreen Drive

Please refer to the following photograph. This is what I will speaking about at the upcoming development variance permit hearing.

Sincerely

A handwritten signature in black ink, appearing to read 'Hugo Deuschle', written over a light grey circular stamp.

Hugo Deuschle



# Council Report

penticton.ca

**Date:** June 5, 2018 File No: DVP PL2018-8225  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Blake Laven, Planning Manager  
**Address:** 604, 612, 620, 628 and 692 Balsam Avenue and 101, 107, 115, 121, 133, 139, 145, 151, 157, 163, 169 Timberstone Place.  
**Subject:** "Development Variance Permit PL2018-8225"

## Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8225", a permit to increase the permitted height of a retaining wall in a required yard from a maximum height of 1.2m to a maximum height of 3.0m for Lots 1-11 and 13-17 of Plan EPP66462, District Lot 2710, Similkameen Division Yale District located at 604, 612, 620, 628 and 692 Balsam Avenue and 101, 107, 115, 121, 133, 139, 145, 151, 157, 163, 169 Timberstone Place;

AND THAT staff be directed to issue "Development Variance Permit PL2018-8225."

## Background

The subject properties were all created through subdivision in 2016. The subdivision features single family and two-family lots. All of the single family lots are accessed via a newly constructed road, Timberstone Place, with the duplex lots accessed from Balsam Avenue. The majority of lots on the north side of Timberstone Place back onto Balsam Avenue and are steeply sloped.

When the lots were created through subdivision, the City was provided with a report by a geotechnical engineer stating that the lots were all safe to be constructed on. The report identified the requirement to have geotechnical oversight at the time of building design and construction. Shortly after development of the new subdivision, soil began sluffing off of the lots down onto Balsam Avenue. When the first house on the north side of Timberstone Place was constructed, sluffing around the deck footings became evident. It was originally thought that the once vegetation is established on the slope, that the sluffing will cease, but it is increasingly evident that retaining walls would assist with slope stability. The recommendation from the geotechnical engineer has been to install walls at the time of building.

The developer of the subdivision is proposing to erect retaining walls at the backs of the properties on Timberstone Place to provide more stable building footprints and small level back yards for the eventual residents of the houses. The retaining walls are proposed to be a maximum 3.0m in height at their highest point. Retaining walls are permitted to be up to 4.5m in height, except within required yards. In any required yards, retaining walls are not allowed higher than 1.2m. The bylaw requires any walls to be higher than 1.2m to be terraced, reducing the visual impact of the walls from neighbouring properties.

In this case, part of the retaining walls are located in required yards between the subject lots and are in conflict with the bylaw. Because the walls are higher than what is permitted by the City's zoning bylaw a variance to the bylaw is required. The applicants have provided a detailed letter of rationale, which is attached to this report.

### **Proposal**

The applicants are requesting development variance permit approval to vary Section 5.6.2.2 increasing the maximum height of a retaining wall in a required yard from 1.2m to 3.0m on all of the identified properties.

### **Financial implication**

All costs associated with the development are the responsibility of the developer.

Ensuring a stable bank will ensure materials do not sluff onto Balsam Avenue and create maintenance issues for the City in the future, saving future street cleaning and sewer clean out.

### **Technical Review**

This application was reviewed by the Technical Planning Committee. It was thought by the committee that the walls will improve a situation that is seeing materials sluff onto Balsam Place. Currently, the developer has been cleaning up materials that end up on Balsam Place, but if vegetation doesn't take on the bank, and materials continue to wash down onto Balsam on a regular basis during rain events, this will turn into a maintenance issue for the City. The walls will ensure that does not happen.

The walls will need to be constructed through building permit processes with geotechnical engineering oversight.

### **Analysis**

*Support "Development Variance Permit PL2018-8225"*

The justification for limiting the height of retaining walls is to reduce the visual impact that a vertical wall will have from public areas and or neighbouring properties. The height of a wall is more impactful the closer to the property line it is. That is why the zoning bylaw requires walls that are close to property lines to be terraced.

In this case, the walls will be visible from Balsam Avenue, but will be set back quite a bit from the road. And the fact that the walls will all be constructed at the same time will ensure a consistent look to the retaining structures as opposed to individual property owners erecting their own walls at a later date. According to the letter of intent from the proponent, the walls will be poured in place concrete. The remainder of the slope will be vegetated.

Some of the walls will be visible from properties along Laurel Place. Those walls are considered to improve the slope stability for these properties as well. The majority of the walls along this area will only be 2.4m in height. They will, however, be visible from the Laurel Place properties. Most of the properties along Laurel Place have fencing erected along the interface between their own back yards and the new development. The retaining walls will be approximately 2 feet higher than most of the fencing.

The applicant has also indicated that consultation with residents along Laurel Place has taken place and that the residents welcome the retaining wall as it is felt it will help improve the stability of the slope with the new development going in.

The request is similar to approvals that Council has given in the immediate area. Specifically, Council approved blanket retaining wall heights of 2.5m for the Avery Place subdivision.

In staff's opinion, the walls will not have a negative impact on neighbouring properties and will improve the integrity of the slope from Timberstone Place to Balsam Avenue and the integrity of the slope between the Laurel Place properties and the new development lands. For the reasons listed above staff are recommending that Council support the variance permit request.

*Deny or refer "Development Variance Permit PL2018-8225"*

Council may feel that retaining walls in this location will detract from the look of this area from Balsam Place and that terracing the walls would create a more aesthetically pleasing look. If that is the case, Council should deny the permit request.

If Council hears from the Laurel Place residents that the retaining walls will create a negative impact on them, Council could require the terracing of walls along 139, 145, 151, 157, 163 and 169 Timberstone Place.

**Alternate recommendations**

THAT Council deny "Development Permit PL2018-8225".

THAT Council approve "Development Permit PL2018-8225" with the condition that the walls at 139, 145, 151, 157, 163 and 169 Timberstone Place be terraced.


**Attachments**

- Attachment A – Property location map and zoning map
- Attachment B – Images of subject property
- Attachment C – Letter of intent from applicant
- Attachment D – Draft permit

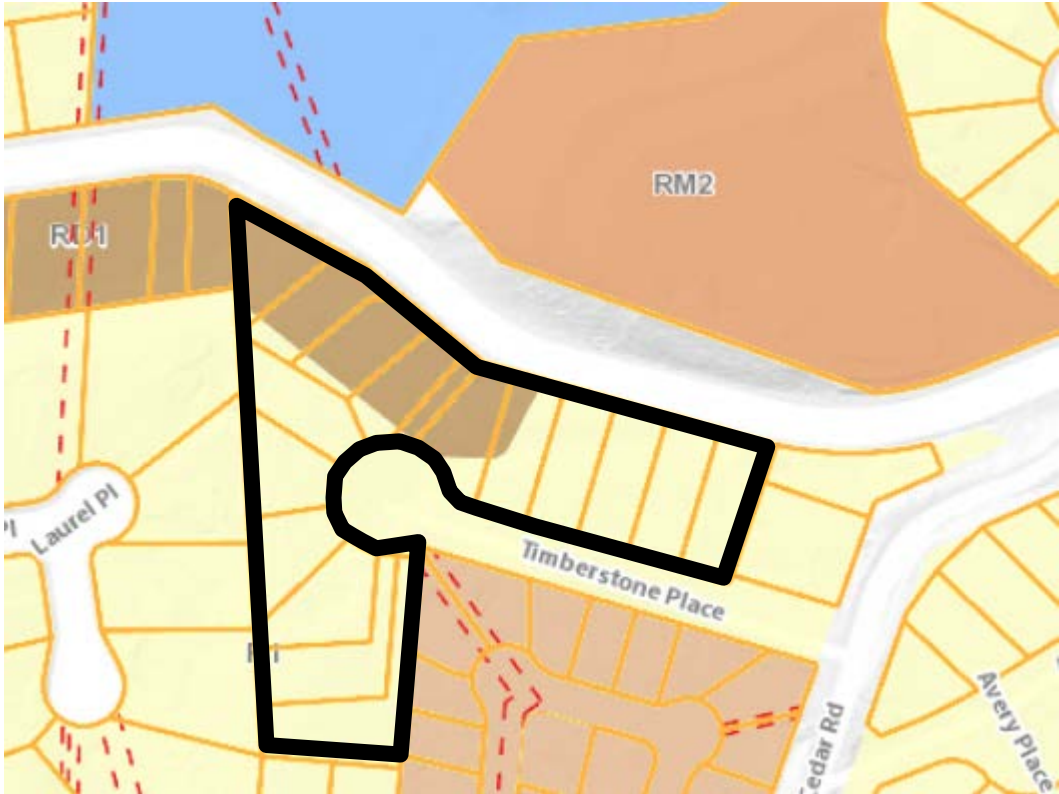
Respectfully submitted,

Blake Laven, MCIP, RPP  
Planning Manger

Approvals

Director  	Chief Administrative Officer  PW
---	---

Attachment A  
Property Location Map and Zoning Map



Attachment B  
Images of subject properties



*Figure 1: Area along Balsam Avenue where retaining walls are proposed*



*Figure 2: Duplex lots along Balsam Avenue. Retaining walls proposed here will not be visible from the street*



*Figure 3: Properties along Timberstone Place looking down on Laurel Place*



*Figure 4: Properties along Timberstone Place looking down on Laurel Place*

Attachment C  
Letter of rationale from applicant

Letter of Intent for  
Development Variance Permit  
At Timberstone Ridge Subdivision

The purpose of this Development Variance Permit is to allow us to build concrete retaining walls in the rear yard of a number of our lots as indicated on the sketch provided.

After the construction of our show home at 127 Timberstone Pl (Formerly 2715 Cedar Rd) I was contacted by the city planning department, namely Darryl Haddrell, to express concerns about the slope at the rear of the house. We made some changes to the grade and had our geotech look it over but Darryl said the city would like to see the slope somewhat retained so as not to have a repeat of the show home.

We plan to construct retaining walls along the north side of the lots that border Balsam Ave. All of these walls will be within the rear setback so height is not an issue. The problem arises at the side setbacks as we'd like to have the walls extend from property line to property line across the rear of these lots. This will give us a small, relatively flat, rear yard space and also greatly reduce the slope from the rear of the homes down to Balsam Ave below.

On Lots 1-5 around the cul-de-sac, we would like to build the walls as close to the rear (west) property lines as possible to give a flat yard space. As these lots are odd shaped, we would have to build outside the rear setback lines. There is about a 20' height difference from our curb to the west property line below so if we install a 10' deep basement and an additional 10' retaining wall near the rear property line, we can have a level yard and also remove the slope that now runs down to the neighbouring properties. Those properties are all fenced so I don't believe our walls would be a visual problem and it would stop melting snow runoff and any rock etc from running down the slope if there were no walls.

On our duplex lots (7-10) along Balsam, the opposite is true. We would need retaining walls at the rear (south side) of these lots to help retain the slope behind the buildings for the same reasons as above. Overall it would greatly improve slope stability for all lots and also benefit neighbouring properties. No walls would be over 10' in height in any situation. If a greater height needed to be retained we would place two walls but this is only a possibility on Lot 11 (133 Timberstone Pl) which would help stabilize the slope on our original show home as well.

Any retaining walls would have a maximum exposed height of 8' on the unretained side as we'd need 2' of fill for frost protection on that side of the wall so the visual impact would be no different than a house foundation wall and would act as a fence where the wall is placed close to the rear property line.

I believe the city would benefit from this as was suggested by Darryl last fall and would also make our homes more attractive with a small flat rear yard versus a slope.

I would be happy to meet on site to discuss or view with staff should that be deemed necessary as it's always easier to visualize in person.

Thanks,  
Carl Buckendahl

Attachment D  
Draft Permit



City of Penticton  
171 Main St. | Penticton B.C. | V2A 5A9  
www.penticton.ca | ask@penticton.ca

### Development Variance Permit

Permit Number: PL2018-8225

Name  
Address I  
Address II

#### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
Legal: Lots 1-5 , 7-11 and 13-17 of Plan EPP66462, District Lot 2710, Similkameen Division Yale District  
Civic: 604, 612, 620, 628 and 692 Balsam Avenue and 101, 107, 115, 121, 133, 145, 151, 157, 163, 169 Timberstone Place  
PID: 030-107-105, 030-107-113, 030-107-121, 030-107-130, 030-107-148, 030-107-164, 030-107-172, 030-107-181, 030-107-199, 030-107-202, 030-107-229, 030-107-237, 030-107-245, 030-107-253, 030-107-261
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary Section 5.6.2.2 of Zoning Bylaw 2017-08, increasing the maximum height of a retaining wall within a required yard from 1.2m to 3.0m.

#### General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development

Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the \_\_\_\_\_ day of \_\_\_\_\_, 2018

Development Variance Permit PL  
Issued this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

---

**From:** Andrew Nendick <  
**Sent:** May-31-18 2:32 PM  
**To:** Public Hearings  
**Subject:** PL2018-8225  
**Attachments:** 20180530\_070635.jpg; 20180530\_070554.jpg; 2018-05-24 Public Notice (Timberstone).pdf

My wife and I are the owners and along with our 3 children under 6 years old reside at 130 Laurel Place in Penticton.

I just received the public notice on variance permit PL2018-8225.

First of all, I wanted to mention I am proponent of real estate development and a promoter of our community as a place to invest and live.

The back of our property borders the current vacant lots at 169, 163 and 157 Timberstone place.

When we purchased the home in 2009 we understood that someday the vacant lot behind us would be developed.

We also understood that there are bylaws in place to protect the interests of homeowners.

I have reviewed the analysis to be presented to council on June 5<sup>th</sup>/18 and wanted to provide the following comments for consideration.

1. There has been zero consultation with myself from the applicant about this development or the variance application despite what the analysis says
2. I don't believe there to be any slope stability issues at 169, 163 and 157 Timberstone Place (Lots 1, 2 and 3) Those lots appear to be level. The slope starts and ends on my property at 130 Laurel Place and for my neighbor at 140 Laurel Place. I am not convinced that by having higher retaining walls that will "improve" the slope stability for 130 or 140 Laurel Place or 169, 163 and 157 Timberstone Place.
3. The fences at 122, 130 and 140 Laurel Place provide no privacy, they are primarily in place in an attempt to keep deer out of our yards

I don't see any valid rationale (technical or otherwise) to allow this variance for the properties that border Laurel Place, especially at 169, 163 and 157 Timberstone place.

It is very clear that these retaining walls will have a negative impact on my property and neighboring properties. If you walked the property you would easily understand the aesthetic and privacy impact. I have attached images showing the view from our back deck up towards the subject property and from the back of our property looking down into our backyard as a visual reference. We would be looking out a large retaining wall and some unknown future homeowner would be able to see directly down into the back of our yard where despite the slope, my kids play.

The analysis states the retaining walls would be approx. 2 feet higher than our existing see through fences. That is egregious to consider.

I believe the motivation with the variance application for the lots which border my property is to maximize the view and yard size for lot value sales purposes.

Once again, I am a proponent of development but I don't believe variances should be allowed to the detriment of existing homeowners and without cause.

If the retaining walls were terraced instead that would have a less invasive impact on our privacy although I still don't believe there is a valid reason for the variance specifically at 169, 163 and 157 Timberstone place.

There may be some rationale for the steep lots which border balsam but there is absolutely none for the lots on the southwest corner of this development.

Sincerely,

Andrew Nendick

Please confirm receipt of this email





# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Randy Houle, Planner I  
**Address:** 813 Westminster Avenue West

File No: PRJ2018-131

**Subject: Temporary Use Permit PL 2018-8268**

---

## Staff Recommendation

THAT Council approve "Temporary Use Permit PL2018-8268", a permit to allow the use 'motor vehicles sales and rentals' for Lot 1, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 13891, located at 813 Westminster Avenue West, for a one-year period;

AND THAT prior to issuance of "Temporary Use Permit PL2018-8268," the driveway accesses are closed as shown on Attachment F;

AND THAT staff are directed to issue the permit.

## Background

The subject property (Attachment A) is zoned C8 (Vehicle Service Station) and designated by the City's Official Community Plan (OCP) as TC (Tourist Commercial). The subject property is one of three lots that form part of the El Rancho Hotel Site. The proposed use will be situated on the 1200m<sup>2</sup> (13,000ft<sup>2</sup>) parcel in the SE corner of the site which comprises the east half of the existing commercial building. Photos of the site are included as Attachment D. Surrounding properties are primarily zoned Tourist Commercial and Public Assembly. The property is located at the corner of Westminster Avenue West and Power Street.

The site was originally developed as a restaurant in the 1950's with the Hotel constructed in the early 1960's. The site has seen several uses over the years, including a vehicle service station, auto repair shop, used auto sales, café, offices and several restaurants.

As this is an important site in the City for future development, whether residential or tourist commercial in nature, rezoning the property to allow for motor vehicle sales and rentals for an extending amount of time is not ideal. The property owners are continuing to show interest in developing the entire site into its maximum potential, but the City has not seen a formal proposal at this time.

Under the current C8 Zoning, the only permitted use is a vehicle service station which is defined as the routine washing, servicing or repair of vehicles. This does not include the proposed motor vehicle rental use.

## **Proposal**

The applicants are requesting that Council grant a temporary use permit (TUP) to permit the use “motor vehicle sales and rentals’ for a one-year period. No new construction is being proposed and the existing buildings are proposed to be used. The site plan (Attachment E) shows the area that will be included as part of the Temporary Use Permit.

