



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

To view the live broadcast and recordings, visit www.penticton.ca

Tuesday, October 17, 2023
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 October 3, 2023 Regular Council Meeting 1-8 Adopt
7. **Consent Agenda:**

Recommendation:

THAT Council approve the Consent Agenda: 9-24

 1. Minutes of the October 3, 2023 Committee of the Whole;
 2. Minutes of the October 3, 2023 Public Hearings; and
 3. Minutes of the September 27, 2023 Official Community Plan - Housing Task Force Meeting.
 4. Release of Items from Closed Meeting:
THAT Council appoint Anthony Haddad as City Manager for the City of Penticton.

Konanz/Watt
8. **Staff Reports:**
 - Raposo 8.1 Agreements on City owned Land 25-61
Staff Recommendation: THAT Council receive into the record the report dated October 17, 2023 titled "Agreements on City owned Land".
 - Raposo 8.2 License to Use Agreement – Bishop’s Snow and Marine Ltd. Operating as Pier Water Sports 62-95
Staff Recommendation: THAT Council refer the three (3) year License to Use Agreement renewal with Bishop’s Snow and Marine Ltd., operating as Pier Water Sports, for the use of approximately .55 ac. of Rotary Park foreshore, and use of the building for the operation of water leisure activities on Okanagan Lake, to the Parks and Recreation Advisory Committee for their review and recommendation.
 - Seibert 8.3 2024 UBCM CEPF Disaster Risk Reduction – Climate Adaptation Grant 96-113
Staff Recommendation: THAT Council allow the City of Penticton’s Emergency Management program to apply for the 2024 UBCM Community Emergency Preparedness Disaster Risk Reduction–Climate Adaptation (DRR-CA) grant for up to \$150,000 to utilize towards a Hazard, Risk and Vulnerability Assessment (HRVA) for the City, in accordance with the legislative requirements outlined in the Emergency Program Act.

Jones	8.4	Third Quarter 2023 Financial and Corporate Business Plan Update <i>Staff Recommendation: THAT Council receive into record the report dated October 17, 2023 titled "Third Quarter 2023 Financial and Corporate Business Plan Update"; AND THAT Council approve amending the 2023-2027 Financial Plan to provide for budget amendments noted in the report.</i>	114-132
Campbell	8.5	2024-2028 Financial Plan Overview <i>Staff Recommendation: THAT Council receive into the record the report dated October 17, 2023 titled "2024-2028 Financial Plan Overview".</i>	133-135
Dixon	8.6	Renewal of FortisBC Operating Agreement for gas distribution facilities <i>Staff Recommendation: THAT Council authorize the Corporate Officer and Director of Finance and Administration to execute the attached FortisBC Operating Agreement as generally contained in Attachment A.</i>	136-160
Robson	8.7	Update on Dog Park Status and Recommended Improvements <i>Staff Recommendation: THAT Council receive into the record the report dated October 17, 2023 titled "Update on Dog Park Status and Recommended Improvements"; AND THAT Council approve \$200,000 for the capital upgrades to the existing off-leash dog parks to be funded from the Gaming Reserve; AND THAT Council direct staff to conduct a "leash-optional" pilot project at the following locations;</i> <ul style="list-style-type: none"> • Riverside Park – 187 Riverside Drive • Okanagan Park – 45 Lakeshore Drive East • Skaha Lake Park – Main – 3661 Parkview Street • Skaha Lake Park – East – 3895 Lakeside Road • Water Treatment Plant Entrance – 1900 Penticton Ave <i>at an estimated capital cost of \$15,000, funded by the Gaming Reserve; AND THAT the 2023-2027 Financial Plan be amended to include the above noted funding; AND FURTHER THAT staff be directed in 2024 to develop a longer term strategy to evaluate the need, and identify possible locations, for additional dog facilities within the City.</i>	161-176
Laven	8.8	Energy Step Code and Zero Carbon Step Code Update <i>Staff Recommendation: THAT Council elect to opt-in to the Zero Carbon Step Code; AND THAT Council direct staff to bring back changes to the Building Bylaw to support EL-1 'measure only' for 2024 with a plan for moving to EL-2 for new construction by 2025; AND THAT the City maintain the current approach to the energy step code for 2024 and 2025 with the goal of moving to Step 4 for Part 9 buildings in 2026; AND THAT Council direct staff to amend applicable bylaws putting in place the following incentives for meeting the Zero Carbon Step Code and higher steps of the Energy Step Code:</i> <ul style="list-style-type: none"> • Projects that meet EL-2 or higher of the Zero Carbon Step Code receive a similar Building Permit fee refund as is currently in place for the Energy Step Code • Projects that meet EL-4 of the Zero Carbon Step Code AND Step 4 and above of the Energy Step Code be eligible for an additional accessory dwelling unit on their property, above and beyond what the zoning bylaw currently permits for maximum number of units and density, up to 90m² in size and without a requirement for an additional vehicle parking space 	177-187
Hallam	8.9	Official Community Plan Amendment Application for 460 Conklin Avenue <i>Staff Recommendation: THAT Council, following the Community Engagement for OCP Amendments Procedure, direct staff to commence public engagement for a proposed Official Community Plan amendment to change the future land use designation on 460 Conklin Avenue from 'Detached Residential' to 'Ground Oriented Residential'.</i>	188-206

9. **Public Question Period**

10. **Recess to a Closed Meeting:**

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

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;*
- (d) the security of the property of the municipality;*
- (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;*
- (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; and*
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public.*

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

12. **Bylaws and Permits**

McKinnon	12.1	Zoning Amendment Bylaw No. 2023-35 Re: 461 Martin Street	207-208	2 nd /3 rd
McKinnon	12.2	Zoning Amendment Bylaw No. 2023-36 Re: 25 Okanagan Avenue West	209-210	2 nd /3 rd /Adopt
McKinnon	12.3	Zoning Amendment Bylaw No. 2023-37 Re: 174 Jermyn Avenue	211-212	2 nd /3 rd /Adopt

13. **Notice of Motion**

14. **Business Arising**

15. **Public Question Period**

If you would like to ask Council a question with respect to items that are on the current agenda, please visit our website at www.penticton.ca to find the telephone number or Zoom link to ask your question before the conclusion of the meeting. Use the raise hand feature and you will be given the opportunity to turn on your camera and unmute your microphone and ask Council your questions. Please note that the meeting is streaming live and recorded, access to recordings can be found on the City's website.

16. **Council Round Table**

17. **Adjournment**

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

Tuesday, October 3, 2023
at 1:00 p.m.

Present: Mayor Bloomfield
Deputy Mayor Konanz
Councillor Boulton
Councillor Gilbert
Councillor Graham
Councillor Miller
Councillor Watt

Staff: Kristen Dixon, Interim Chief Administrative Officer
Angie Collison, Corporate Officer
Angela Campbell, Director of Finance & Administration
Anthony Haddad, General Manager of Community Services
Blake Laven, Director of Development Services
Paula McKinnon, Deputy Corporate Officer

1. Call to Order

The Mayor called the Regular Council Meeting to order at 1:00 p.m.

2. Introduction of Late Items

3. Adoption of Agenda

341/2023

It was MOVED and SECONDED

THAT Council adopt the agenda for the Regular Council Meeting held on October 3, 2023 as presented.

CARRIED UNANIMOUSLY

4. Recess to Committee of the Whole

342/2023

It was MOVED and SECONDED

THAT Council recess to a Committee of the Whole meeting at 1:01p.m.

CARRIED UNANIMOUSLY

5. Reconvene the Regular Council Meeting

Council reconvened the Regular Council Meeting at 1:10 p.m.

6. Adoption of Minutes:

6.1 Minutes of the September 12, 2023 Regular Meeting of Council

343/2023

It was MOVED and SECONDED

THAT Council adopt the Regular Council Meeting minutes of September 12, 2023 as presented.

CARRIED UNANIMOUSLY

7. Consent Agenda:

344/2023

It was MOVED and SECONDED

THAT Council approve the Consent Agenda:

1. Minutes of the September 12, 2023 Public Hearings; and
2. Minutes of the September 13, 2023 Official Community Plan – Housing Task Force Meeting.

CARRIED UNANIMOUSLY

8. Staff Reports:

8.1 Revised 2023 Meeting Dates and Council Meeting Schedule for 2024

345/2023

It was MOVED and SECONDED

THAT Council revise the Regular Council meeting schedule for 2023 and

cancel the regular meetings of November 21, 2023 (as it is day 1 of budget deliberations) and December 5, 2023;

AND THAT Council select the following dates for the 2024 Regular Meetings of Council: January 16; February 6, 20; March 5, 19; April 2, 16; May 7, 21; June 4, 18; July 16; August 6, 20; September 10; October 1, 15; November 5; December 3, 17;

AND THAT Special Council meetings be held on November 19, 20, 21, 2024 for budget deliberations.