## **Financial implication**

N/A

## **Technical Review**

This application was forwarded to the City’s Technical Planning Committee and reviewed by the Engineering and Public Works departments. As part of the review process, City Engineering staff have identified safety concerns with the existing SE corner entry ways to the development. Given the traffic increase that the proposed use will bring, staff are recommending that prior to issuance of the TUP, the driveway accesses are closed as shown on Attachment F of the Council report to improve intersection safety. Since the proposed use is temporary (1 year), a concrete post with a chain or large planters are an appropriate method to close these existing vehicle accesses. If changes to the existing building are proposed, a building permit and development permit may be required and servicing requirements met. If the request for the Temporary Use Permit is supported, BC Building Code and City bylaw provisions will apply.

## **Analysis**

### Support Temporary Use Permit

When considering an application for a temporary use permit, the OCP has established a set of guidelines for Council and staff to follow. Part 7 Implementation 7.4 states that Temporary Use Permits may only be issued provided that the proposed use:

- is not noxious or undesirable;
- does not have a negative impact on adjacent lands;
- does not create a significant increase in demand for City services;
- complies with the DPA guidelines for the area;
- operates at hours that do not disturb the surrounding neighbourhood;
- will not permanently alter the site; and
- complies with council conditions and other provincial and federal enactments

Staff do not feel that the proposal is in conflict with any of the guidelines listed above. The proposed motor vehicle rental use is more desirable than the current empty building and lot. The property is a corner lot, with adequate separation from adjacent uses. The existing services will be utilized. The current hours of operation are from 8:00am to 5:00pm daily with no changes expected at the new location. The proposed use will not permanently alter the site in any way.

The City’s Official Community Plan envisions the El Rancho site to be developed as tourist accommodation, with high density residential in the back half. The proposed motor vehicle rental use is not in line with this vision. For this reason, a temporary use permit makes more sense than rezoning the property and a

maximum timeframe of one year is considered appropriate. The proposed use is more desirable than an empty building and vacant lot.

For the reasons listed above it is recommended that Council support the issuance of a permit for a 1-year period. Staff will not support any additional timeframe beyond the one year that is being recommended so that the highest and best use for the land can be accommodated in an efficient manner.

Deny/Refer Temporary Use Permit

Council may feel that motor vehicle sales are not a desirable use for this lot, even on a temporary basis. If that is the case, Council should deny the application. Alternatively, Council may wish to support the use on a temporary basis, but would like to see additional landscaping and/or other considerations included in the approval.

**Alternate recommendations**

- 1.) THAT Council deny "Temporary Use Permit PL2018-8268".
- 2.) THAT Council approve "Temporary Use Permit PL2018-8268" with conditions that Council feels are applicable.


**Attachments**

- Attachment A: Subject Property Location Map
- Attachment B: Zoning Map
- Attachment C: OCP Map
- Attachment D: Photos of Subject Property
- Attachment E: Site Plan
- Attachment F: Driveway Access Closure Plan
- Attachment G: Letter of Intent
- Attachment H: Temporary Use Permit PL2018-8268

Respectfully submitted,

Randy Houle  
Planner I

Approvals

DDS  	CAO  PW
--	---------------

Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map

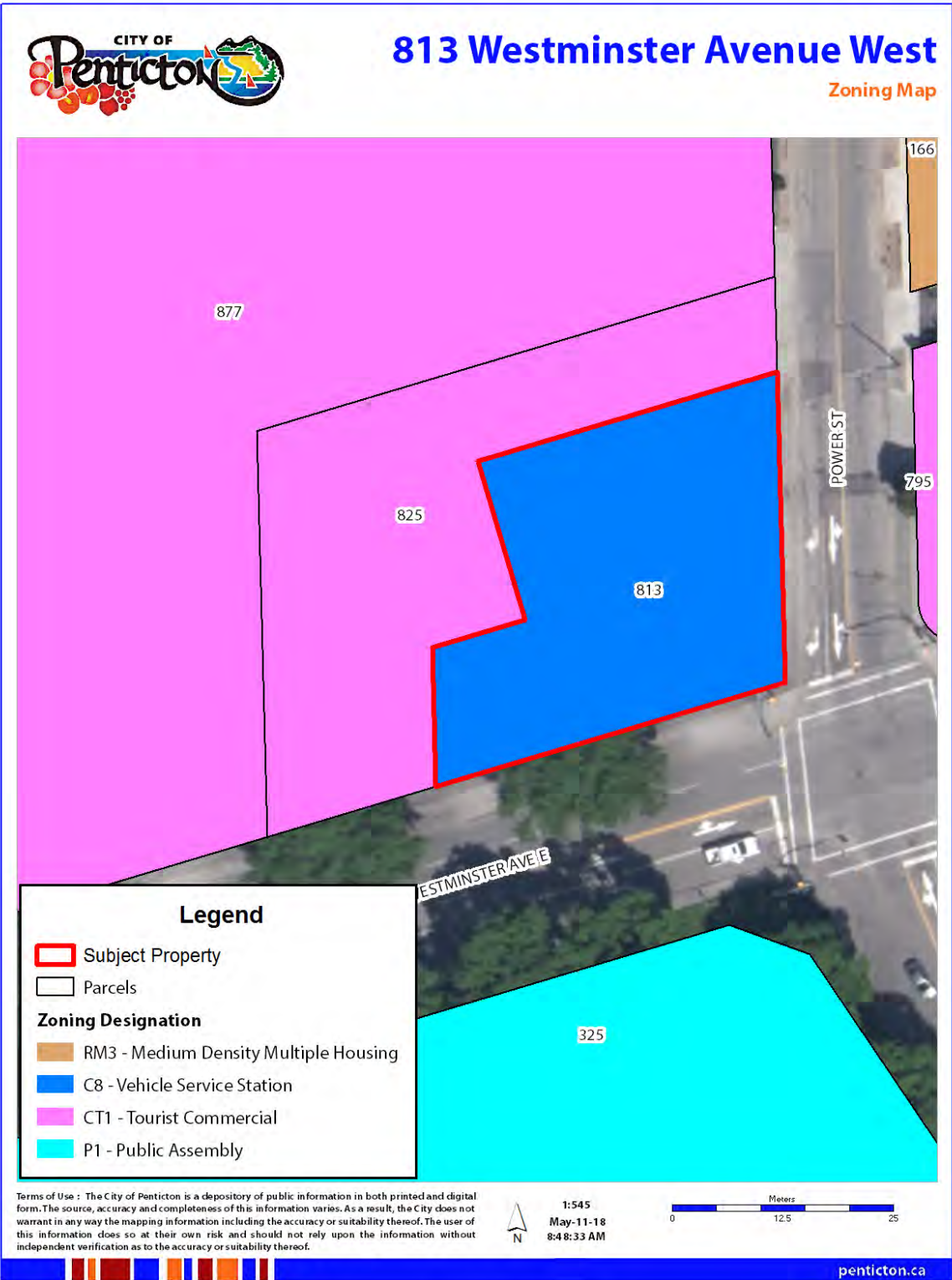


Figure 2: Zoning Map

Attachment C- OCP Map

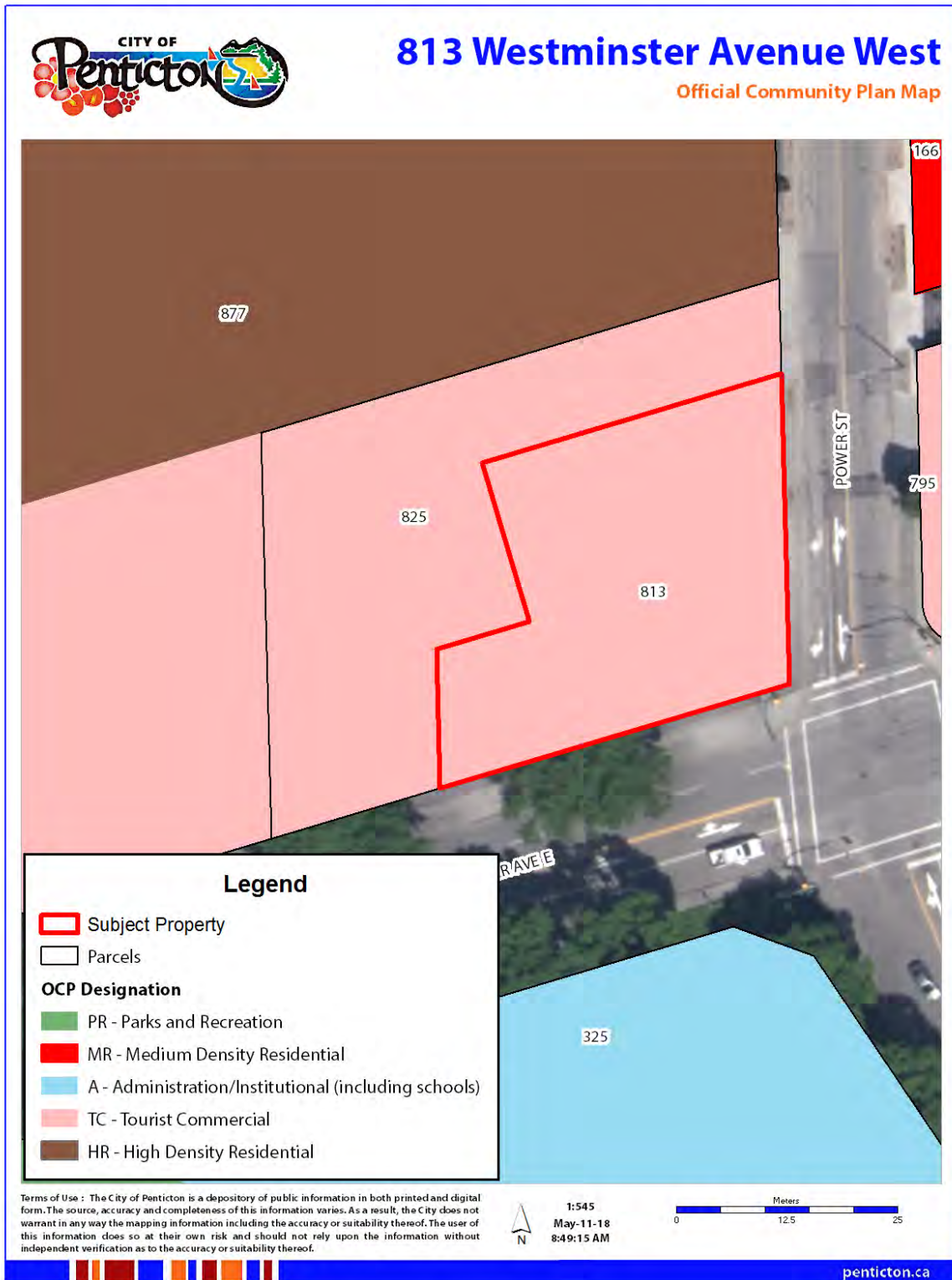


Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: South View (from Westminster Avenue West)



Figure 5: East View (from Power Street)



Figure 6: South West View



Figure 7: South View

Attachment E – Site Plan

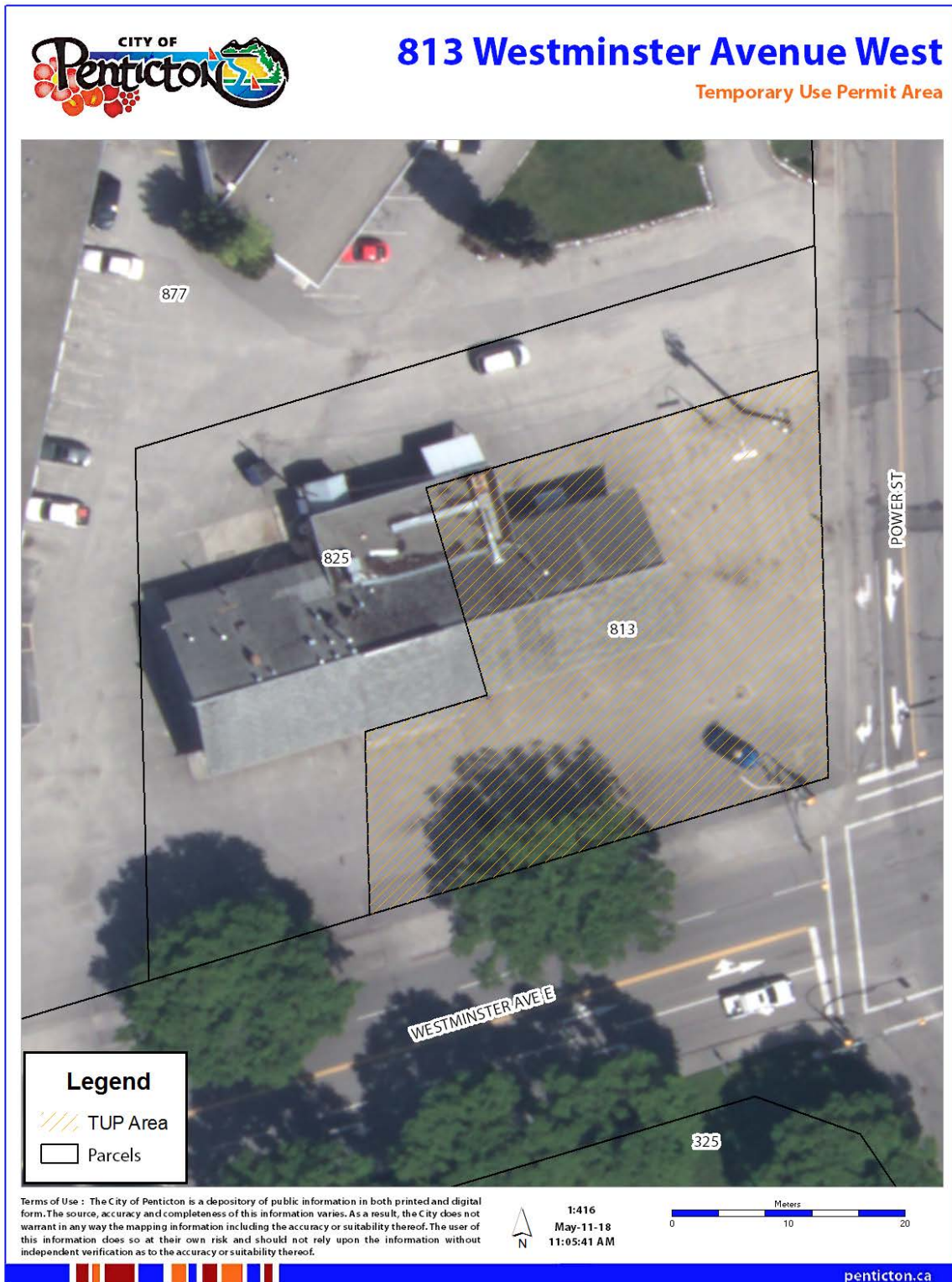


Figure 8: TUP Area

Attachment F – Driveway Access Closure Plan



Figure 9: Driveway Access Closure Plan

Attachment G – Letter of Intent

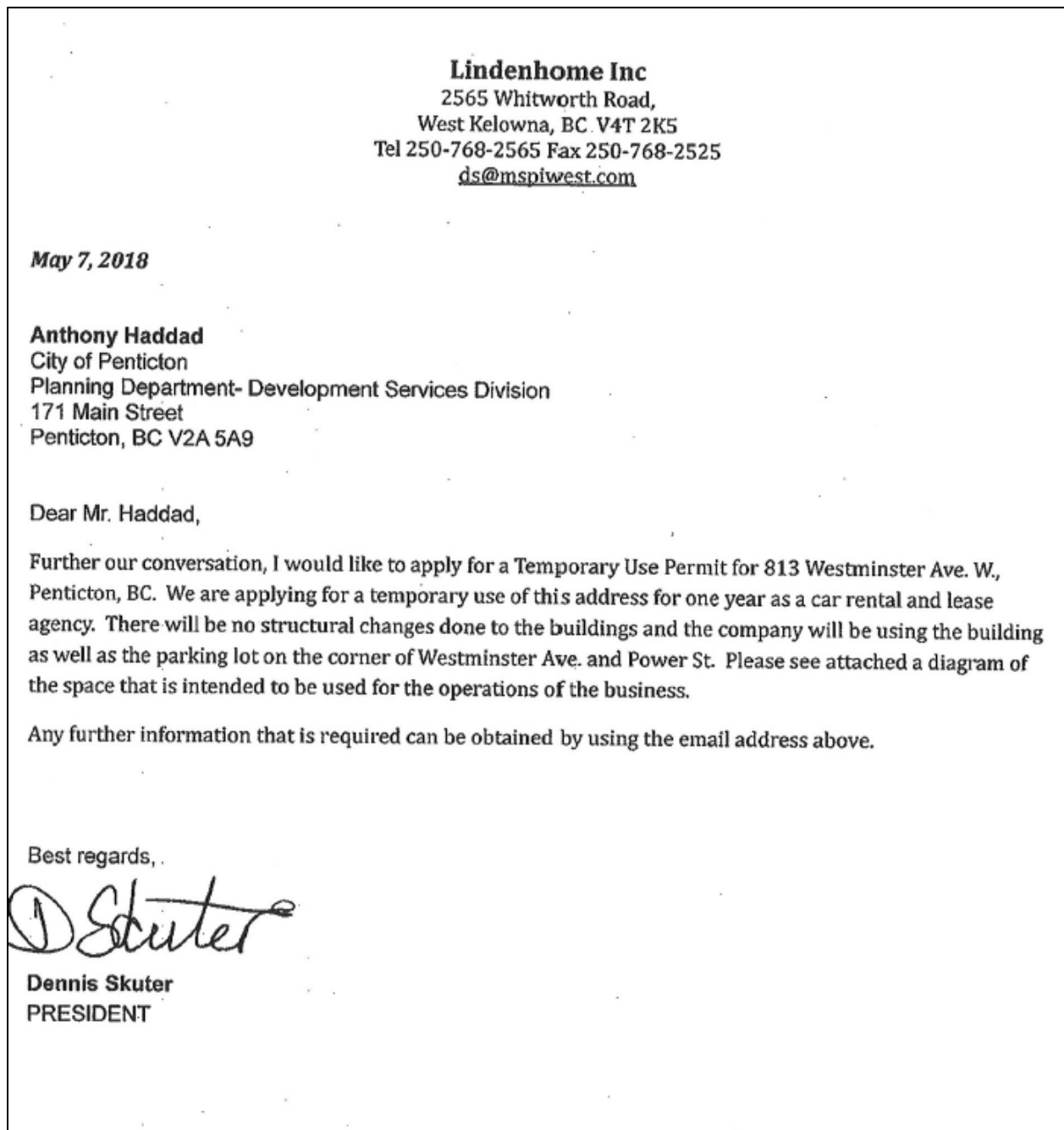


Figure 9: Letter of Intent

Attachment H – TUP PL2018-8268



City of Penticton  
173 Main Street, Penticton B.C. V2A 5A9  
www.penticton.ca | info@penticton.ca

### Temporary Use Permit

**Permit Number: TUP PL2018-8268**

Name:  
Address:

#### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
 Legal: Lot 1 District Lot 2 Group 7 Similkameen Division Yale (Formerly Yale-Lytton) District Plan 13891  
 Civic: 813 Westminster Avenue West  
 PID: 009-140-263
3. This permit has been issued in accordance with Section 493 of the *Local Government Act*, to allow for "motor vehicle sales and rental" as a temporary use, as shown in the plans attached in Schedule A.

#### General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.
5. In accordance with Section 497 of the *Local Government Act*, this permit shall expire on **June 5, 2021**.
6. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.

Authorized by City Council, the 5 day of June, 2018

Issued this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

---

**Subject:** June 5th, 2018 - 813 Westminster Ave W

**From:** Kelly Gingles  
**Sent:** May-28-18 10:00 AM  
**To:** Randy Houle <  
**Cc: Subject:** June 5th, 2018 - City of Penticton Council Meeting.

Hi Randy, Jeff, Dennis, Anthony and Blake,

It's clear to everyone that we are waiting a council meeting for June 5<sup>th</sup>.  
We really appreciate that this situation was short notice and the process has been expedited.

I understand the City of Penticton has concerns, but we are not a new business to town, and we are vital to helping Penticton be accommodating for the tourism business we all depend on.

We've been operating in the city for 10 years and I've recently learned it's better to own than to lease as I was planning on a long time lease with my previous landlord who has other ideas. Our current landlord gave us notice and we had sought long and hard, finally establishing a location with Dennis that should work as it is designated a gas station/dealership. Budget just down the street is in an old National location, which was a gas station.

We have every intention of relocating permanently as soon as we can. However we do not have any position locked up. We have started discussions with a potential land owner but nothing is certain at this point.

We are putting all our energy into getting the new location for our new temporary office and then we will focus on a future plan. I do not enjoy this, but one step at a time.

To clarify, we will constantly be looking ahead at a permanent location. WE have not found one, and we do not have anything secured at this moment. Dennis and Myself are willing to do what it takes to assist the city in meeting any obligations. I plan on instructing my staff to make sure that any vehicles not on rent are parked in front of the parking lot access so as to block traffic into the lot, with planters or whatever means will make the City happy.

I only ask why you won't change the request to a 3 year as that is the max we would require. I'm sure we'll be out before then. I am not trying to hold the cities vision up in any way. I promise to be out in 3 years. Hopefully before the end of the first. There are no guarantees a solution can be found in 1 year.

Again we are a vital piece to the inbound traffic and local economy and I really hope that if we don't have a solution in year one, that we don't face the possibility of NOT getting an extension to operate by the City of Penticton to have to go through finding another location for year 2.

Sincerely,



**Kelly Gingles**

250.635.6855 at 4542 LAKESE AVE., TERRACE, BC, V8G1P8

[kelly.gingles@nationalnorth.com](mailto:kelly.gingles@nationalnorth.com) [www.nationalnorth.com](http://www.nationalnorth.com) [www.facebook.com/SkeenaRentACar/](https://www.facebook.com/SkeenaRentACar/)

**NOTE THE NEW EMAIL ADDRESS [kelly.gingles@nationalnorth.com](mailto:kelly.gingles@nationalnorth.com)**

**From:** Randy Houle [<mailto:Randy.Houle@penticton.ca>]  
**Sent:** Friday, May 25, 2018 8:44 AM  
**To:** Brown, Jeff <

**Cc:** Anthony Haddad <[Anthony.Haddad@penticton.ca](mailto:Anthony.Haddad@penticton.ca)>; Blake Laven <[Blake.Laven@penticton.ca](mailto:Blake.Laven@penticton.ca)>

- 217 -

**Subject:** RE: Concrete Curbs

Hi Jeff,

Planters might not work well for the winter time. Depending what they are made of I guess.

The report has been finalized and notices have been sent to the neighbours. Staff are only comfortable with one year as this is a high profile site, envisioned for commercial tourism and high density residential development. The highest and best use of the property is not a vehicle rental use.

When I first talked with National Car rental, they said they had a site locked up but they need a temporary location for only a year. I expedited the process for you and your clients.

At the Council meeting on June 5<sup>th</sup>, you will have an opportunity to ask Council for 3 years.

Thank you,

Randy

# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Randy Houle, Planner I  
**Address:** 783 Martin Street  
**Subject:** **Zoning Amendment Bylaw No. 2018-44**  
**Development Variance Permit PL2018-8240**

File No: 2018 PRJ-110

## Staff Recommendation

### *Zoning Amendment*

THAT "Zoning Amendment Bylaw No. 2018-44", a bylaw to rezone Lot A District Lot 202 Similkameen Division Yale District Plan 899, located at 783 Martin Street from RD1 (Duplex Housing) to RM3 (Medium Density Multiple Housing), be given first reading and forwarded to the June 19, 2018 Public Hearing;

AND THAT prior to adoption of "Zoning Amendment Bylaw No. 2018-44", a 1.0m road dedication along the east property line (Martin Street) is registered with the Land Title Office.

### *Development Variance Permit*

THAT delegations and submissions for "Development Variance Permit PL2018-8240" for Lot A District Lot 202 Similkameen Division Yale District Plan 899, located at 783 Martin Street, a permit to reduce the minimum width of a landscape buffer abutting a residential zone from 3.0m to 0.5m, to reduce the minimum rear yard from 6.0m to 5.0m and to increase the maximum hard surfacing of a lot from 81%, be heard at the June 19, 2018 Public Hearing.;

AND THAT Council consider "DVP PL2018-8240" following the adoption of "Zoning Amendment Bylaw No. 2018-44."

## Background

The subject property (Attachment A) is zoned RD1 (Duplex Housing) and designated by the City's Official Community Plan as HR (High Density Residential). Photos of the sites are included as Attachment D. The subject property is approximately 1,011m<sup>2</sup> (10,882ft<sup>2</sup>) and features a single family dwelling to be demolished. The surrounding properties are primarily zoned RD1 (Duplex Housing), RM3 (Medium Density Multiple Housing), R2 (Small Lot Residential) and P1 (Public Assembly). An apartment building neighbours the subject property to the west with single family dwellings to the north and south. Surrounding properties are designated by the OCP as HR (High Density Residential) and A (Administration/Institutional).

Council recently supported a rezoning for the property at 799 Martin Street from RD1 to RM3, which is two lots to the south of the subject property. This application also included a variance to the rear yard, interior yard and hard surfacing for a 9-unit townhouse.

### Proposal

The applicant is proposing to construct a four-unit townhouse and a three-unit townhouse for a total of seven units. Since townhouses are not permitted in the RD1 (Duplex Housing) zone, a rezoning to RM3 (Medium Density Multiple Housing) is required.

Secondly, the applicant is requesting a Development Variance Permit to vary the following sections of Zoning Bylaw No. 2017-08:

- Table 5.2: to decrease the minimum width of a landscape buffer abutting a residential zone from 3.0m to 0.5m.
- Section 10.9.2.8: to decrease the minimum rear yard from 6.0m to 5.0m.
- Section 10.9.4.1: to increase the maximum hard surfacing of a lot from 60% to 81%.

### Financial implication

The City will receive Development Cost Charges from the developer at a rate of \$5,548 per dwelling unit for a total of \$38,836.00 in addition to the building permit fees, based on the cost of construction.

### Technical Review

This application was forwarded to the City’s Technical Planning Committee and reviewed by the Engineering and Public Works Departments. As per City of Penticton Building Bylaw 94-95 section 7.1.5, storm water/drainage is to be maintained on site. The developer will be responsible to reinstate the existing driveway and separate it from the currently shared driveway with the neighbour to the south. Additionally, the proposed driveway will need to be widened to the north. It has been determined that a 1.0m road widening along the east boundary of the subject property will help to achieve the ultimate desired 20.0m width of Martin Street. Servicing upgrades will be required based on fixture counts. A pad-mount transformer will be required on the property to meet electrical requirements. If the requests for the zoning amendment and variance is supported, BC Building Code and City bylaw provisions, such as height restrictions, will apply.

### Development Statistics

The following table outlines the proposed development statistics on the plans submitted with the rezoning application:

Item	Requirement RM3 zone	Proposed
<b>Maximum Lot Coverage:</b>	50%	32%
<b>Maximum Density:</b>	1.6 FAR	1.20 FAR
<b>Minimum Lot Width:</b>	25.0m	18.28m*
<b>Minimum Lot Area:</b>	1,400m <sup>2</sup>	1,011m <sup>2</sup> *
<b>Vehicle Parking:</b>	1 space per dwelling unit + 0.25	9 spaces

	per unit for visitors (8 total)	
<b>Required Setbacks</b>		
Front yard (east, Martin Street):	3.0m + (1.0m widening) = 4.0m	4.01m
Rear yard (west):	6.0m	5.0m (variance required)
Interior yard (north):	4.5m	4.52m
Interior yard (south):	4.5m	4.5m
<b>Maximum Building Height:</b>	24.0m	9.0m
<b>Amenity Area:</b>	20m <sup>2</sup> per unit (140m <sup>2</sup> total)	312m <sup>2</sup>
<b>Maximum Hard Surfacing:</b>	60%	81% (variance required)
<b>Other Information:</b>	<p>- The subject property is located within the High Density Multiple Family Development Permit Area, thus a development permit is required. This will be staff-issuable and will follow the Rezoning and DVP application.</p> <p>- <i>*The minimum parcel standards (in terms of width and area) only apply when a new parcel is being created, not through rezoning of an existing parcel.</i></p>	

## Analysis

### Support "Zoning Amendment Bylaw No. 2018-44"

The OCP designation for this site is HR (High Density Residential), which supports the proposed development. Staff consider that the zoning amendment to allow for the proposed development represents best use of the land for the following reasons:

- The proposal is consistent with the OCP's view that infill residential development is an appropriate method of maximizing the use of land and increasing housing choices for Penticton residents.
- The OCP encourages densification in areas where existing services can accommodate higher densities, which is the case here.
- The proximity to downtown, schools, and nearby services, including the Public Library & Museum, encourages more walking and active forms of transportation.
- The current proposal will add seven units to the housing stock in a central location.
- Each of the proposed seven units will have three bedrooms, thus providing opportunities for families to live in the downtown, close to services and amenities.

Staff considers that the design is suitable and consistent with the redevelopment trends in the area. The location of the site and characteristics of the surrounding neighbourhood make it appropriate for residential densification. The number of parking spaces for the proposed development exceeds the requirements of the zoning bylaw. The height (9.0m) and lot coverage (32%) are much less than the 24.0m height and 50% lot coverage permitted in the RM3 zone, thus reducing the negative impacts on the surrounding neighbourhood. The proposal is in line with the OCP and it is likely that properties will continue to develop

in the area. Given the above, staff recommends that Council support “Zoning Amendment Bylaw No. 2018-44” and forward the application to the June 19, 2018 Public Hearing for comments from the public.

### Deny/Refer Zoning Amendment

Council may consider that the proposed amendment is not suitable for this site and that the zoning shall remain as it to construct a duplex. If this is the case, Council should deny the bylaw amendment. Alternatively, Council may wish to refer the matter back to staff to work with the applicant with any direction that Council considers appropriate.

### **Development Variance Permit**

#### Support Variances

When considering a variance to a City bylaw, staff encourages Council to be mindful of any constraints on the property that makes following the bylaw difficult or impossible; whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

*Table 5.2: to decrease the minimum width of a landscape buffer abutting a residential zone from 3.0m to 0.5m.*

- The minimum required landscape buffer width from multiple family to residential properties is 3.0m. The developer is requesting a variance to reduce the width to 0.5m. This will likely have an impact on the neighboring property. To limit these impacts, a six-foot privacy fence will be installed between the neighbouring property and the proposed development. Currently, the driveway access is shared between the two properties with no fence separating them. As part of the building permit, the developer will be required to complete works in the boulevard to separate the driveways.

The second and third storey projections on the south side of the proposed building are setback 4.5m from the property line with the driveway acting as a buffer. The height of the building (9.0m) is much less than the 24.0m maximum height permitted in the RM3 zone which strengthens the argument for providing less of a landscape buffer. At this time, the developer is proposing three trees in the front yard with multiple trees and shrubs along the north property line and in the rear yard. A staff-issuable development permit will be issued after zoning approval and the landscape plan will be examined in further detail to ensure adequate screening is put in place. Section 5.3.5 of the zoning bylaw will apply which requires the developer to pay \$450.00 per tree not planted in the buffer area which will be deposited in the Urban Forest Reserve Fund to be used for tree infilling in the City. There are approximately 10 trees on the property now which will be removed prior to construction. The submitted landscape plan shows that at least 10 more will be planted as part of the proposed development, in addition to a number of shrubs and attractive landscaping – better suited to accommodate the proposed development into the future. Staff in the Planning and Parks departments will work closely to ensure plantings are dealt with efficiently.

For the reasons listed above, and the benefit that fencing and driveway separation will have on the neighbouring property, it is reasonable the support the variance request.

*Section 10.9.2.8: to decrease the minimum rear yard from 6.0m to 5.0m.*

- The developer is proposing to reduce the rear yard setback from 6.0m to 5.0m. The developer shifted the building 1.0m to the west to accommodate the 1.0m road dedication along Martin Street. The grass amenity space and privacy fencing in the rear yard will act as a buffer from the proposed building and the residences to the west. The apartment to the west is approximately 18.0m from the common property line with a parking lot acting as a buffer to help reduce the negative impacts that a closer building will have. Council recently approved a similar variance for the 9-unit townhouse development at 799 Martin Street. Under the current zoning, a carriage house could be added to the property, with a 1.5m setback from the rear yard. Staff feel that a 1.0m variance (from 6.0m to 5.0m) is minimal and recommend support of the application.

*Section 10.9.4.1: to increase the maximum hard surfacing of a lot from 60% to 81%.*

- The developer is proposing to increase the maximum hard surfacing of a lot from 60% to 81%. The maximum hard surfacing requirement is in place to insure storm water measures are followed and for aesthetic purposes. The proposed building lot coverage of 32% is much less than the 50% permitted, with the driveway and patio area increasing the hard surfacing to 81%. The developer has landscaped both the front and rear yards with grass and plant species while providing double the required amenity space for the residences. The grass and landscaped surfaces will help to absorb storm water and provide aesthetic value within the development and for the surrounding area. The storm water management will be addressed through the building permit stage to ensure it is all retained on site and does not impact adjacent properties. Council recently approved a similar variance for the 9-unit townhouse development at 799 Martin Street. Given the above, it is reasonable to support the variance.

Although the landscape buffer reduction may have an impact on the neighbour to the south, the privacy fencing and driveway separation will help to limit the impacts. The front, north side and rear of the property will have trees and various plant species. The reduced rear yard setback is unlikely to have an impact on the property to the west based on the separation between buildings. For these reasons, Staff recommend that Council, after hearing from any affected neighbours, support the application.

#### Deny/Refer Variances

Council may consider that the proposed variances will negatively affect the adjacent properties. Council may consider requiring the developer to reduce the length and width of the buildings to meet the rear setback and buffer requirements. If this is the case, Council should deny the variances.

#### **Alternate Recommendations**

1. THAT Council deny first reading of "Zoning Amendment Bylaw No. 2018-44" and deny support for DVP PL2018-8240.
2. THAT Council give first reading to "Zoning Amendment Bylaw No. 2018-44" but deny support for DVP PL2018-8240.
3. THAT Council give first reading to "Zoning Amendment Bylaw No. 2018-44" and support DVP PL2018-8240 with conditions that Council feels are appropriate.