CARRIED UNANIMOUSLY

8.2 Section 57 Notice on Title
Re: 3145 Juniper Drive

Delegation: Mr. Wilson, Owner, spoke in opposition to the section 57 notice on title and answered any questions of Council.

346/2023

It was MOVED and SECONDED

THAT Council, after hearing from the impacted owner, resolve to place a notice on title, under section 57 of the *Community Charter*, with respect to contraventions of the City of Penticton Building Bylaw No. 2021-21 on Lot 1, District Lot 2710 Similkameen Division Yale District, Plan 26199, located at 3145 Juniper Drive (the Property), stating the following: "Failure to complete building and plumbing permits, which is a violation of the City of Penticton Building Bylaw No. 2021-21. Further information about it may be inspected at the municipal hall."

**CARRIED
Councillor Miller, Opposed**

8.3 Request for Remedial Action
Re: 1438 Government Street

347/2023

It was MOVED and SECONDED

THAT Council, under the authority provided in section 74 of the *Community Charter*, declare the single-family dwelling, three accessory buildings, and one derelict vehicle at and the yards of the Property at 1438 Government Street, (the Property) having a legal description of: Amended Lot 1 (230920F), District Lot 250 Similkameen Division Yale District Plan 11894 Except Plan KAP68408 (Parcel Identifier: 009-484-981) to be so dilapidated or unclean as to be offensive to the community and, as a result, require remedial action to secure all of the structures, to remove any and all graffiti present, remove the one derelict vehicle, and remediate the yards in order to eliminate the dilapidation or uncleanliness;

AND FURTHER THAT Council, under the authority provided in section 72 of the *Community Charter*, impose the following remedial action requirements on the registered Owner of the Property with respect to the structures and property noted above in order to eliminate the declared dilapidation or uncleanliness:

- a) to secure the single-family dwelling;
- b) to secure the three accessory buildings;
- c) to remove any and all graffiti tags present;
- d) to remove and/or dispose of the one derelict vehicle;
- e) remove the fallen tree leaning against the house; and
- f) to remove all debris from the yards, which includes all overgrown and unmaintained vegetation, to an appropriate disposal site.

AND FURTHER THAT Council, pursuant to section 76 of the *Community Charter*, set the time limit for completion of all of the remedial action requirements described, to be no later than 4:30 p.m. on November 17, 2023;

AND FURTHER THAT Council, pursuant to section 78 of the *Community Charter*, set a time limit for giving a written notice of a request for Council to reconsider the remedial action requirements described to be no later than 4:30 p.m. on October 18, 2023;

AND FURTHER THAT in the default of such remedial measures being undertaken by the Owner, Council, under the authority of section 17 of the *Community Charter*, authorize staff, and the City’s agents and contractors to carry out or have such work carried out, and for the expense charged to the Owner. If unpaid on December 31st in the year in which the work is done, the expense shall be added to and form part of the taxes to be paid on the real property as taxes in arrears to be collected as a debt.

CARRIED UNANIMOUSLY

8.4 City Hall – Chiller Replacement

348/2023

It was MOVED and SECONDED

THAT Council receives into the record the report dated October 3, 2023 titled “City Hall – Chiller Replacement”;

AND THAT Council approve a transfer from the Asset Emergency Reserve of up to a maximum of \$600,000, to fund the required replacement of the City Hall Chiller.

CARRIED UNANIMOUSLY

8.5 Lake to Lake Route – 100 and 200 block of Martin Street

349/2023

It was MOVED and SECONDED

THAT Council direct staff to proceed with a “sign diet” of the Lake to Lake Route for Martin Street, at an estimated cost of \$50,000;

AND THAT the funding be included as an amendment to the 2023-2027 Financial Plan, from the Gaming Reserve;
AND THAT staff bring forward amendments to applicable bylaws to prevent crossings of separated bike facilities (and the associated conflict and signage) when alternative access is available.

CARRIED
Mayor Bloomfield and Councillor Miller, Opposed

The Mayor recessed the meeting at 2:30 p.m. and reconvened at 2:42 p.m.

8.6 Lake to Lake Route – Section 1 (South Main) Engagement Results

350/2023

It was MOVED and SECONDED

THAT Council receive into the record the report dated October 3, 2023 titled "Lake-to-Lake Route – Section 1 (South Main) Engagement Results";

AND THAT Council direct staff to prepare and submit applications to the BC Active Transportation Fund for the Section 1 (South Main) of the Lake to Lake Project;

AND THAT the City of Penticton confirms the above project is "shovel-ready" including:

- Completion of detail design work;
- Approval of associated funding in the City's 2023-2028 Financial Plan for construction in 2023/2024;
- Completion of any necessary permitting or land acquisition;
- Completion of community engagement, including consultation with large vehicle operators;

AND FURTHER THAT Council authorize the General Manager of Infrastructure and the Director of Finance and Administration to sign and submit the grant applications.

CARRIED UNANIMOUSLY

8.7 Shopping Cart Regulation Options

351/2023

It was MOVED and SECONDED

THAT Council receive into the record, the report dated October 3, 2023, titled "Shopping cart regulation options";

AND THAT Council give staff direction to bring back bylaw(s) with the following regulatory framework:

- Businesses must label shopping carts with store information and register contact information with the City
- Businesses must retrieve carts belonging to the store within a specified time and accept carts belonging to the business
- Minimal storage fee for cart storage at City Yards

AND THAT Council direct staff to engage organizations that provide service to the unhoused population in options for managing possessions without the use of retail store shopping carts.

CARRIED
Councillors Boulton, Graham and Konanz, Opposed

8.8 Zoning Amendment Bylaw No. 2023-35
Re: 461 Martin Street

352/2023

It was MOVED and SECONDED

THAT Council give first reading to "Zoning Amendment Bylaw No. 2023-35", for Lot B District Lot 4 Group 7 Similkameen Division Yale (Formerly Yale-Lytton) District Plan 574, located at 461 Martin Street, a bylaw to add the site-specific provision, within the C5 (Urban Centre Commercial) zone, as follows:

"Section 11.5.4.11, In the case of Lot B District Lot 4 Group 7 Similkameen Division Yale (Formerly Yale-Lytton) District Plan 574, located at 461 Martin Street, a maximum of two dwelling units on the first storey shall be permitted."

AND THAT Council forward "Zoning Amendment Bylaw No. 2023-35" to the October 17, 2023 Public Hearing.

CARRIED UNANIMOUSLY

8.9 Zoning Amendment Bylaw No. 2023-36
Development Permit PL2023-9606
Re: 25 Okanagan Avenue West

353/2023

It was MOVED and SECONDED

THAT Council give first reading to "Zoning Amendment Bylaw No. 2023-36", for Lot 3 District Lot 115 Similkameen Division Yale District Plan 3289, located at 25 Okanagan Avenue W, a bylaw to rezone the subject property from C7 (Service Commercial) to RD4 (Low Density Cluster Housing);

AND THAT Council forward "Zoning Amendment Bylaw No. 2023-36" to the October 17, 2023 Public Hearing;

AND THAT Council, subject to adoption of "Zoning Amendment Bylaw No. 2023-36", approve "Development Permit PL2023-9606", for Lot 3 District Lot 115 Similkameen Division Yale District Plan 3289, located at 25 Okanagan Avenue W, a permit to approve the form and character of two side-by-side duplexes (four dwelling units);

AND THAT Council direct staff to issue "Development Permit PL2023-9606";

AND THAT Council require that a 1.6 m road dedication be completed prior to the issuance of the Occupancy Permit.

CARRIED UNANIMOUSLY

8.10 Zoning Amendment Bylaw No. 2023-37
Re: 174 Jermyn Avenue

354/2023

It was MOVED and SECONDED

THAT Council give first reading to "Zoning Amendment Bylaw No. 2023-37" for Lot 2 District Lot 202 Similkameen Division Yale District Plan 6240 and That Portion of Closed Road in District Lot 202 Similkameen Division Yale District Adjoining Lot 2 District Lot 202 Similkameen Division Yale District Plan 6420 As Shown on Plan B7815, located at 174 and 176 Jermyn

Avenue, a bylaw to add the following site-specific provision to the property within the RD1 (Duplex Housing) zone:

- A major day care centre shall be permitted;

AND THAT Council forward "Zoning Amendment Bylaw No. 2023-37" to the October 17, 2023 Public Hearing.

CARRIED UNANIMOUSLY

8.11 Development Variance Permit PL2023-9629
Re: 109 Lee Avenue

355/2023

It was MOVED and SECONDED

THAT Council approve "Development Variance Permit PL2023-9629" for Lot 2 District Lot 189 Similkameen Division Yale District Plan 5411, located at 109 Lee Avenue, a permit to vary Section 10.1.2.9 of Zoning Bylaw 2023-08, to increase the maximum combined building footprint for all accessory buildings from 75m² to 110m², to facilitate the construction of a detached garage;

AND THAT Council direct staff to issue "Development Variance Permit PL2023-9629".