**Attachments**

- Attachment A: Subject Property Location Map
- Attachment B: Zoning Map
- Attachment C: OCP Map
- Attachment D: Photos of Subject Property
- Attachment E: Site/Landscape Plan
- Attachment F: Conceptual Building Elevations
- Attachment G: Conceptual Renderings
- Attachment H: Conceptual Floor Plans
- Attachment I: Letter of Intent
- Attachment J: Development Variance Permit PL2018-8240
- Attachment K: Zoning Amendment Bylaw No. 2018-44

Respectfully submitted,

Randy Houle  
Planner I

Approvals

DDS  <i>RH</i>	CAO  PW
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Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map

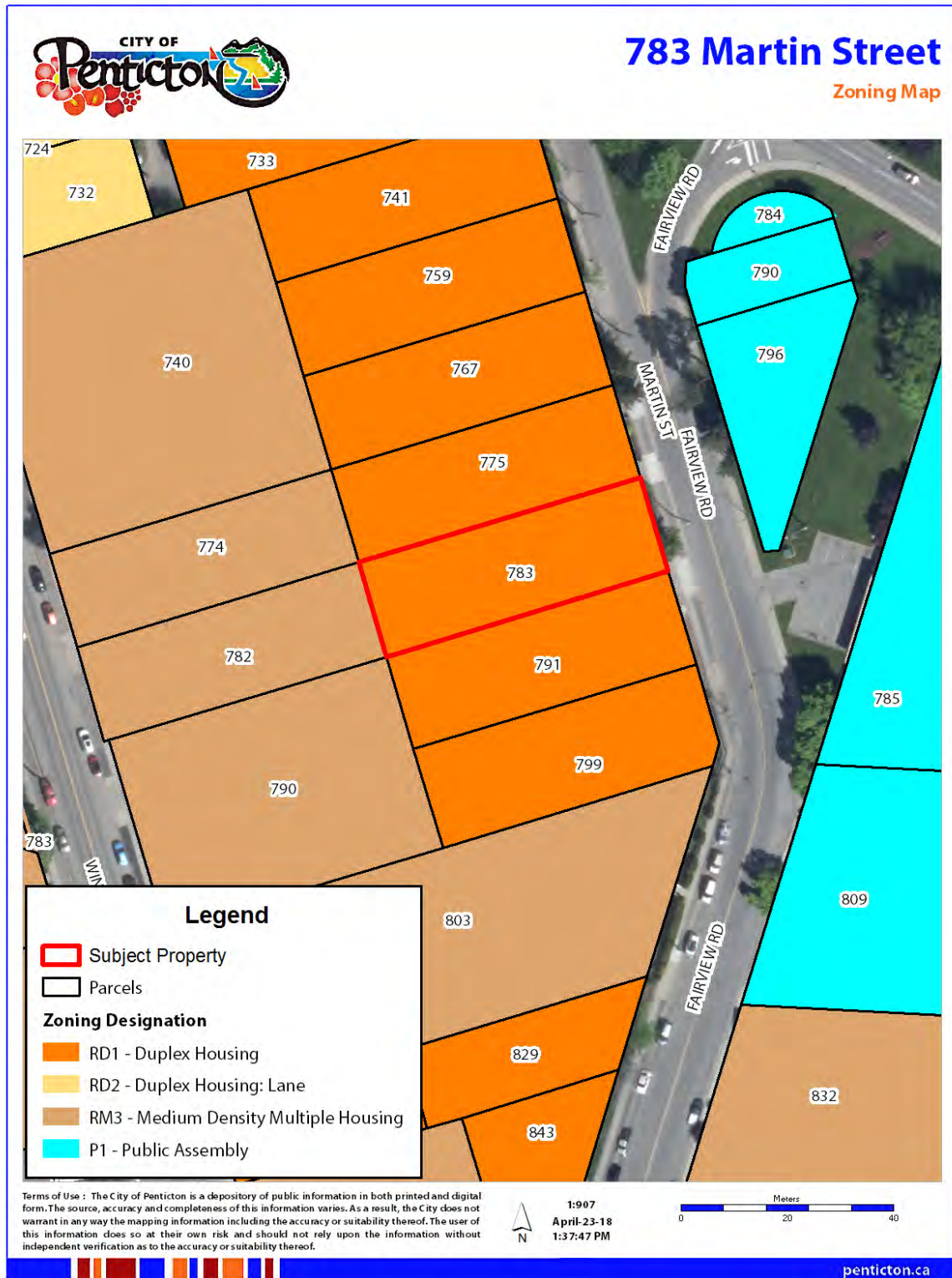


Figure 2: Zoning Map

Attachment C- OCP Map

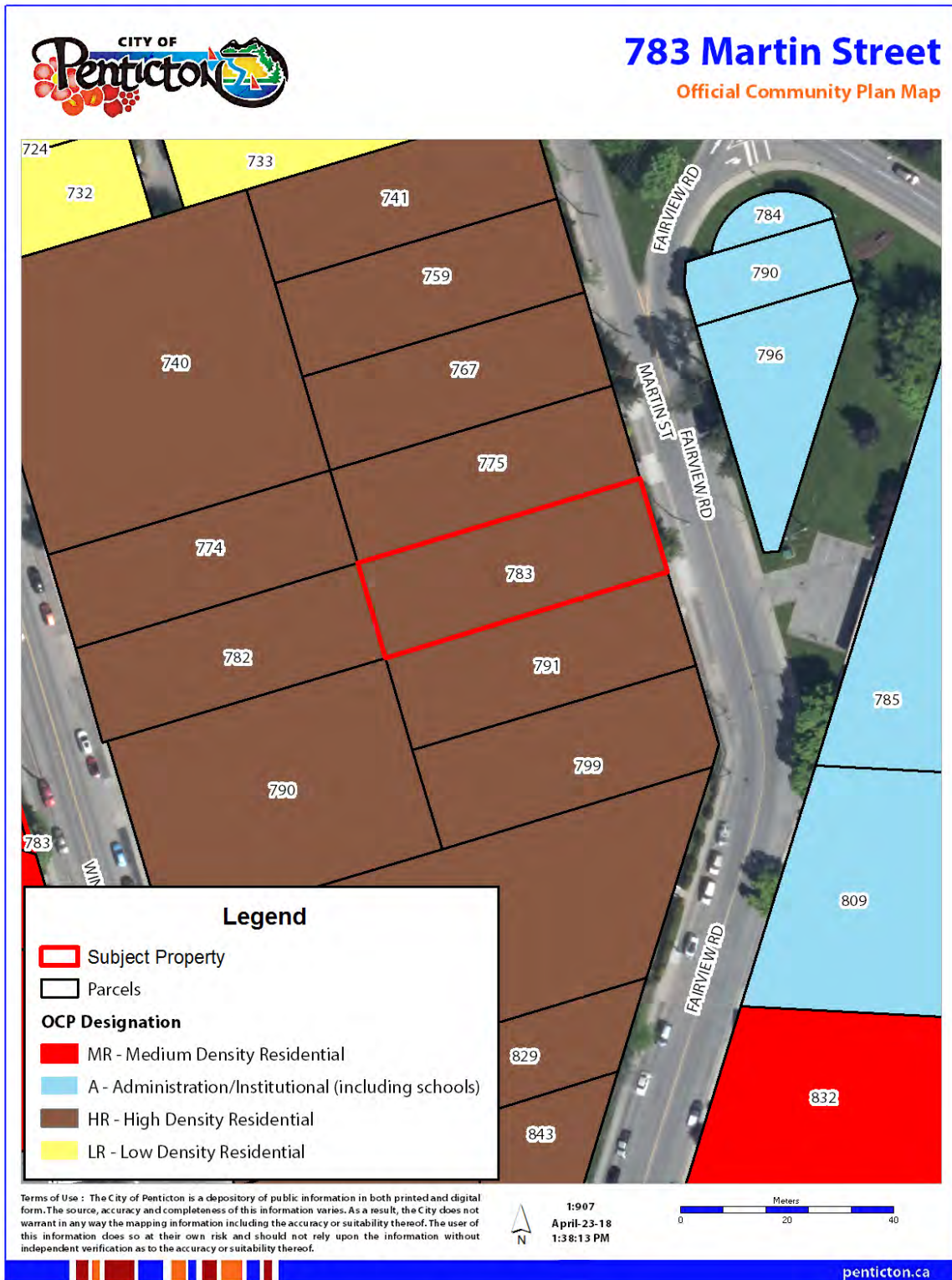


Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: East View of subject property (from Martin Street)



Figure 5: South East View of subject property



Figure 6: North Side of Subject Property (from the street)



Figure 7: Rear yard (looking west)



Figure 8: West Elevation

Attachment E – Site/Landscape Plan

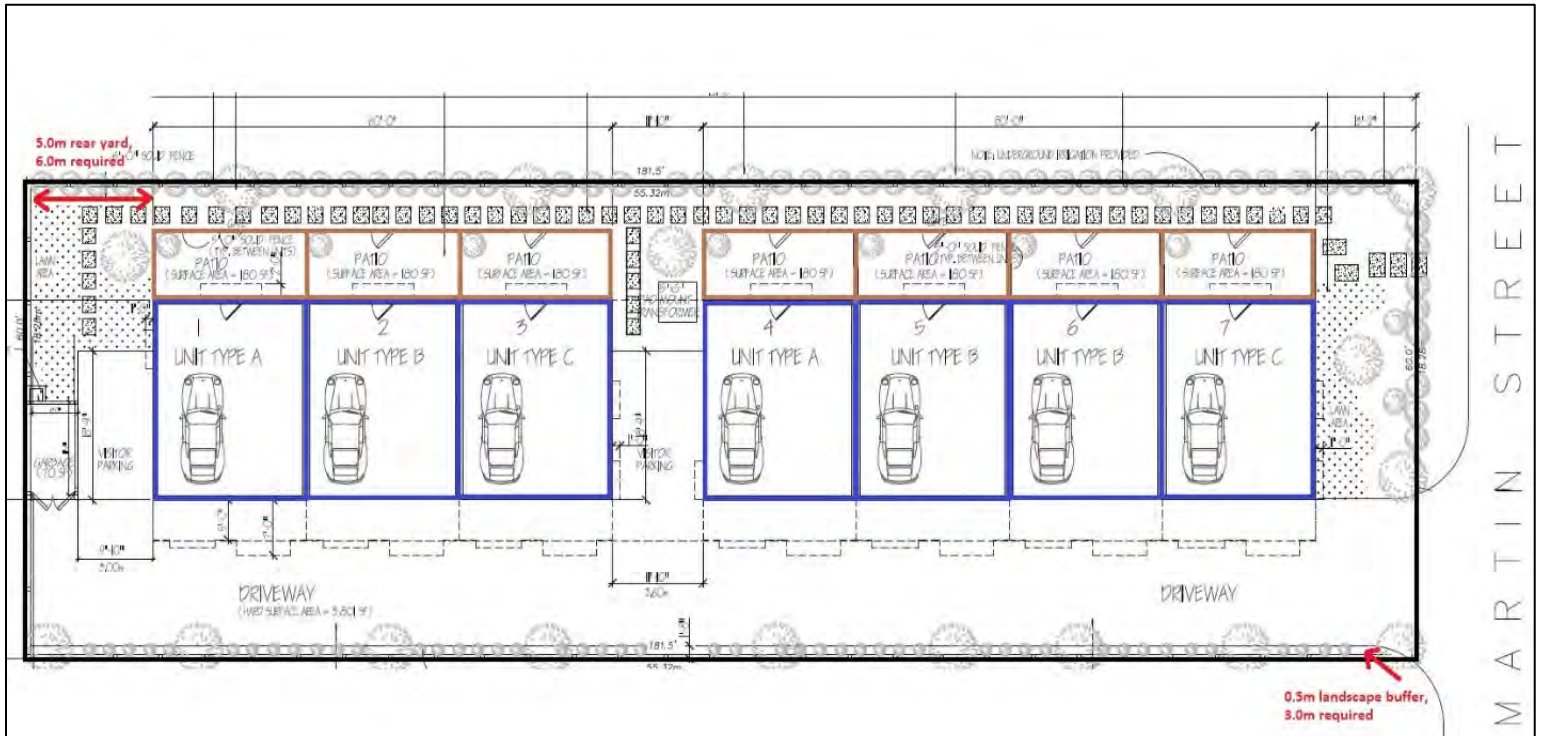


Figure 9: Site Plan

### Attachment F – Conceptual Building Elevations

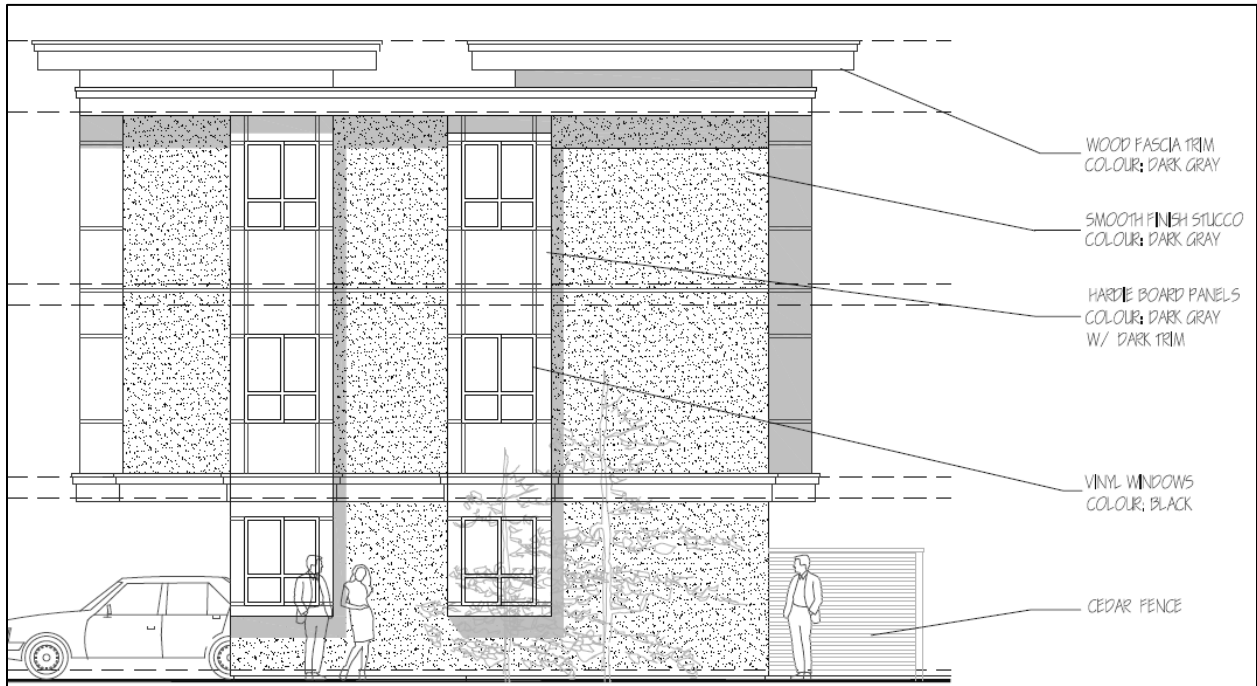


Figure 10: East Elevation (facing Martin Street)



Figure 11: South Elevation

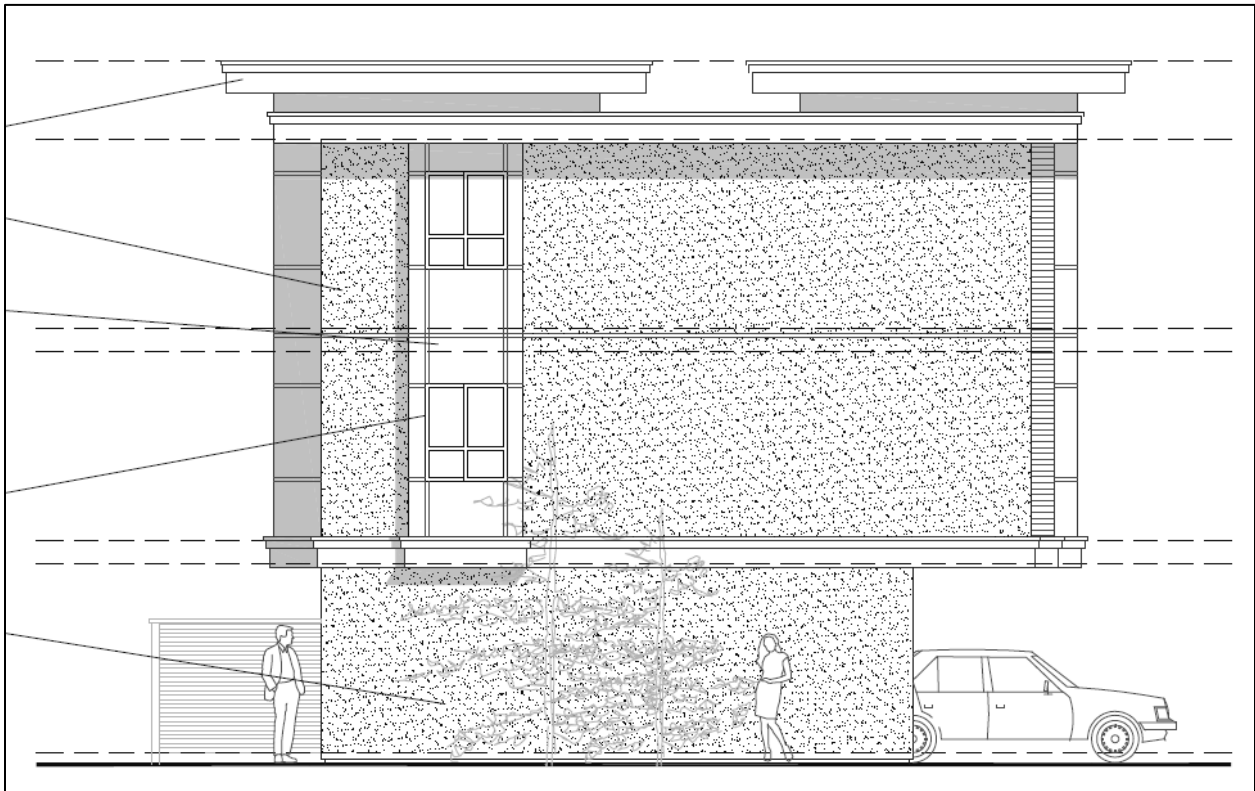


Figure 12: West Elevation



Figure 13: North Elevation

Attachment G – Conceptual Renderings



Figure 14: North Rendering (Pedestrian Entries)



Figure 15: South Rendering (Vehicle Entries)

Attachment H – Conceptual Floor Plans

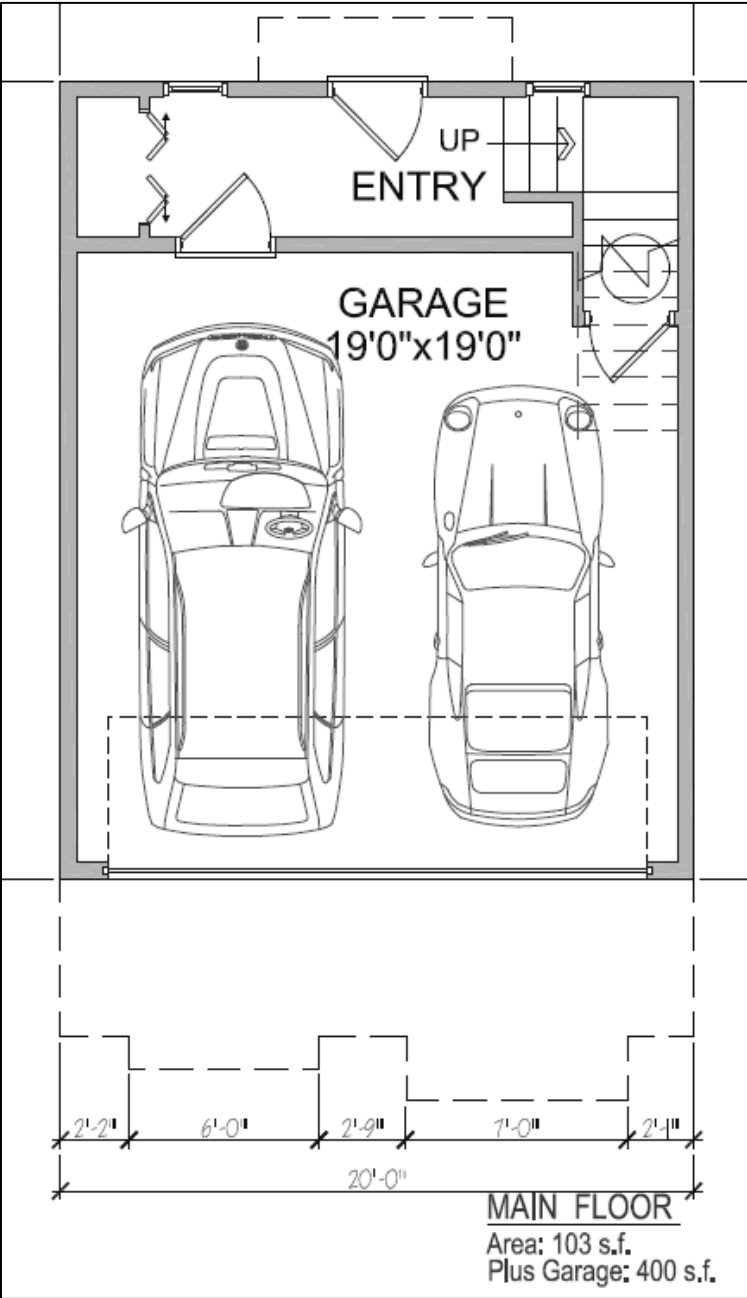


Figure 16: Main Floor

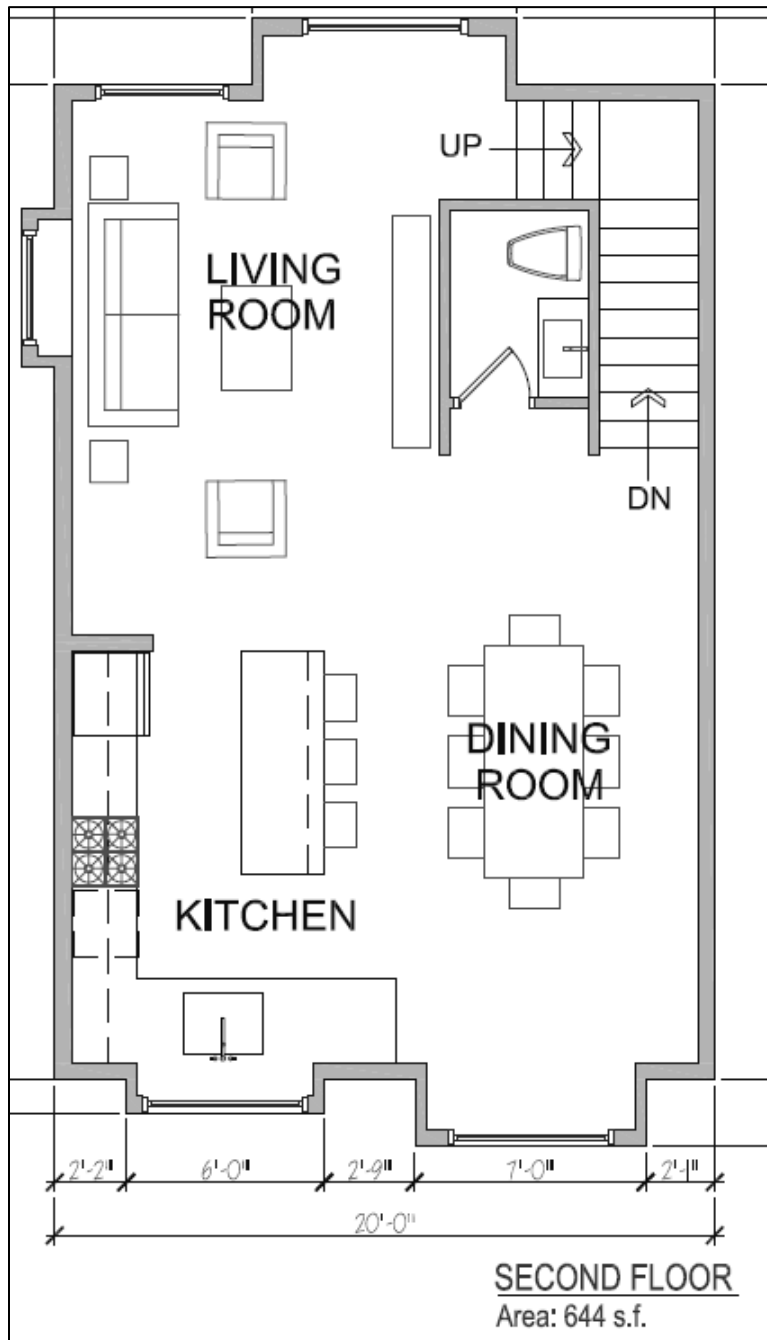


Figure 17: Second Floor Plan

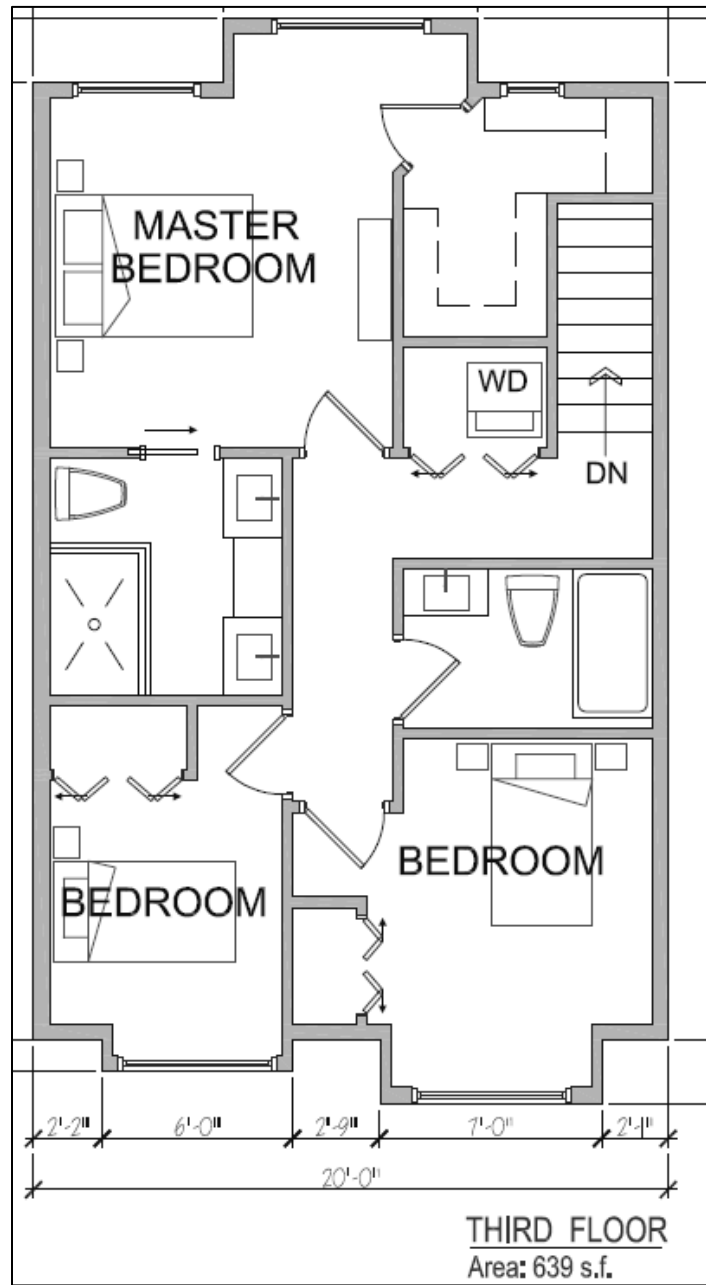


Figure 18: Third Floor Plan

## Attachment I - Letter of Intent



### **783 Martin Street**

#### **Site Description**

783 Martin Street is currently zoned RD1. Abutting the properties western lot line are midrise apartment buildings. One lot to the south (799 Martin Street) was recently rezoned to 9 townhouse units. Older, single family residential properties are immediately on the north and south.

#### **Proposal**

Our proposal is to rezone the property to RM3 to allow a townhouse development that will fit seamlessly into the community and fill a need for affordable family housing. We feel that the townhouse development will be an excellent use for the site as it is not nearly as dense as the apartment buildings to the west and accordingly will be a much nicer use next to the older homes. The townhouse use is also in keeping with the recent rezoning of 799 Martin Street.

The proposed development will consist of 7 townhouses with each unit having two car garages on one side and the front door on the opposite side to animate the landscape.

Affordability for families was of paramount importance with the design and that is why we have come up with 7 townhouses and have strived to keep the square footage down while ensuring they are extremely liveable and efficient. Each townhouse will be 3 stories with the lower level being the garage and entry. The midlevel will be the kitchen, dining and living room. On the top level there will be 3 bedrooms to appeal to families.

The exterior has been designed with a modern, contemporary style. Attached is a coloured rendering showing how the homes will look.

#### **Variance Report**


There are 3 variances that we are asking for which are noted below along with an explanation of why each variance is required.

-Reduce the rear yard setback from 6.0m to 5.0m – This is due to a requirement to take one meter across the entire front of the property for future road widening. Thus rather than the front yard being reduced, we feel it will be better to move the building back and retain the required front yard setback, which of course means that the rear yard would have to be reduced by 1m.

-Decrease the landscape buffer along the south property line from 3.0m to .5m. – Fencing and trees will still be provided and as we are proposing to separate the garage entrances from the front doors, this variance is required to provide functional design while providing enough space to manoeuvre into the garages.

---

5938 Marine Drive | P:604.831.1351 |  
www.sterlingpacificdevelopments.com



-Increase maximum hard surface from 60% to 69% - While putting the garages doors and front doors on opposite sides of the building provides a much nicer design, it does create additional walkways. Thus as these additional walkways would be a hard surface, this in turn increases the total amount of hard surface on the site.


We are confident that our design is well thought out, fills a void in the community and will ultimately provide an excellent addition to the "Uptown" neighbourhood.

---

5938 Marine Drive | P:604.831.1351 |  
[www.sterlingpacificdevelopments.com](http://www.sterlingpacificdevelopments.com)

Figure 19: Letter of Intent

Attachment J - Development Variance Permit PL2018-8240



City of Penticton  
111 Main St. | Penticton B.C. | V2A 5A5  
www.penticton.ca | info@penticton.ca

### Development Variance Permit

**Permit Number: DVP PL2018-8240**

Name:  
Address:

**Conditions of Permit**

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
Legal: Lot A District Lot 202 Similkameen Division Yale District Plan 899  
Civic: 783 Martin Street  
PID: 011-015-253
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2017-08 to allow for the construction of a seven-unit townhouse development.
  - Table 5.2: to decrease the minimum width of a landscape buffer abutting a residential zone from 3.0m to 0.5m.
  - Section 10.9.2.8: to reduce the minimum rear yard from 6.0m to 5.0m.
  - Section 10.9.4.1: to increase the maximum hard surfacing of a lot from 60% to 81%.

**General Conditions**

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.

8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the \_\_ day of \_\_\_\_\_, 2018.

Issued this \_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer



# 783 Martin Street – Rezone

## From RD1 (Duplex Housing) to RM3 (Medium Density Multiple Housing)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2018-44

Date: \_\_\_\_\_

Corporate Officer: \_\_\_\_\_

# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Randy Houle, Planner I  
**Address:** 456 Main Street  
**Subject:** **Zoning Amendment Bylaw No. 2018-45**

File No: 2018 PRJ-075

## Staff Recommendation

THAT "Zoning Amendment Bylaw No. 2018-45", a bylaw to add section 11.5.4.9 to the C5 (Urban Centre Commercial) zone, "In the case of Lot 9, Block 15, DL 202, SDYD, Plan 269, located at 456 Main Street, one dwelling unit on the first storey behind the commercial space shall be permitted," be given first reading and be forwarded to the June 19, 2018 Public Hearing.

## Background

The subject property (Attachment A) is zoned C5 (Urban Centre Commercial) and designated by the City's Official Community Plan (OCP) as DC (Downtown Commercial). Photos of the site are included as Attachment D. The lot is approximately 278.7m<sup>2</sup> (3,000ft<sup>2</sup>) in area with a vacant commercial unit. The building was the former home of Wing's Boutique. Surrounding properties are primarily zoned C5 (Urban Centre Commercial). The property includes a 6ft walkway on the south side, which will form part of the entry to the proposed residential unit at the rear of the property. The property is located in the 400 block of the downtown, close to shops and nearby services.

On May 23, 2017, Council approved a site-specific zoning amendment for 532 Main Street to allow for four residential units on the ground floor with two small commercial units fronting the street. A development permit was issued in December of 2017 but the City has not received a building permit application yet.

## Proposal

The applicant is proposing to convert the back half of the one-storey commercial building into a one-bedroom residential dwelling unit. Section 11.5.3.1 of the C5 zone states that dwelling units are restricted to second or higher storeys. Since the proposed dwelling unit will be on the first-storey, a site specific zoning amendment is required. At this time, the applicant is not proposing variances to any City bylaws.

## Technical Review

This application was forwarded to the City's Technical Planning Committee and reviewed by the Engineering and Public Works departments. Fire separation issues between units as well as fire department access

requirements have been identified and communicated to the applicant. If the request for the zoning amendment is supported, BC Building Code and City bylaw provisions will apply.

### Financial Implication

Development Cost Charges will be applied for the creation of a new residential unit in the C5 zone at a rate of \$3,126.00 to the developer.

### Development Statistics

The following table outlines the proposed development statistics on the plans submitted with the rezoning application:

Item	Requirement C5 zone	Proposed
<b>Maximum Lot Coverage:</b>	100%	NA
<b>Maximum Density:</b>	6.0 FAR	NA
<b>Minimum Lot Width:</b>	9.0m	9.144m
<b>Minimum Lot Area:</b>	275.0m <sup>2</sup>	278.0m <sup>2</sup>
<b>Vehicle Parking:</b>	1 space per dwelling unit	0 (see below)*
<b>Required Setbacks</b>		
Front yard (west, Main Street):	0.0m	NA
Rear yard (lane):	0.0m	NA
Interior yard (north):	0.0m	NA
Interior yard (south):	0.0m	NA
<b>Maximum Building Height:</b>	15.0m	NA
<b>Other Information:</b>	<ul style="list-style-type: none"> <li>The subject property is located within the Downtown Commercial Development Permit Area. Since the construction is internal, no DP is required. If the applicant proposes to change the façade of the building, then a staff-issuable DP will be required.</li> <li>Since a building addition is not being proposed, lot coverage, height and setbacks are not addressed in this application.</li> <li>*As per Section 6.1.2.3 of the Zoning Bylaw, Cash-in-lieu for not providing 1 parking space on-site may be paid by the developer at a cost of \$6,000.</li> </ul>	

### Analysis

#### Support “Zoning Amendment Bylaw No. 2018-45”

The subject property is designated Downtown Commercial (DC) by the City’s Official Community Plan Bylaw No. 2002-20. This designation encourages a wide range of pedestrian oriented retail, office, institutional use,

entertainment and includes multi-family residential above the ground floor. The Downtown Plan specifies the promotion of options to strengthen the economic vitality of the downtown, enhancing the character of the downtown and building local capacity. Promoting residential units at grade in the downtown will offer opportunities for denser residential development and support commercial activity on Main Street.