CARRIED UNANIMOUSLY

9. Public Question Period

10. Recess to a Closed Meeting:

356/2023

It was MOVED and SECONDED

THAT Council recess at 4:11 p.m. to a closed meeting of Council pursuant to the provisions of the *Community Charter* as follows: Section 90(1)

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (c) labour relations or other employee relations;
- (d) the security of the property of the municipality; and
- (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.

CARRIED UNANIMOUSLY

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

The Mayor reconvened the meeting at 7:53 p.m.

12. Bylaws and Permits

12.1 Permissive Tax Exemption Bylaw No. 2023-29

357/2023

It was MOVED and SECONDED

THAT Council adopt "Permissive Tax Exemption Bylaw No. 2023-29".

CARRIED UNANIMOUSLY

12.2 Fees and Charges Amendment Bylaw No. 2023-30
Re: Electric

358/2023

It was MOVED and SECONDED

THAT Council adopt to "Fees and Charges Amendment Bylaw No. 2023-30".

CARRIED
Councillor Konanz, Opposed

12.3 Official Community Plan Amendment Bylaw No. 2023-31
Zoning Amendment Bylaw No. 2023-32
Re: 791 and 799 Martin Street

359/2023

It was MOVED and SECONDED

THAT Council give second and third reading to "Official Community Plan Amendment Bylaw No. 2023-31";

AND THAT Council adopt "Official Community Plan Amendment Bylaw No. 2023-31";

AND THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2023-32";

AND THAT Council adopt "Zoning Amendment Bylaw No. 2023-32".

CARRIED UNANIMOUSLY

12.4 Zoning Amendment Bylaw No. 2023-33
Development Variance Permit PL2023-9638
Re: 126 Deer Place

360/2023

It was MOVED and SECONDED

THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2023-33";

AND THAT Council adopt "Zoning Amendment Bylaw No. 2023-33";

AND THAT Council approve Development Variance Permit PL2023-9638.

CARRIED UNANIMOUSLY

12.5 Official Community Plan Amendment Bylaw No. 2023-34
Re: 1704 Government Street

361/2023

It was MOVED and SECONDED

THAT Council give second and third reading to "Official Community Plan Amendment Bylaw No. 2023-34";

AND THAT Council adopt "Official Community Plan Amendment Bylaw No. 2023-34".

CARRIED UNANIMOUSLY

13. Staff Reports Continued

13.1 2023 Utility Rate Review – Engagement Results and Recommendations

362/2023

It was MOVED and SECONDED

THAT Council receive into the record the report titled 2023 Utility Rate Review Engagement Report;

AND THAT Council direct staff to prepare amendments to the Fees and Charges Bylaw that include

the following overall utility increases for 2024:

- 3% for electrical

- 6.4% for treated water, including the adoption of the inclining rate structure for ¾ inch residential customers
- 6.1% for agricultural water
- 10.2% for sanitary water
- 30% for storm sewer

CARRIED
Councillors Boulton, Konanz and Miller, Opposed

14. Notice of Motion

15. Business Arising

16. Public Question Period

17. Council Round Table

18. Adjournment

363/2023

It was MOVED and SECONDED

THAT Council adjourn the October 3, 2023 Regular meeting of Council at 9:15 p.m.

Certified correct:

Confirmed:

Angie Collison
Corporate Officer

Julius Bloomfield
Mayor

Committee of the Whole

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

Tuesday, October 3, 2023

Recessed from the Regular Council Meeting at 1:00 p.m.

Present:

Mayor Bloomfield
Deputy Mayor Konanz
Councillor Boulton
Councillor Gilbert
Councillor Graham
Councillor Miller
Councillor Watt

Staff:

Kristen, Interim Chief Administrative Officer
Angie Collison, Corporate Officer
Angela Campbell, Director of Finance & Administration
Anthony Haddad, General Manager of Community Services
Blake Laven, Director of Development Services
Paula McKinnon, Deputy Corporate Officer

1. **Call to order**

The Mayor called the Committee of the Whole meeting to order at 1:01 p.m.

2. **Adoption of Agenda**

It was MOVED and SECONDED

THAT the agenda for the Committee of the Whole meeting held on October 3, 2023 be adopted as presented.

CARRIED UNANIMOUSLY

3. **Delegations:**

3.1 Proclamation "Penticton Beer Week" October 13-22, 2023

Kim Lawton, Cannery Brewing, and Darren Binnema, Yellow Dog Brewing, provided Council with a presentation on Penticton Beer Week and requested that Council proclaim October 13-22, 2023 as "Penticton Beer Week".

Mayor Bloomfield read the proclamation proclaiming October 13-22, 2023 as "Penticton Beer Week" in the City of Penticton.

4. **Adjourn to Regular Meeting**

It was MOVED and SECONDED

THAT Council adjourn the Committee of the Whole meeting held October 3, 2023 at 1:10 p.m. and reconvene the Regular Meeting of Council.

CARRIED UNANIMOUSLY

Certified correct:

Confirmed:

Angie Collison
Corporate Officer

Julius Bloomfield
Mayor

Public Hearing
held electronically and at City Hall, Council Chambers
171 Main Street, Penticton, B.C.

Tuesday, October 3, 2023
at 6:00 p.m.

- Present:** Mayor Bloomfield
Deputy Mayor Konanz
Councillor Boulton
Councillor Gilbert
Councillor Graham
Councillor Miller
Councillor Watt
- Staff:** Kristen Dixon, Interim Chief Administrative Officer
Angie Collison, Corporate Officer
Angela Campbell, Director of Finance & Administration
Anthony Haddad, General Manager of Community Services
Blake Laven, Director of Development Services
Paula McKinnon, Deputy Corporate Officer

1. Call to order

Mayor Bloomfield called the public hearing to order at 6:00 p.m. for Official Community Plan Amendment Bylaw No. 2023-31 and Zoning Amendment Bylaw No. 2023-32.

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

2. "Official Community Plan Amendment Bylaw No. 2023-31" (791 and 799 Martin Street)

The purpose of "Official Community Plan Amendment Bylaw No. 2023-31" is to amend Official Community Plan Bylaw No. 2019-08 as follows:

Amend Map 1: Future Land Use by changing the future land use designation for Lot B District Lot 202 Similkameen Division Yale District Plan 899, located at 791 Martin Street, and Lot A District Lot 202 Similkameen Division Yale District Plan 1557 Except: Plan EPP80670, located at 799 Martin Street, from 'Detached Residential' to 'Ground Oriented Residential'.

“Zoning Amendment Bylaw No. 2023-32” (791 Martin Street)

The purpose of “Zoning Amendment Bylaw No. 2023-32” is to amend Zoning Bylaw No. 2023-08 as follows:

Rezone Lot B District Lot 202 Similkameen Division Yale District Plan 899, located at 791 Martin Street, a bylaw to rezone the subject property from RD1 (Duplex Housing) to RM3 (Medium Density Multiple Housing).

The applicant is proposing to construct a 14-unit townhouse, consisting of two triplexes and two fourplexes at 791 and 799 Martin Street.

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

DELEGATIONS

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

- Tony Giroux (via Zoom), Giroux Design Group, available to answer any questions.

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

- No one spoke.

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

- No one spoke.

The public hearing for “Official Community Plan Amendment Bylaw No. 2023-31” and “Zoning Amendment Bylaw No. 2023-32” was terminated at 6:06 p.m. and no new information can be received on this matter.

Certified correct:

Confirmed:

Angie Collison
Corporate Officer

Julius Bloomfield
Mayor

Public Hearing
held electronically and at City Hall, Council Chambers
171 Main Street, Penticton, B.C.

Tuesday, October 3, 2023
at 6:00 p.m.

Present: Mayor Bloomfield
Deputy Mayor Konanz
Councillor Boulton
Councillor Gilbert
Councillor Graham
Councillor Miller
Councillor Watt

Staff: Kristen Dixon, Interim Chief Administrative Officer
Angie Collison, Corporate Officer
Angela Campbell, Director of Finance & Administration
Anthony Haddad, General Manager of Community Services
Blake Laven, Director of Development Services
Paula McKinnon, Deputy Corporate Officer

1. Call to order

Mayor Bloomfield called the public hearing to order at 6:06 p.m. for Zoning Amendment Bylaw No. 2023-33.

The Corporate Officer read the opening statement and introduced the purpose of the bylaw. She then explained that the public hearing was being held in-person and electronically to afford all persons who considered themselves affected by the proposed bylaw 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. 2023-33" (126 Deer Place)

The purpose of "Zoning Amendment Bylaw No. 2023-33" is to amend Zoning Bylaw No. 2023-08 as follows:

Add site-specific provision within the RD2 (Duplex Housing: Lane) zone, as follows:

- Section 10.5.4.10, In the case of Lot 46 District Lot 2710 Similkameen Division Yale District Plan EPP111154, located at 126 Deer Place, two single detached dwellings shall be permitted.