Planning policies in the downtown encourage a mix of uses, particularly the combination of retail and residential uses. Mixtures of uses tend to create vibrancy and healthy density. This is in part because businesses provide services for residents and the residences provide customers for the businesses. In commercial areas where residential uses are proposed, the residential units are normally restricted to upper storeys of buildings to ensure an active and vibrant ground floor atmosphere and lively streetscape. This is typically achieved by commercial use rather than residential uses. Residential units typically require more privacy than commercial units which is achieved by restricting them to second or higher storeys. In the proposed amendment, the commercial use on Main Street is retained, with the proposed residential unit being located behind the commercial unit, not visible from the street. The commercial street front use is maintained while privacy for the residential unit remains with access from the street via the 6-foot breezeway.

Staff considers that the location of the site and characteristics of the surrounding neighbourhood make it appropriate for the proposed amendment. Given the above, staff recommends that Council support "Zoning Amendment Bylaw No. 2018-45" and forward the application to the June 19, 2018 Public Hearing for comments from the public.

Deny/Refer Zoning Amendment Bylaw No. 2018-45"

Council may feel that the proposed amendment is not suitable for this site, Council should deny the bylaw amendment. Alternatively, Council may refer the application back to staff with further instructions.

**Alternate Recommendations**


1. THAT Council deny first reading of "Zoning Amendment Bylaw No. 2018-45".
2. THAT Council refer the bylaw back to staff.

**Attachments**

- Attachment A: Subject Property Location Map
- Attachment B: Zoning Map
- Attachment C: OCP Map
- Attachment D: Photos of Subject Property
- Attachment E: Floor Plan
- Attachment F: Letter of Intent
- Attachment G: Zoning Amendment Bylaw No. 2018-45

Respectfully submitted,

Randy Houle  
Planner I

DDS	CAO
	PW

Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map

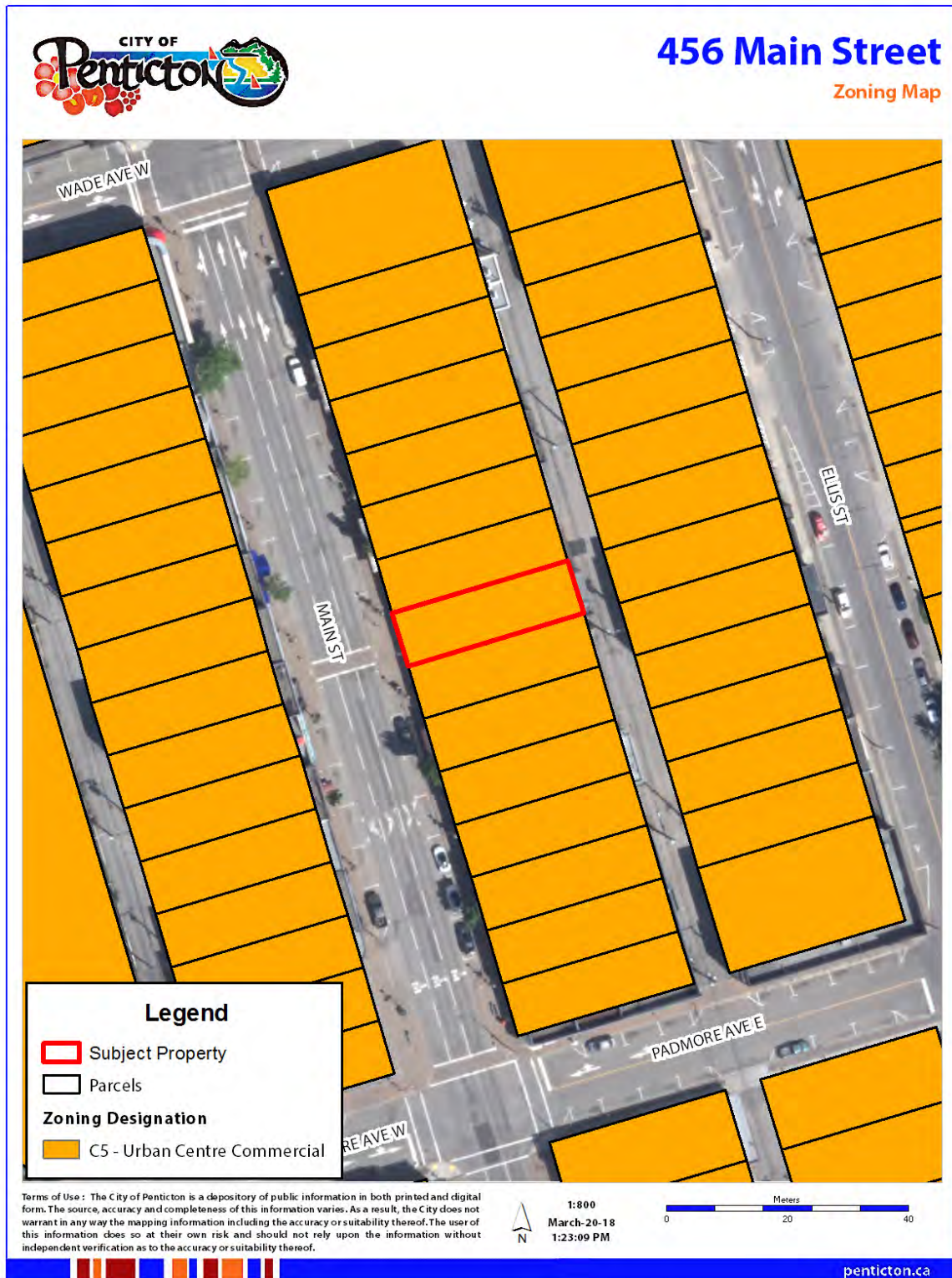


Figure 2: Zoning Map

Attachment C- OCP Map

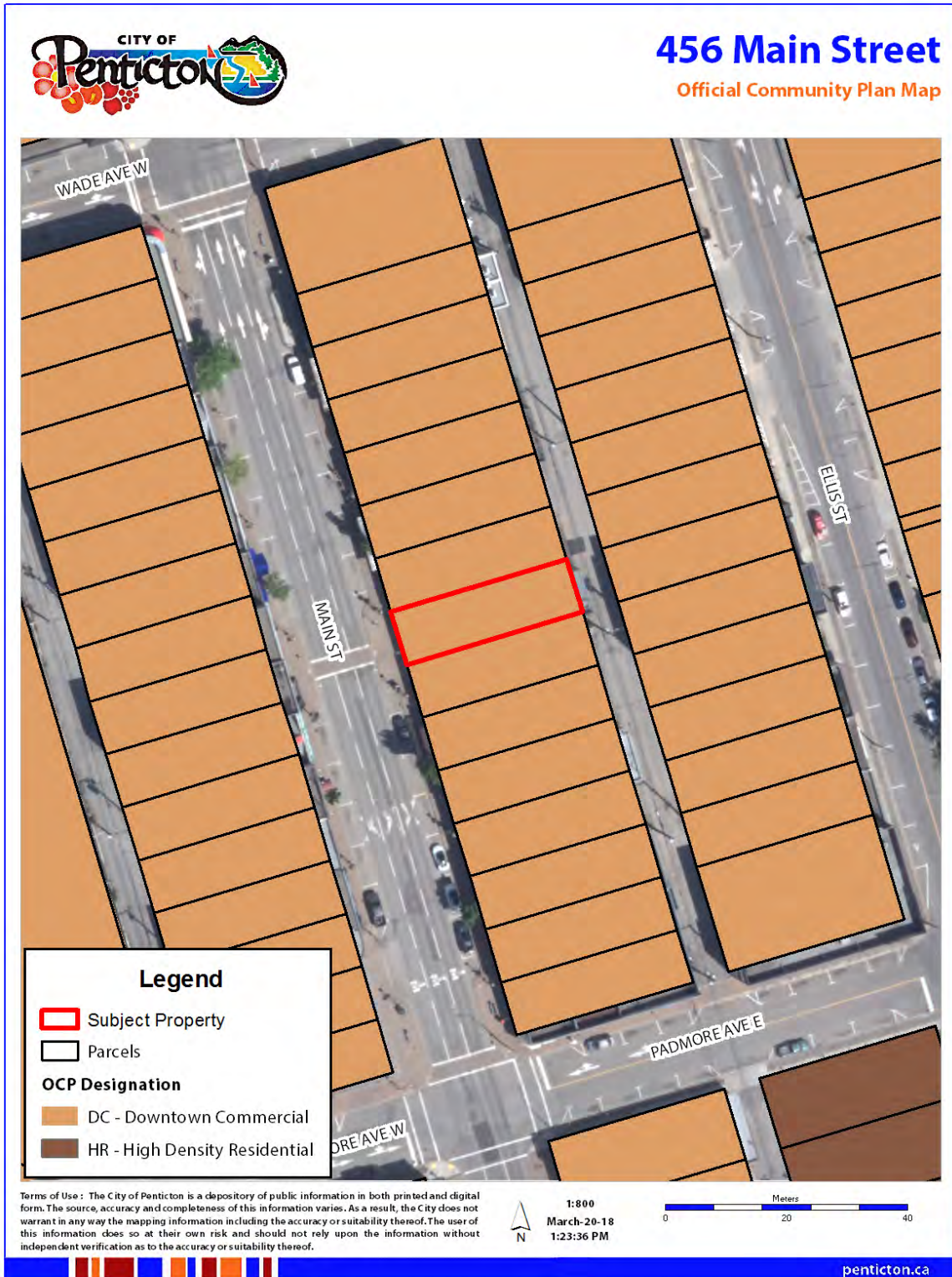


Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: West View (from Main Street)



Figure 5: East View (from the lane)



Figure 6: South View (from the lane)



Figure 7: North Building Face (from the lane)

Attachment E – Floor Plan

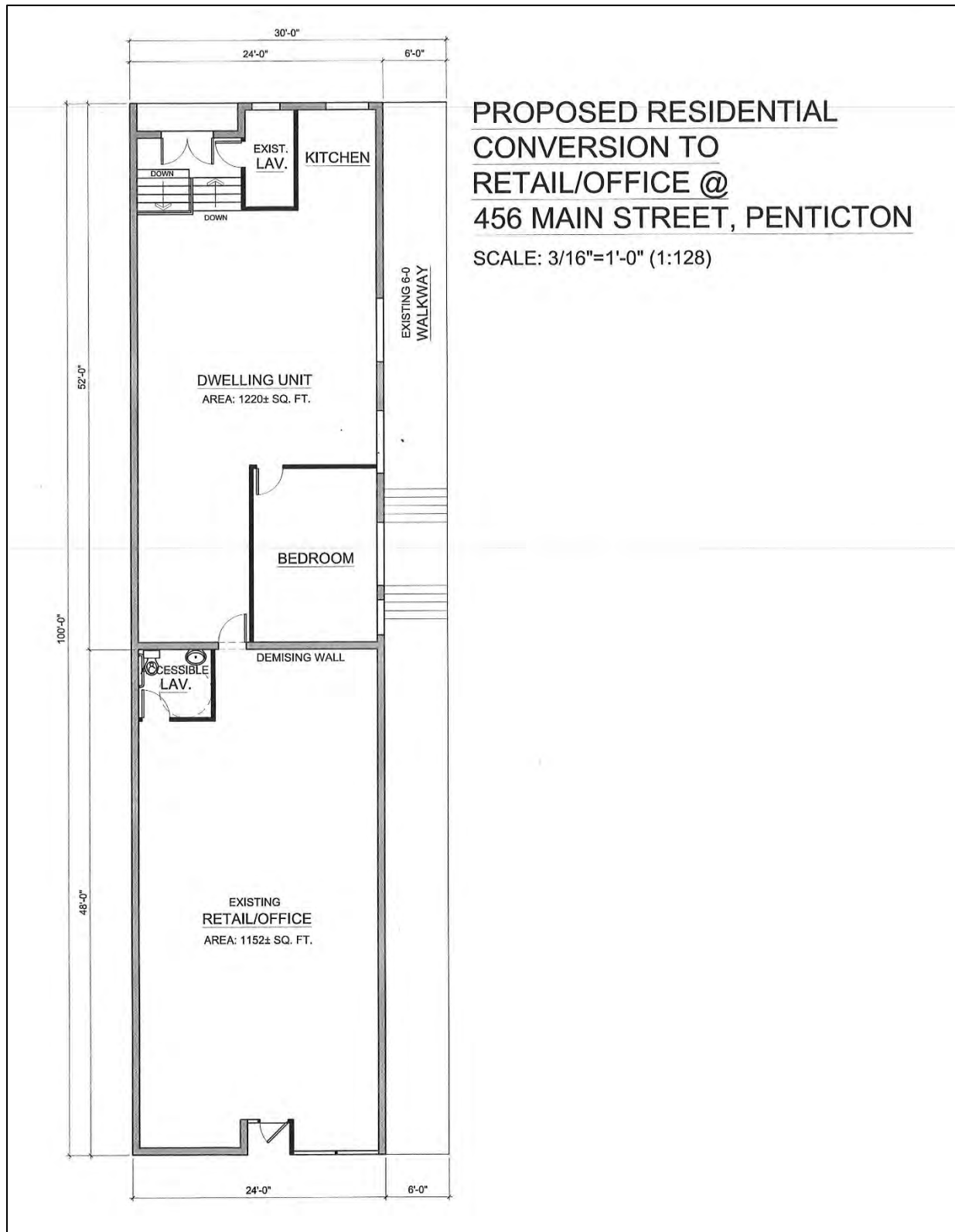


Figure 8: Floor Plan

Attachment F- Letter of Intent

**MOUNTAIN ENTERPRISES LTD.**

528 MAIN STREET • PENTICTON BC • V2A 5C7  
PHONE: 250-492-0346 • FAX: 250-492-6673

March 8, 2018

City of Penticton  
171 Main Street  
Penticton, BC  
V2A 5A9

Attention: Mayor and Council

RE: Letter of Intent, reasons for requesting this rezone application  
456 Main Street is to permit the owner to construct a residential  
apartment on the first floor at the back part of the building.  
The building size is 2400 sq. ft. (±). The building has been vacant since  
purchased in October 2014.  
Has a history of high vacancies deemed to be due to:

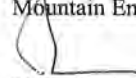
1. The front is half brick rather than all glass display, not typical of a store front.
2. The interior floor is at 2 levels, the front (West) 48' (±) at street level, the back (East) level is 40" (±) higher than the front, access by stairs or wheel chair ramp.
3. 2400 sq. ft. retail is a floor area not in demand, more likely to lease at 1200 sq. ft. (±)

Other Issues:

Would not proceed with a building permit until had a tenant committed to leasing both retail and apartment as logic would have the Residential tenant with access to both front and back. If there were two unrelated tenant's, would most often be in conflict with each other. Leaving heating, air conditioning and electrical "As Is" would be a substantial operating expense for the Owner if rented to unrelated parties as experience indicates heating and electrical utilities increases by 30% if Owner pays. To separate heating and electrical an expensive undertaking therefore an inducement for the Owner to lease both front and back to the same tenant.

Allowing this rezone will place the building in a different market and expect it will attract potential tenants. As a vacant building the insurance premium expense has been \$10,000 + each year.

Yours truly,  
Mountain Enterprises Ltd.



Philip Locke

PL/jw/COP/rezoneappl/030818

Figure 9: Letter of Intent

**Bylaw No. 2018-45**

*A Bylaw to Amend Zoning Bylaw 2017-08*

---

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the *Local Government Act*;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2017-08;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2018-45".

2. **Amendment:**

2.1 Zoning Bylaw 2017-08 is hereby amended by adding the following site specific provisions to section 11.5.4:

.9 In the case of Lot 9, Block 15, DL 202, SDYD, Plan 269, located at 456 Main Street, one dwelling unit on the first storey behind the commercial space shall be permitted.