The applicant is proposing to build one residential unit fronting Deer Place and one residential unit fronting the lane behind Deer Place on the subject property.

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

DELEGATIONS

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

- No one spoke.

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

- No one spoke.

Mayor Bloomfield 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. 2023-33" was terminated at 6:10 p.m. and no new information can be received on this matter.

Certified correct:

Confirmed:

Angie Collison
Corporate Officer

Julius Bloomfield
Mayor

Public Hearing
held electronically and at City Hall, Council Chambers
171 Main Street, Penticton, B.C.

Tuesday, October 3, 2023
at 6:00 p.m.

Present: Mayor Bloomfield
Deputy Mayor Konanz
Councillor Boulton
Councillor Gilbert
Councillor Graham
Councillor Miller
Councillor Watt

Staff: Kristen Dixon, Interim Chief Administrative Officer
Angie Collison, Corporate Officer
Angela Campbell, Director of Finance & Administration
Anthony Haddad, General Manager of Community Services
Blake Laven, Director of Development Services
Paula McKinnon, Deputy Corporate Officer
Steven Collyer, Senior Planner

1. Call to order

Mayor Bloomfield called the public hearing to order at 6:00 p.m. for Official Community Plan Amendment Bylaw No. 2023-34.

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

2. "Official Community Plan Amendment Bylaw No. 2023-34" (1704 Government Street)

The purpose of "Official Community Plan Amendment Bylaw No. 2023-34" is to amend Official Community Plan Bylaw No. 2019-08 as follows:

Amend Map 1: Future Land Use by changing the future land use designation for Lot A District Lot 3429S Similkameen Division Yale District Plan 23195 Except Plan 37288, located at 1704 Government Street, from "Industrial" to "Mixed Use", and amends Section 2.1 by adding the following site specific policy statement to Land Use Designations, Mixed Use:

- Site Specific Mixed Use Policy Statement: 1704 Government Street: Allow a maximum building height of 12 storeys.

The applicant is proposing a high-density, mixed use development at 1704 Government Street. The proposal would provide a potential of between 1,200 to 1,500 residential units, office space and retail space in approximately eleven buildings ranging from 6 to 12 storeys in height.

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

DELEGATIONS

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

- Rocky Sethi, Stryke Group, introduced team behind project including Tien Sher Group (partners) and Arcadis Architecture & Design. Interested in Penticton, 15 years spent in Okanagan, opportunity to provide housing at scale in liveable setting, true urban village, residents able to shop and dine close to home and reduce use of automobiles, access to amenities on site. Staff ensured extensive and thoughtful engagement process, heard concerns about traffic, density/height and loss of industrial lands, team attended all opportunities, encouraged by results, reached out directly to over 50 individuals and groups. Existing traffic congestion issue along Government Street, project to provide infrastructure upgrades, working on second egress to site, constructed over 10 years, only about 150 homes per year, ensure employment is maintained or increased during phases, proposed redevelopment will create 300+ jobs than site has seen in over 10 years. Envisioned multigenerational development, urban village, community not entirely dependent on cars, utilize existing infrastructure to access City, heard from community, confident vision remains strong.
- Lauren Macaulay, Arcadis Architecture & Design, introduced team available via Zoom, revised development site, two primary connections proposed at Government Street directly across from hospital, include upgrades to intersection, secondary connection in south east corner to allow vehicles to move in and out of site, circulation pattern intended to have small community feel, create holistic community to include residential, retail and office, mixture of heights ranging from 6 to 12 storey, wood frame.
- Dan Evans, Government Street, issue with site, if you live on Government it is a nightmare to get around during daytime from 6am-6 pm, when leaving driveway to go south I have to go to Duncan, turn on Duncan Avenue, across Balfour to traffic light, more units will not help traffic congestion. Development being 12 storeys views from Carmi looking at roof tops of buildings, industrial land bad enough when guys leaving their shift, won't be pretty, roads in and out are not adequate, putting too much in too small of space, don't agree with creation of 15-minute city, opposed, neighbours also opposed.

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

- Frank Conci, Ridgedale Avenue, President of PIDA, moment to explain our position on value of the land, most employers are residents of Penticton and have been for decades, concern for Penticton as whole, ensure economic prosperity continues and grows, one area often highlighted is tourism, accommodation industry in 2021 generated \$23M and \$37M in 2022, in contrast property in question provided \$15M, significant revenue for town, 10 other businesses in industrial area generate approximately \$500M a year, \$40M a month is value of industrial land, 2.6% of our land base, study by urban systems showed average industrial land ranges 6-19%, we are well below that, can't afford to lose anymore especially a piece of land that can generate \$50M-\$100M a year on its own.

Deliberately invest in tourism, good investment, value \$39M investment, shouldn't we pay more attention to property that can do more than that? Loss of this property is a step to dissolution of industrial area, that 10-acre parcel generates something close to \$2M in economic benefit once employed. Continue rezoning of industrial land means land will be over-valued for purpose they are needed for. Other problem is that there is tremendous competition for industrial business because of value it gives, emphasize value that municipalities place on this. Great plan in poor location, numerous locations where tower can go on.

- Andre Martin, business at 501 Dawson Avenue, did housing needs study take into account housing needs based on population style. Traffic study does it take into account Wiltse build out once complete, traffic will head down Dartmouth into industrial and Carmi to Government to head north. Developer's package include Page Avenue as an exit, belongs to City, has Page Avenue been allocated back to proponent and how? Flight path for hospital, will comply, 5-6 storeys, what will developer do if not the case? What is City's plan to create more industrial land, OCP industrial land targets asking for 60 additional acres, hope Council will take questions into consideration.
- Exciting project, following closely, read package, been to site twice, question tonight is whether to move forward into year plus process to get shovel in ground, would mixed use land designation use designation reflect community's vision for site, thinks it will, we want to be liveable and accessible, thinks it's exciting and innovative, mixed use is something we can all look forward to. We do have limited land, not enough happening to fill and build amount of housing units hope to have, cost to maintain infrastructure and provide services citizens want, currently generates 60K taxes per year, this will create \$1.8M in revenue. Biggest concern in community is healthcare, would do a lot to help attract healthcare industry being close to hospital, expansion of healthcare service. Project would be in Carmi Elementary catchment, concern about school not handling population of project, this project would save that school through increase. In addition to have various types of housing, yes traffic, has to be taken into account, one step of many for project to proceed, great project, hopes will seriously consider amending OCP.
- Cam Good (via Zoom), Kennedy Avenue, grew up in Kelowna, became expert in design and finding buyers, confirmed project is in-line with Province's housing mandate, similar project in Kelowna and was happy to see 30% of buyers came from people working at hospital. Worked with developer in past, build amazing quality product, designed for regular people, focus not on rich people, very accessible, friends and family program at hospital, price points are accessible to young people trying to access real estate market.
- Matt Hopkins, Balfour Street, in favour of proposal, OCP growth rate projected at 0.65% and last census showed at 1.9% annually, that's 3 times growth rate shown previously, Interior Health is having hard time recruiting people to Penticton part of that is housing shortage, huge cannery in coal mine situation. Viability of Carmi school, enrolment is low, almost been closed in past, this development essential to viability of this school, central school that's walkable for kids at risk of losing it if we don't get more homes in this area. Property tax generation is absolutely enormous, from 60K per year to 1.8M before commercial properties are considered. Lives 200 yards from site, nature of walkability is high, family walks everywhere, daily tasks can be done on foot, car dependency is significant lower than any other areas of Penticton, crisis is real, land lords get up to 100 applicants for one unit. Traffic issue –consider repealing parking minimum everywhere is Penticton, if you plant roads you're going to harvest more cars, very walkable area, encourages Council to vote yes.
- Lori Goldman (via Zoom), Dauphin Avenue, other presenters spoke very clearly about need for housing, hard to lose industrial land, definitely need to have industrial areas, really need housing, such crisis. Questions for developer are climate based, concerned there isn't area for community garden, a lot of people who could be sharing space, will it

have heat pumps and be all electrified, not hook up to fossil fuels, whether there will be plans for solarizing and having batter backup, very big area, lots of buildings that could help Penticton with resiliency going to next situation of heat domes and things like that.

- Tom McKay, Government Street, we have very large industries of healthcare and government services and 3.5 months of tourism, we do not have enough high paying industrial jobs here, once you give up industrial land, almost impossible to find another ample piece or property to replace, density program turning single homes into fourplexes, adding more homes, once give up that much industrial land you can't get it back, potential for jobs on that land wont exist, baby boomers are not going to live to 130, average age is 85, influx of retirees will shrink in the next 20-30 years, will need jobs for new upcoming generations coming into community.
- Katie Monai (via zoom), Dartmouth Street, property adjacent to development, also parent of child attending Carmi school, concern for developer is around traffic, loves walkability of area, participated in safe walk to school project with City, curious how these two projects align? If project does go ahead hopes there will be consideration for affordable housing and housing for families, lots of single dwellings, not a lot of space for families with more than one child, would like to see more space allocated for families, school is small but full, engagement with school board about age and infrastructure of Carmi school to support families in that area.
- Ron Wright, Martin Street, own commercial property on Government, very busy street, lots of activity, can't imagine adding this to area, industrial group donates a lot to city, to hospital foundations, feels like you're turning back on us by strongly recommending is property, wrong location, need industrial, very important for future generations, industry attracts more industry, turn down and build something else on site, large industrial property at the back, noise will be generated and people will complain, noise goes upwards, can't imagine having families net to grinders and sandblasting, going to discourage from expanding or retaining size of business, thinks we should reconsider, sad to see this go because once gone no returning, shortage of land, properties that I own are full, possible change of expansion but don't have the room. Appreciated those in favour of it, a lot of other properties in town that can be developed like three gables property.
- Henry Bian (via Zoom), Munson Avenue, General Manager of Bench 1775 Winery, this year we lost one employee because of housing, left our winery and moved to different city, hiring is now challenging, tried hiring HR manager but housing movement is too expensive, development can be approved, build more houses for people, bring in more new blood, make city more competitive, supports OCP.
- Daniel Bello, Penticton Avenue, Director of Operations at Peerless, on behalf of Peerless family we concerned about noise and future of Peerless, we've been building trailers since 1943 and located at Page Avenue since 1973, we make noise, it's why we're on industrial land, we are dirty, sandblasting, doesn't think it's possible to be neighbours.
- Andy McEcheran, Oversee Peerless Ltd since 2006., worked at Peerless since 1996, seen a lot of industry in park, peerless purchased Page Avenue from previous council, we pay for it and are under the understanding that we own Page Avenue. If project goes through and addresses houses issue, why allow short-term rentals? Absent owners will snap them up and put on VRBO, consider limiting short-term rentals.
- Maged Said, Woods Avenue, Summerland, in support of OCP amendment, owner of Mission Bottle Washing, clarified that we've diversified in logistics for winery business, building mainly used for warehousing. Met Stryke team a year ago when they showed interest in property, moved from Osoyoos and was only building available, we are industrial operation, not a great industrial, property great size, we have 10-15 semi-trailers turning into property, if had robust industrial site traffic would be worse than what is proposed, several interactions with Stryke Group, currently working towards

extending lease and staying in as long as we're able to, several conversations of what is best used of property and feels like they hit nail on head with this development and health and innovation centre, mixed residential, commercial office and retail creating sustainable community is great mix. Recently had need for hospital, they are short staffed due to housing needs. Can't turn on the news without hearing housing shortage, Penticton is no different, many cities being mandated to provide housing, feels like addition of homes and employment will bring huge economic boost to Penticton. Want to vouch for Stryke team, interactions have been honest and sincere, been positive, has no doubt will address all issues, goal for development is to do what is best for Penticton, have project that is beneficial to Penticton, as current business owner within Penticton looks forward to their presence.

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

- Robin Nickman, Carmi Avenue, going to look directly into buildings, not keen on this, moved from larger to smaller city for more open space, noise level in industrial area is loud, hear it at my house, individuals residing in apartments 30-50ft away from businesses, businesses on backside will be inundated with noise complaints. Carmi school needs children, concerned about having safe crossing spaces when walking to school. Why 12 storeys? Can see 6 storeys, Penticton is a small city, do we need 12 storeys? Kempe property was 3.62 acres and proposal was for 158 units that was shutdown, this proposal is 10.087 acres and proposal is for 1200-1500 units, almost 7 times the amount of units proposed. Congestion of area by hospital, ambulance trying to get through congestion, not opposed but would like clarification and for it to be downsized to make sense for Penticton.
- Gerry Turchak, speak for and against housing, operate manufacturing business, run 80-100 people and have 15-16 vacancies right now, applications come from retired people, looking to hire people for 2-3 days that are retired, concerned with this project, young people can't afford to move here, those who do will come with deep pockets, won't gain workforce. Availability of land, been here 43 years and struggle to find dirt, use every sqft of land now, would love to buy property in question if it wasn't so big. Has to speak for more residents, hire people who move here and then can't afford to live here, personally caught in predicament, need more people, need more housing. Against project because we need the land, can't make more land, too bad wasn't broken down into more pieces, golden opportunity to build into industrial complex, would be nice way to preserve industrial land into future, properties getting outpriced, values don't make sense.
- Cameron Betts, Westminster Ave W, owns Betts electric adjacent to property, hard to hire people coming into town, supports housing, great development, quick list of properties sitting vacant, three gables sitting vacant for 20 years, super value on Martin and Wade also vacant for about 20 years, Nanaimo and Ellis two properties, Winnipeg and Westminster, Kempe property, would love to see something there, sitting derelict now, Backstreet Blvd, in favour of housing, property a mistake should consider other location in town.
- Don Stewart, Carmi Avenue, directly in middle of elevation between Government and Carmi Place, neighbour and I in the middle of it, 6-storeys will block view, won't see through 6 storeys, 12 storeys too much, make it 4 storeys, nice to have housing, cut it back a little bit, keep it industrial, doesn't need people congestion, didn't realize Peerless owned Page Avenue, where is City going to find 10-acres for industrial boys-you're not, if going to build this don't let it impose on the residential landscape, I don't want to look through a 10-12-storey building, too much population in that area, expanded hospital and health centre, against it if 12-storey, chop it in half.
- Frank Conci, PIDA President, sympathizes with Council's decision, wife works at hospital,

a third of workers live in Kelowna, West Kelowna and Peachland and don't mind commute, love working at the hospital but want to live elsewhere in order to have home they want, need 2 income household, spouses can't find jobs, industrial area provides jobs for some spouses, friend's son-in-law is physician moved to Kelowna to get home they want, attraction to healthcare workers is very limited, commute to Penticton is a dream, people come to town with 1-2 cars, have to consider that.

- Amar Kala, Penticton Resident, don't have people to work, housing crisis is huge, rent is high, run business in industrial area, storage taking up space, parking RVs, we need housing in town, we all know about it, huge development that we should allow.
- Matt Canyon, Hillside Avenue, in support of project, owns industrial land in Penticton, runs Greyback Construction, hired and lost applicants due to housing.
- Lynn Kelsey, Oakville Street, agrees about need for industrial land, can't get it back, gentleman running bottle washing place mentioned staying on while building up this project and wondering if can be a compromise to keep industrial and build up housing closer to Government, suggests we look at compromise, keep quality jobs and provide housing and healthcare, it's a 10-acre property, need to look at compromise.
- Rocky Sethi, Applicant, sustainability—considering all options, looked at geothermal, solar to passive designs. Acoustical concerns between site and adjacent Peerless—hire right consultants, learned to build around and deal with adjacencies on a regular basis, don't think it will be issue here, walked site and saw and heard issues for ourselves, set up acoustical monitoring station and we design to accommodate those concerns. Appreciate loss of industrial lands and job and economic benefit it creates, plus/minus 80K a year in property taxes being paid, estimated number is \$1.1-1.8M, gross revenue of industrial businesses is not that relevant to City, those are gross top line revenues, site will create space and opportunities for up to 300 more jobs, had call from employer looking for room for 74 employees on site, there is demand for high quality jobs. Parking for residential and retails—parkade layout to accommodate those on site. Why not keep site industrial because economics don't work, numbers the land is asking for is not conducive don't work, doesn't mean jobs can't be created, we can create a lot of economic benefit to City.
- Councillor Miller, mix of rental and condominiums, can you offer ballpark figure of what a condo will sell for, what range? Will it be high end?
- Rocky Sethi, Applicant, market value will dictate what they will sell for. Target is not a high-end, luxury location.
- Councillor Miller, would properties welcome Airbnb be allowed?
- A Rocky Sethi, Applicant, short term rental is permitted as per the zoning.
- Councillor Miller, would it be a desirable location?
- Rocky Sethi, Applicant, location by lake would be more desirable for short term rental, true demand for short term rentals for hospital workers, definite demand from hospital.
- Councillor Miller, what would the entrances to complex be in terms of road access?
- Rocky Sethi, Applicant, Government Street and exploring different options with City staff for egress, one that made most sense is Page Avenue but still under review with City engineering and transportation staff.
- Councillor Miller, how many years from start to finish?
- Rocky Sethi, Applicant, estimating buildout of 10-12 years.
- Councillor Konanz, how will you mitigate issue of noise and smells of industrial area?
- Rocky Sethi, Applicant, solution of noise used from flight path, use triple drywall layer on walls, triple layered windows, homes that face busy frontage have ability to be cooled without opening windows, few measure employed in past that work well, when noisy can utilize mechanical features and when quiet can open windows.

The public hearing for "Official Community Plan Amendment Bylaw No. 2023-34" was terminated at 7:42 p.m. and no new information can be received on this matter.