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	day of	, 2018
A PUBLIC HEARING was held this	day of	, 2018
READ A SECOND time this	day of	, 2018
READ A THIRD time this	day of	, 2018
ADOPTED this	day of	, 2018

Notice of intention to proceed with this bylaw was published on the \_\_ day of \_\_\_\_, 2018 and the \_\_ day of \_\_\_\_, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

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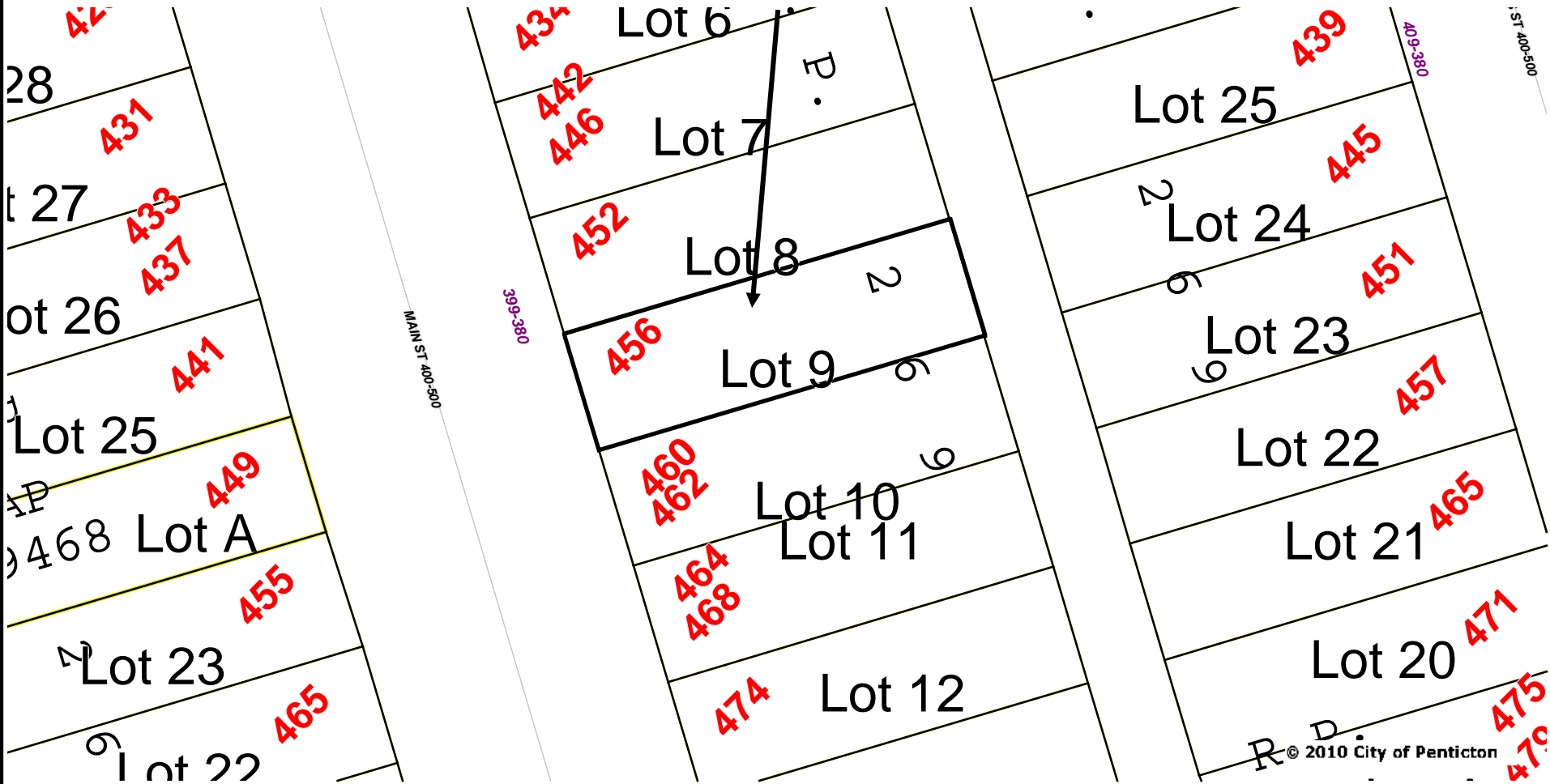
Andrew Jakubeit, Mayor

---

Dana Schmidt, Corporate Officer

# 456 Main Street - Site Specific Zoning Amendment

To permit one dwelling unit on the first storey behind the commercial space



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2018-45

Date: \_\_\_\_\_

Corporate Officer: \_\_\_\_\_

# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Audrey Tanguay, Senior Planner  
New Zoning Schedule: RD3 (Residential Infill)

File No: 3360-02

**Subject: Zoning Amendment Bylaw No. 2018-36**

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## Staff Recommendation

THAT "Zoning Amendment Bylaw No. 2018-36", a bylaw to amend Zoning Bylaw 2017-08 to create a new zone called RD3 (Residential Infill) be given first reading and be forwarded to the June 19, 2018 Public Hearing.

## Strategic priority objective

The new zoning designation RD3 (Residential Infill) can support smart growth by increasing density in areas where existing services already exist and in areas close to transit, commercial and employment centers in a form compatible with adjacent lower-density residential areas.

## Financial implication

None.

## Analysis

*Support the creation of the RD3 (Residential Infill) zone*

Staff proposed the creation of a new zone in Zoning bylaw 2017-08 to address some of the recent trends of development in the City, including carriage houses, clustering of housing and subdividing urban lots to create two or three new building lots. The intent of the RD3 zone is to support a maximum of three dwelling units on one lot putting an emphasis on maintaining a single detached feel to the property. The zone allows for a single detached dwelling, with a secondary suite as well as a carriage house.

The new zone is intended for areas of exiting single-family housing undergoing transition to higher density, but offers a built form fitting in more appropriately with single family and duplex housing as opposed to apartment or townhouses, which is seen as more disruptive building forms in traditionally single-family neighbourhoods.

The development regulations of the RD3 zone are very similar to the R3 (Small Lot Residential) and RD2 (Duplex Housing: Lane) zones, with minimal front yard setbacks (enough for a tree to be planted) and minimal side yard setback (1.2m) allowing for subdivision and infill to happen.

The new zone, will give the City's development and residential design industry opportunities for creative new housing projects in Penticton, meeting the demands outlined in the City's Housing Needs Assessment. The new zone meets several objectives of the City's Official Community Plan and Downtown Plan including:

- Ensuring the City's Zoning Bylaw accommodates development of a variety of housing types
- Promoting infill development in areas where higher densities can be accommodated
- Encouraging intensification in and around the downtown

**Alternate Recommendations**

1. THAT Council deny first reading of "Zoning Amendment Bylaw No. 2018-36".

**Attachments**

Attachment A            Proposed new RD3 zone to be included into Zoning Bylaw 2017-08  
Attachment B:            Zoning Amendment Bylaw No. 2018-36

Respectfully submitted,

Audrey Tanguay  
Senior Planner

Approvals

DDS  <i>AH</i>	CAO  PW
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Attachment A- Proposed new RD3 zone to be included into Zoning Bylaw 2017-08

**10.12 RD3 – Residential Infill**

**PURPOSE**

The purpose is to provide a **zone** for infill housing with a maximum of three units on small sized urban serviced **lots**.

**10.12.1 PERMITTED USES**

The **permitted uses** in this **zone** are:

- .1 **accessory use, building or structure**
- .2 **one back-to-back duplex, one side-by-side duplex, one stacked duplex, or one single detached dwelling**
- .3 **secondary suite** (subject to accessory suites regulations 8.1)
- .4 **carriage house** (subject to accessory suites regulation 8.2)
- .5 **minor home occupation** (subject to specific use regulation 7.3)
- .6 **vacation rental** (subject to specific use regulation 7.6)

**10.12.2 SUBDIVISION AND DEVELOPMENT REGULATIONS**

- .1 Minimum **lot width**:
  - i. standard **lot** 9.1 m
  - ii. **corner lot** 10.5 m
- .2 Minimum **lot area**: 275 m<sup>2</sup>
- .3 Maximum **lot coverage**: 55%
- .4 Maximum **density**: 1.0 FAR
- .5 Maximum **height**:
  - i. **principal building** 10.5 m
  - ii. **accessory building or structure** 4.5 m
- .6 Minimum **front yard** (subject to general development regulation 4.2.5): 4.5 m
- .7 Minimum interior **side yard**: 1.2 m  
Minimum **exterior side yard**: 3.0 m
- .8 Minimum **rear yard**:
  - i. **principal building** 6.0 m
  - ii. **accessory building or structure** 1.5 m
- .9 Maximum area of all accessory buildings 75 m<sup>2</sup>

**10.12.3 OTHER REGULATIONS**

- .1 Notwithstanding section 8.2.2, in the case of the RD3 zone, a **carriage house** is permitted on the same lot as a principal dwelling with a **secondary suite** or a **duplex** building for a maximum of three dwellings on a lot.
- .2 In the case of duplex development, where a rear **lane** is provided, vehicular access must be from the rear **lane**.
- .3 In cases where a **dwelling unit** faces the back of the lot, a clear, unobstructed and maintained access from the front of the property to the back unit at least 1.2 m in wide, must be provided.

**Bylaw No. 2018-36**

*A Bylaw to Amend Zoning Bylaw 2017-08*

---

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the *Local Government Act*;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2017-08;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2018-36".

2. **Amendment:**

Zoning Bylaw 2017-08 is hereby amended as follows:

2.1 Add the following section to Chapter 10 – Urban Residential Zones:

**10.12 RD3 – Residential Infill**

**PURPOSE**

The purpose is to provide a **zone** for infill housing with a maximum of three units on small sized urban serviced **lots**.

**10.12.1 PERMITTED USES**

The **permitted uses** in this **zone** are:

- .1 **accessory use, building or structure**
- .2 **one back-to-back duplex, one side-by-side duplex, one stacked duplex, or one single detached dwelling**
- .3 **secondary suite** (subject to accessory suites regulations 8.1)
- .4 **carriage house** (subject to accessory suites regulation 8.2)
- .5 **minor home occupation** (subject to specific use regulation 7.3)
- .6 **vacation rental** (subject to specific use regulation 7.6)

**10.12.2 SUBDIVISION AND DEVELOPMENT REGULATIONS**

- .1 Minimum **lot width**:
  - i. standard **lot** 9.1 m
  - ii. **corner lot** 10.5 m
- .2 Minimum **lot area**: 275 m<sup>2</sup>
- .3 Maximum **lot coverage**: 55%
- .4 Maximum **density**: 1.0 FAR
- .5 Maximum **height**:
  - i. **principal building** 10.5 m

	ii. <b>accessory building or structure</b>	4.5 m
.6	Minimum <b>front yard</b> (subject to general development regulation 4.2.5):	4.5 m
.7	Minimum interior <b>side yard</b> :	1.2 m
	Minimum exterior <b>side yard</b> :	3.0 m
.8	Minimum <b>rear yard</b> :	
	i. <b>principal building</b>	6.0 m
	ii. <b>accessory building or structure</b>	1.5 m
.9	Maximum area of all accessory buildings	75 m <sup>2</sup>

**10.12.3 OTHER REGULATIONS**

- .1 Notwithstanding section 8.2.2, in the case of the RD3 zone, a **carriage house** is permitted on the same lot as a principal dwelling with a **secondary suite** or a **duplex** building for a maximum of three dwellings on a lot.
- .2 In the case of duplex development, where a rear **lane** is provided, vehicular access must be from the rear **lane**.
- .3 In cases where a **dwelling unit** faces the back of the lot, a clear, unobstructed and maintained access from the front of the property to the back unit at least 1.2 m in wide, must be provided.

2.2 Update Schedule 'A' Zoning Bylaw Text Table of Contents to include all the Urban Residential Zones.

2.3 Update Schedule 'B' Zoning Bylaw Map to include the new zone RD3 – Residential Infill.

READ A FIRST time this \_\_\_\_\_ day of \_\_\_\_\_, 2018  
 A PUBLIC HEARING was held this \_\_\_\_\_ day of \_\_\_\_\_, 2018  
 READ A SECOND time this \_\_\_\_\_ day of \_\_\_\_\_, 2018  
 READ A THIRD time this \_\_\_\_\_ day of \_\_\_\_\_, 2018  
 RECEIVED the approval of the \_\_\_\_\_ day of \_\_\_\_\_, 2018  
 Ministry of Transportation on the  
 ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018

Notice of intention to proceed with this bylaw was published on the \_\_\_ day of \_\_\_\_, 2018 and the \_\_\_ day of \_\_\_\_, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

<p>Approved pursuant to section 52(3)(a) of the <i>Transportation Act</i>          this _____ day of _____, 2018</p> <p>_____</p> <p>for Minister of Transportation &amp; Infrastructure</p>
--

\_\_\_\_\_  
 Andrew Jakubeit, Mayor

\_\_\_\_\_  
 Dana Schmidt, Corporate Officer

# Council Report

penticton.ca

**Date:** June 5, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Audrey Tanguay, Senior Planner  
**Address:** 157 Abbott Street and 198 Van Horne Street

File No: 2018 PRJ-081

**Subject: OCP Amendment Bylaw 2018-38  
Zoning Amendment Bylaw No. 2018-39**

## Staff Recommendation

### *OCP Amendment Bylaw*

THAT prior to consideration of "OCP Amendment Bylaw No. 2018-38" and in accordance with Section 475 of *Local Government Act*, Council considers whether early and on-going consultation, in addition to the required Public Hearing, is necessary with:

1. One or more persons, organizations or authorities;
2. The Regional District of Okanagan Similkameen;
3. Local First Nations;
4. School District #67; and
5. The provincial or federal government and their agencies;

AND THAT it is determined that the public consultation completed to date and the Public Hearing is sufficient consultation;

AND THAT "OCP Bylaw No. 2002-20", be amended by changing the OCP designation on Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP81594, located at 157 Abbott Street and Lot 1, District Lot 202, Similkameen Division Yale District, Plan KAP86539 located at 198 Van Horne Street from HR (High Density Residential) to MR (Medium Density Residential), and amends Schedule 'H' of the bylaw, including the subject lands in the General Multiple Family Development Permit Area;

AND THAT "Official Community Plan Amendment Bylaw No. 2018-38" be introduced, read a first time and forwarded to the June 19, 2018 Public Hearing.

### *Zoning Amendment Bylaw*

THAT "Zoning Amendment Bylaw No. 2018-39", a bylaw to rezone Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP81594, located at 157 Abbott Street and Lot 1, District Lot 202, Similkameen Division Yale District, Plan KAP86539 located at 198 Van Horne Street be rezoned from RM4 (Medium

Density Multiple Housing) to RD3 (Residential Infill), be given first reading and be forwarded to the June 19, 2018 Public Hearing.

### *Excess or Extended Service*

THAT, in accordance with section 507 of the *Local Government Act*, Council require the developer, at the time of subdivision of 157 Abbott Street, include the frontage of 198 Van Horne Street as part of the required frontage improvements, as an 'excess or extended service'.

### **Strategic priority objective**

The subject application is aligned with the Council Priorities of Community Building, Economic Vitality and Environmental Sustainability. The project represents smart growth by increasing density in areas where existing services already exist and in areas close to transit, commercial and employment centers.

### **Background**

The subject properties (Attachment 'A') represent a large parcel of land and a small corner lot, which are currently designated by Official Community Plan 2002-20 (OCP) as HR (High Density Residential). The larger parcel (157 Abbot Street) is zoned RM4 (High Density Multiple Housing) and the corner lot (198 Van Horne Street) is zoned RD2 (Duplex: lane) by City of Penticton Zoning Bylaw No. 2017-08. This subject properties are bordered by an apartment building to the north, the Westminster Electric Substation to the east and a mix of single family and duplexes to the south and west. The lands are located one block east of the Ellis Street commercial corridor.

The larger parcel was rezoned in 2006 to RM4 to provide for a multiple family development comprised of 2 - 7 storey apartment buildings and townhomes with a total of 76 units. Prior to 2006, the site comprised six single family home properties, which were consolidated to accommodate the multifamily project. All the houses except one were demolished in preparation for the multifamily development.

The property is located within the High Density Development Permit area. The High Density DPA is intended for multi-story multiple dwelling unit developments.

The developer intends to subdivide the larger parcel into 11 lots to allow a maximum of three dwelling units on each subdivided lot. The applicant proposes a mixture of either single detached dwellings and or duplexes with secondary suites and or carriage houses, with a potential total of three units per lot. The maximum number of dwelling units on the development site is 33 units.

### **Proposal**

To accommodate the proposal the applicant is proposing the following amendment to the Official Community Plan Bylaw 2002-20:

`Schedule B: Future Land Use Map` to change the OCP designation of the subject lands from HR (High Density Residential) to MR (Medium Density Residential) and to amend `Schedule H:

Development Permit Area Map' including the property in the General Multiple Family Development Permit Area.

And secondly, the proponents are requesting the subject lands be rezoned from RM4 (Medium Density Multiple Housing) to RD3 (Infill Housing) zone. This would represent the first opportunity to employ this new zoning, which is intended to deliver infill housing in areas that are well-suited to densification in a form that is sensitive to lower-density residential contexts and areas in transition.

### **Consultation**

Staff had requested that the applicant meet with the adjacent neighbourhood prior to this application and a public information meeting was held at the Cannery Brewery, 198 Ellis Street, on April 26, 2018. The consultation session was well attended with over 40 attendees from the community. Encouraging commentaries were conveyed regarding the proposed development, the reduced density, the location and the quality of the proposal.

### **Financial implication**

The redevelopment of these lands will provide the City with approximately \$145,882 worth of development cost charges going to City wide City infrastructure projects and parks. The developer is also, at their expense and above and beyond the bylaw requirement, undergrounding the electrical infrastructure fronting the subject property, estimated at over \$116,000. The development will also be installing sidewalk, street trees and parking, improving the overall feel of the neighbourhood.

### **Technical Review**

This proposal was forwarded to the City's Technical Planning Committee and reviewed by the Engineering and Public Works Departments. The Engineering Department has reviewed this application and notes a number of servicing requirements to be addressed at the subdivision stage, including new water and sanitary connections, and construction of sidewalks on Van Horne Street, Westminster Avenue and Abbott Street.

Given that only 157 Abbott Street will be subdivided, there would be no requirement to continue the sidewalk along the frontage of 198 Van Horne Street. As this would leave a noticeable gap, the developer has agreed at their expense to finish this work. Staff are suggesting that Council pass an excess or extended service resolution requirement that this be done at the time of subdivision. Passing this resolution will allow the developer to recoup latecomer funds for the works done around 198 Van Horne Street, if the property redevelops anytime in the next 15 years.

### **Project specifications**

The following table outlines the proposed development statistics on the plans submitted with the rezoning application:

Item	Proposed RD3 Zone	Existing Zoning RM4
<b>Lot width</b> <b>Maximum Lot Coverage:</b> <b>Maximum Density:</b>	9.1m 55% 1.0 FAR	30m 75% 2.0 FAR
<b>Vehicle Parking per unit:</b>	2 per single family dwellings 1 per secondary suite /carriage house	1 per dwelling 9
<b>Required Setbacks</b> Front yard : Rear yard: Interior side yard Exterior side yard	3.5m 6m 1.2 3m	3m 6m 4.5m 6m
<b>Maximum Building Height:</b>	10.5m (3 STOREY)	27m (8 Storey)
<b>Other Information:</b>	Subject properties are located within the High Density Development Permit Area, but staff are suggesting that the lands be changed to the General Multiple Family DPA.	