Certified correct:

Confirmed:

Angie Collison
Corporate Officer

Julius Bloomfield
Mayor



Minutes

penticton.ca

Official Community Plan - Housing Task Force Meeting

held in-person in Council Chambers
City Hall, 171 Main Street
Wednesday, September 27, 2023
at 4:30 p.m.

Present: Nathan Little, Chair
Drew Barnes
Ajeet Brar
Rod Ferguson
Alison Gibson
Richard Langfield
Linda Sankey
Chris Schoenne
Nicolas Stulberg

Council Liaison: Helena Konanz, Councillor

Staff: Anthony Haddad, General Manager, Community Services
Blake Laven, Director of Development Services
JoAnne Kleb, Manager of Communications and Engagement
Steven Collyer, Senior Planner
Hayley Anderson, Legislative Assistant

Regrets: Campbell Watt, Councillor
Nicholas Hill, Vice-Chair
Cheryl Kruger
Brian Menzies
Dara Parker

1. **Call to Order**

The Chair called the Official Community Plan – Housing Task Force to order at 4:34 p.m.

2. **Adoption of Agenda**

It was MOVED and SECONDED

THAT the Official Community Plan - Housing Task Force adopt the agenda of September 27, 2023 as presented.

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

It was MOVED and SECONDED

THAT the Official Community Plan – Housing Task Force adopt the minutes of the September 13, 2023 meeting as presented.

CARRIED UNANIMOUSLY

Alison Gibson joined the meeting at 4:35 pm.

4. **New Business**

4.1 Neighbourhood Charm Project

The Director of Development Services provided the Task Force with a presentation on the Neighbourhood Charm Project.

It was MOVED and SECONDED

THAT the Official Community Plan – Housing Task Force accept the presentation for information.

CARRIED UNANIMOUSLY

Drew Barnes left the meeting at 4:50 pm.

4.2 Spiller Road Plan

The Director of Development Services provided the Task Force with a presentation on the Spiller Road Plan.

Drew Barnes returned to the meeting at 5:23 pm.

4.3 Official Community Plan – Future Land Use Designation – Draft Recommendation

The General Manager, Community Services provided the Task Force with an update on the Future Land Use Designation – Draft Recommendations and a review of ideas brought forward in the breakout sessions of August 23 and September 13, 2023.

4.4 Official Community Plan – Housing Policies – Growth Plan

The General Manager, Community Services provided the Task Force with an update on the Housing Policy Growth Plan.

5. **Next Meeting**

The next Official Community Plan – Housing Task Force meeting is scheduled for October 11, 2023 at 4:30 p.m. in Council Chambers.

6. **Adjournment**

It was MOVED and SECONDED

THAT the Official Community Plan - Housing Task Force adjourn the meeting held on September 27, 2023 at 5:59 p.m.

CARRIED UNANIMOUSLY

Certified Correct:

Hayley Anderson
Legislative Assistant



Council Report

penticton.ca

Date: October 17, 2023
To: Anthony Haddad, City Manager
From: Sheri Raposo, Land Administrator
Subject: **Agreements on City Owned Land**

File No: 3010-01

Staff Recommendation

THAT Council receive into the record the report dated October 17, 2023 titled "Agreements on City owned Land".

Summary

The Land Administration department is responsible for more than 500 City owned properties and currently manages operating agreements; 136 leases and licenses to use; 16 beach vendors in 23 locations; four (4) concessions; and four (4) beach and mobile food trucks. The intent of this report is to provide Council with information on the annual review and renewal process for agreements and to highlight the multi-step process that takes place when using City land that is park (as outlined in the Park Land Protection and Use Policy).

Background

The following agreement types provide for a mix of uses on municipally owned lands that contribute to a wide range of functions for our community.

- **Beach and Mobile Food Truck Vending**

The three-year License to Use agreements (LTU) for our beach vendors have been in place since 2021 and are set to expire in 2023. There are 23 sites available in the current program. Five (5) of these vendors currently have more than one site. Most of these vendors have been a part of the program since 2009. All of the locations are located on parkland. There is currently no wait list for this program and there are seven (7) vacant vending locations.

The City's mobile food truck program has been operational since 2013. There are currently seven (7) locations available. There are four (4) trucks in our program this past season, and three (3) of the locations were currently unfilled.

Our Mobile food truck program has consistently had low enrollment, as our locations for these programs are located in prime areas, our mobile truck program, seasonal events and the Downtown Market often overlap locations, therefore our mobile trucks in our program are often displaced. An

example of this is on Link Road. There are 4 food truck locations available, however, the Farmer's Market utilizes Link Road every Saturday, therefore the mobile trucks in our program are displaced and are unable to vend in their location.

- **Lease**

A Lease is a longer term agreement, usually 5 years or longer and is for exclusive use of City property or facility. Pursuant to section 26 of the *Community Charter*, any Lease agreement of City property is considered a disposition and requires Public Notice. A Lease does allow the tenant the ability to secure financing for capital improvements and register this on title of the property, for the term of the Lease. The City currently has 28 Leases. A few examples of some of our longer term Lease Agreements are the Seniors Centre, Art Gallery, Patio Burger and Loco Landing.

- **Management Operating Agreement**

A Management Operating Agreement grants the operator a license to occupy the land and allows the City to impose obligations on the operator to operate and manage the facility. This agreement is not considered a disposition and therefore does not require the disposition notice outlined in section 26 of the *Community Charter*. This agreement does not require approval of the electors and ensures the public retain ownership of the lands.

The City currently has two Management Operating Agreements, one is with the Penticton Yacht Club for the use and management of the Skaha Marina and the other is with OVG360 (Global Spectrum) for the use and management of the South Okanagan Events Centre.

- **License to Use Agreement**

A License to Use (LTU) Agreement is a short-term agreement, usually between three (3) and five (5) years, it is temporary, and for non-exclusive use of City property or facility. A LTU Agreement provides the licensee the right to utilize or act on our property for a specific reason. There is a cancellation clause within this agreement. The City has significantly more control over how our property is being used. There is no requirement that the City provide Public Notice under the *Community Charter*. The City currently has 108 LTU Agreements. A few examples of some of our LTU Agreements are, Peach City Pickleball Society, Penticton Tennis Society and Penticton Community Gardens Society.

Discussion

There are policies and bylaws in place that directs staff on procedures for City owned land, regarding new and renewals of these agreements these include:

- 2018 Park Land Protection and Use Policy
- Bylaw No. 2018-37 dedicating certain parcels of land owned by the City as public parkland
- *Community Charter*

- **Park Land Protection and Use Policy**

The Park Land and Protection Use Policy was approved by Council on June 19, 2018. The creation of the policy came about as a result of commercial uses in public parks. This policy provides staff, Council and the Parks and Recreation Advisory Committee with procedural direction for the use and protection of public parkland. This policy was created in consultation and input from the Parks and Recreation Master Plan Steering Committee.

The policy also speaks to and defines the two tenures Leased and LTU Agreements that can occur in public parks. Under this policy, a Lease will not be entered into for land dedicated as park under the Park Dedication Bylaw, without the approval of the electors. A LTU Agreement for using public parkland can be issued for short term or seasonal use, and cannot exceed 3 years, except by resolution of Council to waive the policy. The policy also provides guidance and procedure on the renewal of LTU Agreements, which ensures that the Parks and Recreation Advisory Committee is involved for oversight where needed.

The policy provides a step procedure for new and renewal of LTU Agreements, as outlined below, like any Council policy, there is the ability to waive the policy, at Council's discretion.

With regards to new and renewals of LTU Agreements, the Park Land Protection and Use Policy outlines a specific procedure for each request to follow. The seven step process is outlined below:

- Step 1: Application to renew submitted to City staff
- Step 2: Proposal brought to Open Council meeting
- Step 3: Circulation of application to City Departments and Parks and Recreation Advisory Committee
- Step 4: City staff conduct License Review to confirm conditions of License met and License in good standing
- Step 5: City staff review finding with Parks and Recreation Advisory Committee
- Step 6: Parks and Recreation Advisory Committee review application and feedback from staff
- Step 7: Parks and Recreation Advisory Committee make a recommendation to Council to approve or deny

Council does have the discretion to consider the criteria of the Park Land Protection and Use Policy and to provide staff with alternate direction, as new applications or renewals come forward.

- **Park Dedication Bylaw No. 2018-37**

June 2018 Council passed Bylaw 2018-37, a bylaw that dedicates City owned lands as a public park. This bylaw also speaks to public engagement occurring with regard to any future Lease or disposition of parkland. This bylaw dictates that prior to granting a Lease of all or part of the land dedicated as park, the City shall first obtain the approval of the electors. This is done by way of a referendum or alternative approval process.

The City has a number of Leases and License of Occupations with the Province in which the City receives the benefit of utilizing the land that is owned by the Province. These lands do not fall under

the Park Dedication Bylaw 2018-37, as the City is not the owner of the land. An example of this is the land the Okanagan Marina and tennis courts are located on is entirely on Provincially Leased land.

- ***Community Charter***

The *Community Charter* provides the statutory framework for Municipalities in BC. Section 26 of the *Community Charter* provides specific direction on the disposal of land. As a Lease is considered a disposition, this section of the *Community Charter* also applies to a Lease. Section 26 dictates that before Council disposes of land or improvements that notice must be published according to section 94. This section provides direction on public notice.

- **Request for Proposal Process**

The Procurement and Inventory Department, provides centralized procurement services, including coordinating all Requests for Proposals (RFP) and bids for contracts. An RFP is used when the City has a need and is seeking proposals to provide a product or service. Procurement staff work with internal team members to determine exactly what the needs are. Once the desired outcome(s) has been established, the RFP document sets out:

- Specifications describing the solution the City is seeking
- Tasks or services to be performed by the successful proponent
- Timeline for completing the project or term of the contract
- Evaluation criteria
- Weight of each criteria

RFP opportunities are posted on Bonfire, the City's procurement portal, and on the City's website. Typically these are posted for 21 days. Depending on the complexity, value and or skill set requirements, opportunities are also often advertised in the newspaper and posted on BC Bid and Civic info. Both of these are BC Government procurement opportunity websites. The City has also advertised on social media to seek further interest depending on the specific requirements (such as the Skaha Marina).

All proposals are submitted electronically through Bonfire and once the bid opportunity has closed, the procurement project manager releases the submissions to the evaluation team. Evaluators must complete a confidentiality and conflict of interest disclosure before any submissions can be viewed. The evaluation criteria and details for consideration when scoring are displayed for each criteria. Evaluators must record rationale for their scores. In order to not bias scoring, the evaluating team do not see the monetary value until after the evaluation of all other criteria has been completed by all members of the evaluation team.

If clarification is required from respondents and negotiations occur, this entire process can take up to 3 or 4 months. In the event that the LTU or Lease expires, all of our agreements contain a clause that allows the agreement to continue on a month to month basis with the same terms and conditions, prior to the agreement expiring.

The New West Partnership Trade Agreement does not require issuance of an RFP for revenue generating opportunities such as the marinas and concessions. The City has issued RFPs for such opportunities for the past 25+ years. The practice likely commenced in order to provide opportunities to provide a proposal to any interested party, ensure a fair and transparent process and obtain best value for the City. Council on an individual basis, may however choose to direct staff to discontinue the RFP process for revenue generating opportunities and continue on with existing tenants.

Staff inquired with the City of Kelowna and the City of Vernon with respect to their practice to issue RFP's for revenue generating opportunities and agreements on municipally owned lands:

- The City of Kelowna advised that for their revenue generating agreements they issue an RFP; the successful proponent enters into a LTU Agreement for a 3-year term. This agreement also has an option of 2 one year renewals. After the completion of the 5-year term, they then re-issue an RFP. They also have a Delegation of Authority from Council where the department manager has the authority to approve these LTU Agreements.
- The City of Vernon does not issue an RFP for their revenue generating opportunities. They have an application process with specific requirements for their vendors. The LTU Agreements are issued on an annual basis, approved by the department manager.

Analysis

With the goal of providing Council with background as to the policies that guide the Land Department's work, it's also important to highlight some of the upcoming agreements that Council will have the opportunity to review.

There are numerous upcoming License to Use renewals that will be brought forward to Council over the coming year(s). The three License to Use categories that these renewal proposals will fall under include License to Use Agreements for City parcels of land, Concession Agreements for Vending within City facilities and Beach Vending and Mobile Truck Vending Agreements for short term use of City owned land. The following provides a summary of the some of the renewals that will be coming forward to Council for review.

License To Use to be renewed	Park Land	Expiry Date	Bring to Council
Pier Water Sports	Yes	December 2023	Q3
Penticton Tennis Society	Yes	December 2023	Q3
Travel Penticton and Chamber of Commerce (Jubilee location)	Yes	December 2023	Q3
Okanagan Avenue Riparian	Yes	September 2022	Q4
Jeffers Fryzz (not part of Mobile Vending Truck Program)	No	December 2022	Q4
Penticton and Area Cycling Assoc.	No	March 31, 2023	Q3
Beach Vending	Yes	December 2023	Q4

Concessions To Use to be renewed	Park Land	Expiry Date	Bring to Council
Skaha Main	Yes	December 2023	Q3
Skaha East	Yes	April 2025	Q2 2024
Sudbury Beach	Yes	October 2023	Q2 2024
The Peach	Yes	April 2025	Q2 2024
Leases To Use to be renewed	Park Land	Expiry Date	Bring to Council
Penticton and Area Cycling Assoc.	No	March 31, 2023	Q3
Interior Health Authority (Part of SOEC)	No	August 31, 2024	Q1 2024
Penticton Water Park Ltd – WIBIT Okanagan Lake	No	May 31, 2025	Q3 2024

There also a number of nominal Lease / LTU (\$1-per year) that cover a range of functions across municipal lands and staff will also bring these forward at the appropriate times for Council’s review.

Each application for renewal will include a staff report with a recommendation and policy and process requirements that will pertain to each specific agreement. Many of these License to Use Agreements are on parkland, which following the Park Land Protection and Use Policy will require review by the Parks and Recreation Advisory Committee, as outlined in this report.

Staff are providing this report as background information as renewals and new applications will be coming forward for Council’s review over the coming year and beyond.

Attachments

Attachment A – Park Land Protection and Use Policy

Attachment B – Park Dedication Bylaw No: 2018-37

Respectfully submitted,

Sheri Raposo
Land Administrator

Concurrence

Director of Finance & Administration <i>AMC</i>	City Manager <i>SH</i>
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Approval date: June 19, 2018

Resolution No.: 275/2018

Subject: Park Land Protection and Use Policy

1. PURPOSE

1.1. The purposes of the Park Land Protection and Use Policy are:

- 1.1.1. To provide direction on the protection and uses of public park land within the City of Penticton in accord with the Official Community Plan, Parks & Recreation Master Plan and Zoning Bylaw.
- 1.1.2. To protect parks as public assets of the City of Penticton. This policy will ensure that city parks remain in the public domain through community engagement and support and with the implementation of the Park Land Protection and Use Policy.
- 1.1.3. To support the community's use and enjoyment of the parks, provide opportunities for primarily outdoor recreation and nature appreciation thereon, and to protect, conserve, and preserve the natural, physical, historical and cultural resources thereon.
- 1.1.4. To improve the quality of parks in our community through enhanced park stewardship and sustainable resource management.

2. GUIDING PRINCIPLES

- 2.1. The community developed a vision, a park definition and set of values in the 2018 Parks and Recreation Master Plan to guide future use of Penticton's parks and recreation services in the City of Penticton. These values directed the development of the Park Protection and Use Policy and will guide its implementation.
 - 2.1.1. A public park is an unencumbered tract of land wherein the land title is held by a public entity for the benefit, use and enjoyment of the people and for the protection, conservation, preservation of the natural, physical, historical and cultural resources thereon, and wherein an encumbrance is a burden, obstruction, or impediment to the foundational purpose or purposes for which the park was established.

2.1.2. Policy Objectives and their resulting policies have been created based on the Vision, Park Definition, Values and community engagement undertaken with the Parks & Recreation Master Plan and will be used to guide the use of parks.

- *Support recreational opportunities, healthy living and enhance public enjoyment of parks*
- *Safeguard public access and community affordability*
- *Protect public ownership*
- *Protect, preserve and promote park land*
- *Engage the community in park governance and decisions*

3. POLICY

3.1. Support recreational opportunities, healthy living and enhance public enjoyment of parks

3.1.1. The City of Penticton supports uses, recreational opportunities, provides for a healthy lifestyle and improves the public enjoyment of parks. These uses are identified as Permitted Uses in the Zoning Bylaw and shall meet applicable subdivision and development regulations contained within each Park Zone.

3.1.2. Requests for uses that are not identified as Permitted Uses in the Zoning Bylaw shall follow the zoning procedure for *Uses in a Park Zone that are not a Permitted Use* as outlined in this policy prior to being considered by Council.

3.2. Safeguard public access and community affordability

3.2.1. The City of Penticton does not support uses that inhibit long term public access through exclusive memberships, prohibitive fees or permanent physical structures that detract from the natural setting and use of the park.

3.3. Protect public ownership

3.3.1. A *License*, as defined under this policy permits the use of something or allows an activity to take place; a Licensee shall not be guaranteed exclusive use of the property, is not an entitlement to the land, and includes a cancellation clause allowing the Licensor (City) to cancel the license at any time by providing the stipulated required notice; additional licenses to unrelated parties may be granted over the same property or portions of property; a license cannot be registered on the title of the property.

3.3.1.1. The City of Penticton may issue a License-to-Use for a portion of public park land to support a Permitted Use in a Park Zone. These licences are typically for a short term or seasonal in nature, up to a maximum of three (3) years, and shall be approved in accordance with the zoning procedure for *Permitted Uses* outlined in this policy.