## Analysis

### *Support OCP and Zoning amendment*

Currently, the City's Official Community Plan (OCP) has the subject lands included in the HR (High Density Residential) designation. This designation encourages a higher density, multi storey housing product and is in conflict with the single and two family neighbourhood village that the proponents are proposing. To achieve the desired density, a 'down zoning' of the OCP designation from the HR designation to MR (Medium Density Residential) is required.

The OCP provides a list of criteria when considering re-designating areas to Medium Density Residential. The OCP states that it will support the MR designation on a parcel where the proposed development will be compatible in character and scale with the adjoining uses. In this case, the subject neighbourhood features a mix of single family homes, duplexes, townhouses and apartments. This application encourages a mixed range of housing, types, tenures and densities.

Furthermore, the OCP finds it appropriate to utilize the MR designation in areas near parks, commercial activities and/or public/ institutional facilities. This development is located in the residential transition area of the downtown, a block away from Ellis Street, one of the main downtown commercial streets and an area undergoing revitalization with the new construction of the Cannery Brewery, Mile Zero Wine Bar, Hoodoo Adventures business and SOTA Industries. Although this project is less dense than the original proposal, it will still increase the residential offerings adjacent to the downtown area and encourage greater use of the Downtown amenities and businesses. The proximity to the lake, downtown and nearby services encourages more walking and active forms of transportation.

The proposal adds to the already varied range of housing, types, tenures and densities in the area. The proposal, with the reduction in density, provides for the type of buffering from high-density development to the north to the low-density development to the south.

A lane is being proposed at the rear of the lots. For single detached dwellings, vehicular access would range from the front of the property or to the rear depending on the proposed design. In the case of duplex development, vehicular access must be from the lane. All the units will have pedestrian access to the street and maintain a positive relationship with the street.

Parking for the proposed development will need to comply with the City's Zoning Bylaw, which would require the following:

- Single Family dwelling: 2 spaces
- Duplex: 1 space per unit
- Secondary Suite: 1 space
- Carriage House: 1 space

Rear land access will accommodate access to the majority of on-site parking, however for those single-family dwellings that provide access from the street, existing on-street parking would be removed.

The proposed application is reflective of good planning process, with the developer seeking public input prior to finalizing plans. The development will be facilitating the provision of a variety of housing types, tenures and densities that will respond to the diverse needs, including income levels of individuals and families in Penticton at varying stages of their life. The RD3 Zoning will encourage new forms of development in proximity of the downtown.

Overall, staff considers that the proposal is fitting and consistent with the up-to-date medium density development in the area. The proposal is considered to provide an appropriate level of density and will provide a desirable building form in a desirable area of the city. This proposal reflects the consistent theme of mid-scale density that has been occurring around the periphery of the downtown.

For these reasons listed above staff are recommending that Council supports the land use designation change, as provided in this report and refers the application to the June 5 , 2018 Public Hearing.

#### *Deny/Refer*

This project represents a reduction in density from close to 70 units of apartment housing to a potential of 33 ground oriented units. Council may feel that although the higher density product may not be viable at this time, that these lands should be preserved for higher density uses in the future. The City has limited area for growth and these lands are already designated for more density. If this is the case, Council should deny the bylaw amendment.

**Alternate Recommendations**

1. THAT Council deny first reading of "OCP Bylaw No. 2018-38 and Zoning Amendment Bylaw No. 2018-39".
2. THAT Council send the application back to staff to work with the proponents on changes to the development scheme as directed by Council.

**Attachments**

- Attachment A: Subject Property Location Map
- Attachment B: Zoning Map
- Attachment C: OCP Map
- Attachment D: Photos of Subject Property
- Attachment E: Subdivision Plan and Renderings
- Attachment F: Letter of Intent
- Attachment G: OCP Amendment Bylaw No. 2018-38
- Attachment H: Zoning Amendment Bylaw No. 2018-39

Respectfully submitted,

Audrey Tanguay  
Senior Planner

Approvals

DDS  <i>AH</i>	CAO  PW
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Attachment A- Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map



Figure 2: Zoning Map

Attachment C- OCP Map



Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: View on Van Horne Street looking South



Figure 5: View at the corner of Westminster and Van Horne Street



Figure 6: View on Abbott Street



Figure 7: View at the corner of Westminster Avenue and Abbott Street, as part of the project the overhead lines would be undergrounded at the cost of the developer.

Attachment E – Subdivision Plan and Renderings

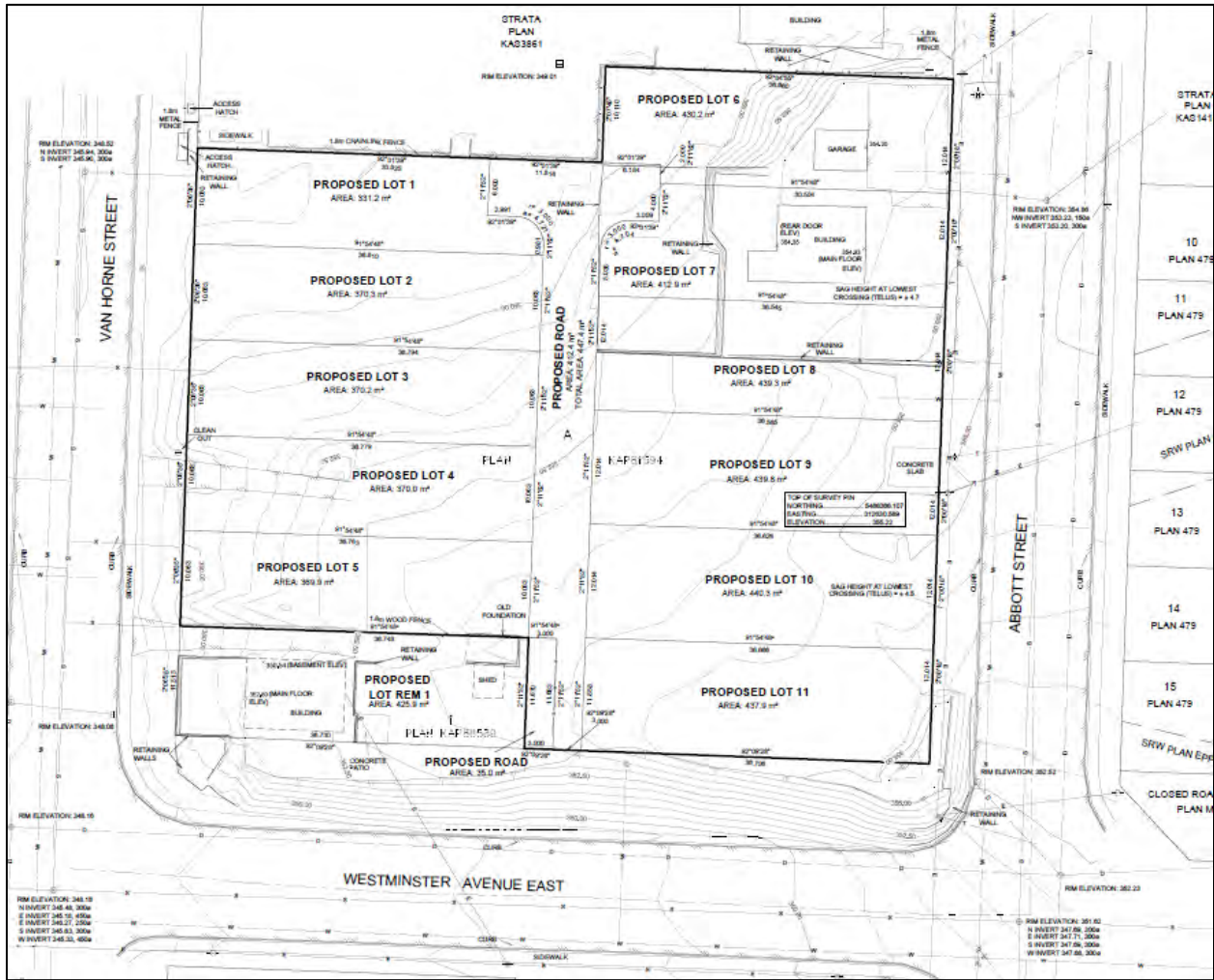


Figure 9: View from Abbott Street



Figure 10: View from Van Horne Street



Figure 11: View at the corner of Westminster Avenue and Abbott street

**157 ABBOTT STREET LANE PERSPECTIVES**



April 3, 2018

Project Location | **157 ABBOTT STREET**

Figure 12: Lane perspective

Attachment F- Letter of Intent

## 157 Abbott- Letter of Intent

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Re-zoning, Development permit, OCP Amendment and Subdivision application.

March 16, 2018

Blake Laven, Planning Manager  
City of Penticton  
171 Main Street  
Penticton, BC V2A 5A9

**Dear Blake Laven:**

**RE: Rezoning/Development Permit/OCP Amendment/Subdivision Application for 157 Abbott Street, Penticton.**

Van Abbott Holdings Inc. is pleased to submit a formal Rezoning/Development Permit/OCP Amendment/Subdivision Application to the City of Penticton for the property located at 157 Abbott Street, Penticton. Van Abbott Holdings Inc. is proposing to subdivide this property into eleven fully serviced lots with rear lane at 157 Abbott Street.

The submission seeks to rezone the site from RM4 to RD2 (Duplex Housing: Lane) with site specific provision stating: In the case of 157 Abbott Street, a secondary suite and/or carriage house shall be permitted to be located on the same property (up to three dwelling units) and that Section 10.6.3 shall not apply.

Site specific zoning requests for consideration are as follows:

- 9.1m lot widths
- 55% lot coverage
- 1.25 FAR
- 4.5m front yard setback, 1.2m side yard setbacks

From our understanding this will require an OCP Amendment due the rezoning request, moving from High Density Residential to Multi Family Medium Density Residential.

The rationale for the rezone is multi-faceted. Historically this site was planned for approximately 70 units, however we are proposing a plan that will house closer to approximately 25-30 units, dependent on what buyers choose to build on these lots. The intent is to build more desirable family oriented units in a downtown location. These lots will be a community within our community, designed like no other subdivision in Penticton. Our vision is to keep with the character of the neighbourhood, while gently modernizing it. According to Small Business BC, 25-44 year olds are increasing, +15%, and 25-29 year olds specifically +24% in the next 5 years, representing 533 consumers, we would like to market to these people. Small Business BC also indicates an +18.2% increase in the 60-74-year-old population, and because of this, we will gear some lot designs facing on Abbott Street to appeal to this group as well. Penticton also has a shortage of rental inventory, so by adding the option of ground floor rental suites and carriage houses to units will function as potential mortgage helpers for the owner and also provide additional rental opportunities in the city.

Human scale is important to us. Human scale can refer to how people perceive a city. Architecture affects emotions, studies have shown that mega-structures can stress people, the term "Architecture of Place", does the opposite, and that's what we intend to create with these lots, bringing balance to the north ends of Abbott and VanHorne streets respectfully.

We believe that the plan for this property will make it more marketable, providing something that currently does not exist in the inventory while supporting the existing neighbourhood.

In conclusion, please accept the enclosed application package for 157 Abbott Street. We believe this is a suitable and desirable plan for this location. We would greatly appreciate your consideration in granting the request to rezone this property.

Your truly,  
Van Abbott Holding Inc.

Figure 14: Letter of Intent

Bylaw No. 2018-38

A Bylaw to Amend Official Community Plan Bylaw 2002-20

WHEREAS the Council of the City of Penticton has adopted an Official Community Plan Bylaw pursuant to the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Official Community Bylaw 2002-20;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title:

This bylaw may be cited for all purposes as "Official Community Plan Amendment Bylaw No. 2018-38."

2. Amendment:

"Official Community Plan Bylaw No. 2002-20" is hereby amended as follows:

- 2.1 Amend Schedule 'B' Future Land Use designation for Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP81594, located at 157 Abbott Street and Lot 1, District Lot 202, Similkameen Division Yale District, Plan KAP86539 located at 198 Van Horne Street from HR (High Density Residential) to MR (Medium Density Residential).
2.2 Amend Schedule 'H' Development Permit Area Map and include Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP81594, located at 157 Abbott Street and Lot 1, District Lot 202, Similkameen Division Yale District, Plan KAP86539 located at 198 Van Horne Street, identified in Schedule A of this bylaw, in the General Multiple Family Development Permit Area.
2.3 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this day of , 2018
A PUBLIC HEARING was held this day of , 2018
READ A SECOND time this day of , 2018
READ A THIRD time this day of , 2018
ADOPTED this day of , 2018

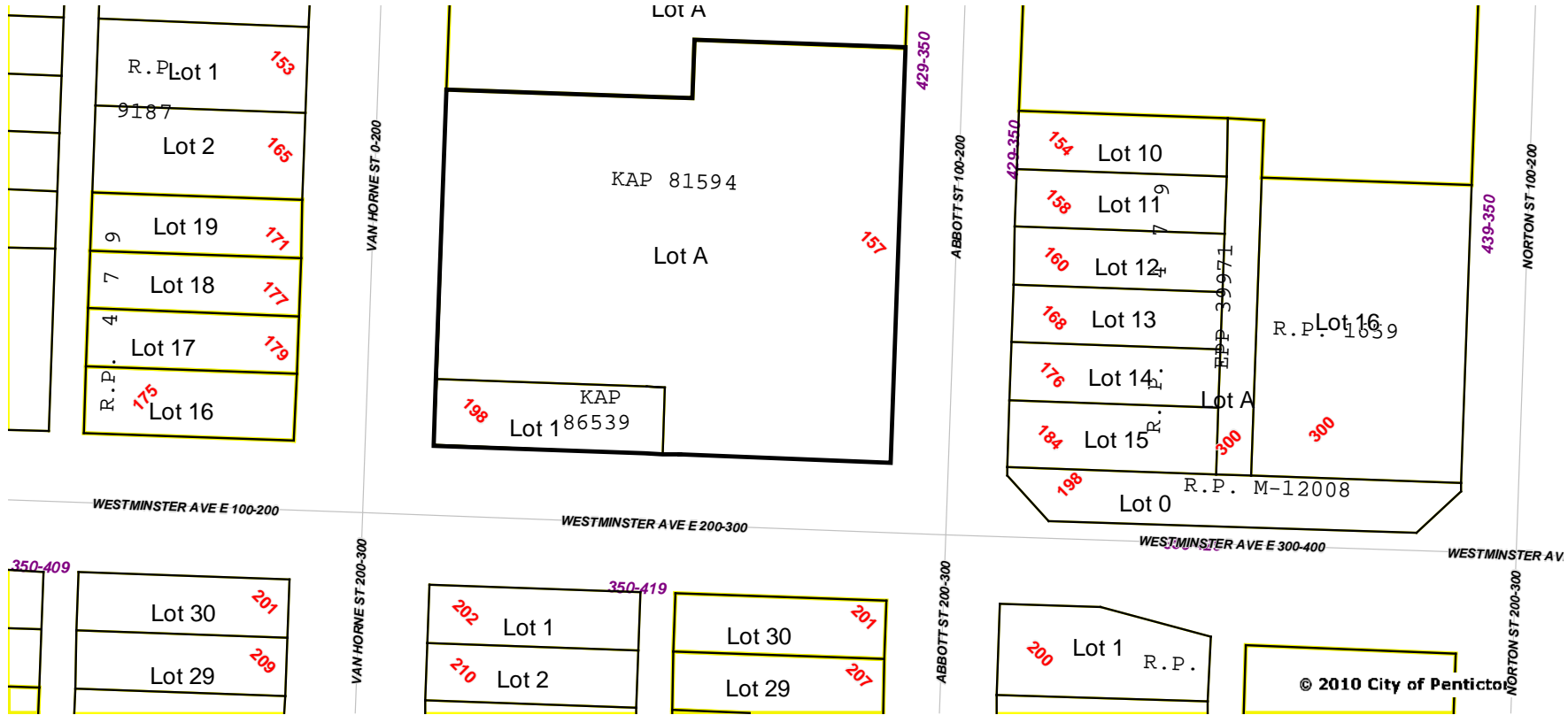
Notice of intention to proceed with this bylaw was published on the \_ of \_\_\_\_, 2018 and the \_ of \_\_\_\_, 2018 in the Penticton newspapers, pursuant to Section 94 of the Community Charter.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

# 157 Abbott Street and 198 Van Horne Street-OCP Amendment

- Change the OCP designation from HR (High Density Residential) to MR (Medium Density Residential); and
- Amend Schedule 'H' Development Permit Area Map to include the properties in the General Multiple Family Development Permit Area



## City of Penticton – Schedule 'A'

### Official Community Plan Amendment Bylaw No. 2018-38

Date: \_\_\_\_\_

Corporate Officer: \_\_\_\_\_

**Bylaw No. 2018-39**

*A Bylaw to Amend Zoning Bylaw 2017-08*

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WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the *Local Government Act*;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2017-08;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2018-39".

2. **Amendment:**

2.1 Zoning Bylaw 2017-08 is hereby amended as follows:

Rezone Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP81594, located at 157 Abbott Street and Lot 1, District Lot 202, Similkameen Division Yale District, Plan KAP86539, located at 198 Van Horne Street, from RM4 (Medium Density Multiple Housing) to RD3 (Residential Infill).

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	day of	, 2018
A PUBLIC HEARING was held this	day of	, 2018
READ A SECOND time this	day of	, 2018
READ A THIRD time this	day of	, 2018
ADOPTED this	day of	, 2018

Notice of intention to proceed with this bylaw was published on the \_\_\_ day of \_\_\_\_, 2018 and the \_\_\_ day of \_\_\_\_, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

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Andrew Jakubeit, Mayor

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Dana Schmidt, Corporate Officer