3.3.2. A *Lease*, under this policy is defined as a contract by which one party conveys exclusive use of land or real property to another for a specified period of time and provides entitlement to the land, usually in return for a periodic payment. A lease is a stronger form of tenure than a License and typically cannot be cancelled during the term of the lease as long as Lessee honours terms and conditions. Leases may be registered with the Land Title office creating a legal enforceable charge against the property for the term of the lease. In the context of park land within the City of Penticton, a lease of municipal park land grants a private interest rights to public land and diminishes public ownership and control.

3.3.2.1. The City of Penticton will not enter into a lease of land dedicated as park under Park Dedication Bylaw 2018-37 without the approval of the electors.

3.4. Protect, preserve and promote park land

3.4.1. If the proposed use is deemed to uphold Council Policy Section 2.1.1 and to have a net benefit to municipal park land, the City will then submit the proposal for public engagement in accordance with Section 3.5 of this policy.

3.4.2. The City of Penticton supports the growth and enhancement of public park land for community use in accordance with the Parks & Recreation Master Plan.

3.4.3. The City of Penticton recognizes that there are a number of private encroachments into existing public park land. There shall be no further encroachments into public park land and existing encroachments will be managed to ensure removal of encroachments where considered feasible.

3.5. Engage the community in park governance and decisions

3.5.1. The community is involved in governance of the protection and use of parks and the implementation of this policy through their membership on the Parks & Recreation Advisory Committee.

3.5.2. The community shall be engaged before a decision is made on any proposed change to use or regulation within any Park Zone in accordance with the procedure outlined in Section 5.2 of this policy. This policy provides for increasing levels of engagement based on the scale and impact of the proposed use. City staff and the Parks & Recreation Advisory Committee will establish the level of engagement according to the impact of the proposed use, in accordance with the zoning procedure for *Requests for Uses that are not Permitted Uses* and in accordance with the IAP2 International Spectrum of Public Participation (See Schedule B).

4. Legacy Licenses and Leases

- 4.1. The City of Penticton recognizes that a number of existing legacy uses in public parks may not be permitted under this policy (See Schedule A). The City of Penticton may or may not allow these licences and leases to continue in accordance with the agreements that are in place at the time of the creation of this policy. At the termination of the existing agreement, the use may or may not be allowed to continue in accordance with this policy, applicable bylaws and the *Procedure for uses that are not Permitted Park Uses* (See section 5.2.2 of this policy).

5. PROCEDURES – ZONING BYLAW

5.1. Permitted Uses

- 5.1.1. Permitted Uses within any Park Zone and no other uses than those provided for in the list of permitted uses in the Zoning Bylaw shall be allowed on City park land.
 - 5.1.1.1. Permitted Uses in a Park Zone may occur in accordance with the subdivision and development regulations of the Park Zone.
 - 5.1.1.2. City staff will report to the Parks & Recreation Advisory Committee on any new licences for permitted uses in a Park Zone.

5.2. Uses in a Park Zone that are not Permitted

- 5.2.1. Uses that are not a Permitted Use within a Park Zone or a regulation change must be reviewed through a Zoning Amendment application and a Public Hearing held in accordance with Section 890 of the Local Government Act.
- 5.2.2. The procedural review for any new use on Park Zoned Land is as follows:

Step 1: Zoning Amendment Application submitted to City staff

Step 2: Proposal brought forward to Open Council meeting for introduction to the community

Step 3: Circulation of application to City Departments and Parks & Recreation Advisory Committee for review against the Official Community Plan, Parks and Recreation Master Plan, Zoning Bylaw, Park Protection and Use Policy and any other applicable regulations

Step 4: Parks & Recreation Advisory Committee meet to review application and determine level of community engagement required in accordance with the IAP2 International Spectrum of Public Participation (See Schedule B)

Step 5: Public Participation process occurs receiving input from community

Step 6: Parks & Recreation Advisory Committee to meet and review application

Step 7: Parks & Recreation Advisory Committee to provide a recommendation to Council

Step 8: Council report introduced to Council outlining proposed Park Protection and Use or regulation change

Step 9: Public hearing advertised and held in accordance with Section 890 of the Local Government Act.

Step 10: After hearing from the public and receiving a recommendation from the Parks and Recreation Advisory Committee, Council renders a decision on a park proposal.

5.2.3. The procedural review contained within Section 3.5 of this policy may be followed for review of other park use related matters as determined by staff and the Parks & Recreation Advisory Committee.

6. PROCEDURE – LICENSE TO USE RENEWAL

6.1. A Licence to Use may or may not be renewed up to a maximum of three (3) years: The procedural review for any renewal is as follows:

- Step 1: Application to renew submitted to City staff
- Step 2: Proposal brought forward to Open Council meeting for introduction to the community
- Step 3: Circulation of application to City Departments and Parks & Recreation Advisory Committee
- Step 4: City staff conduct License Review to confirm conditions of license met and license in good standing
- Step 5: City staff review findings with Parks & Recreation Advisory Committee
- Step 6: Parks & Recreation Advisory Committee review application and feedback from staff
- Step 7: Parks & Recreation Advisory Committee would then make a recommendation to Council to approval or deny the renewal.

7. SCHEDULES

- A. List of existing Park Licenses & Leases
- B. IAP2 International Spectrum of Public Participation

8. Previous revisions

Amendment process for this policy.

N/A

Certified Correct:



Dana Schmidt, Corporate Officer

Schedule A – List of existing Park Licenses & Leases

City of Penitcion - Current Leases and Licenses in Parks and Recreation Facilities 2016													
Park Name	Zone	Lease / LTU	Licensee	Address	Area (hectares)	License Type	Activity / Use	Term in Years	Start Date	Expiry Date	Extend Clause Y/N	Park Name	Location within Park (in or near to parking lot)
Kings Park	P2	LTU	PENITCION SOCCER CLUB	550 Esplanade Ave W	15 ac	Sports club	Use of building for club activities	mo-mo	2013-10-15	until terminated	Y	Kings Park	Adjacent to parking lot
Lakawana Park	P2	Lease	1952002 BC LTD. (Gord Ferguson) Lakawana - Piao Burger	790 Lakeshore Dr W	11 ac	Park concession	Use of land and building for operation of concession patio and washroom facility	29	2016-05-20	2045-04-30	N	Lakawana Park / Okanagan Lake	Concession at Lakawana
Marina Way Park	CT1	LTU	PRAQUE CAFE, THE	102-260 Marina Way	003 ac	Cafe	Use of land for an outdoor patio for customers	Y	2016-09-01	2021-09-31	Y	Okanagan Lake	Gross area at Okanagan Lake
Marina Way Park	P1	Lease	PENITCION ART GALLERY	199 Marina Way		Art gallery	Use of land and building for displaying art and providing parking	20	1996-10-01	2019-09-30	N	Okanagan Lake	Building at Okanagan Lake
Okanagan Beach	P2	Lease	CONCESSION OKANAGAN BEACH - THE PEACH Localizing Adventure Golf 10A2002 BC Ltd.	185 Lakeshore Dr W		Beach concession	Beach food concession	20	2003-02-01	2022-01-31	Y	Okanagan Lake	Concession at Okanagan Lake
Okanagan Beach		Lease	PENITCION WATER PARK LTD. (WIBIT)	Okanagan Lake	82 ac	Water / Recreational business	Sublease of Crown land for operation of a WIBIT water park	5	2016-06-01	2020-05-31	N	Okanagan Lake	Water and sand area at Okanagan Lake
Rotary Park	P2	LTU	BISHOP'S SNOW AND MACHINE LTD.	195 Lakeshore Dr	095 ac	Recreational business	Use of building and grounds for operating business of providing rental equipment for water based activities	5	2014-01-01	2019-12-31	Y	Rotary Park	On beach
Staha Park	P2	LTU	CONCESSION SKANA EAST - Nicholas, Jeneva	2885 South Main St		Beach concession	Beach food concession	2	2016-05-01	2017-09-30	Y	Staha Lake	Concession at Staha Park

Shaha Park	P2	LTU	CONCESSION, SHAHIA MAIN - Thomas & Cain Fine Foods Ltd. (Toblerery's)	3701 Parkview St		Beach concession	Beach food concession	5	2017-05-01	2022-09-30	Y	Shaha Lake	Concession at Shaha Main
S.S. Scamious Park	P2	Lease	S.S. SCAMIOUS / MARGARITA	1059 Lakeshore Dr W	2 ac	Tourist attraction	Sub-license to Use of Crown land for mortgage of the S.S. Scamious to operate a museum and host special events		1988-06-01	until terminated	N	Okanagan Lake	
Sudbury Beach	P2	LTU	CONCESSION, SUDBURY BEACH - Glow Sup Adventures (Darcy Godfrey)	3940 Shaha Lake Rd		Beach concession	Beach food concession	2	2015-05-05	2017-09-30	Y	Shaha Lake	Concession at Sudbury Beach
Lions Park	P2	LTU	LIONS PARK CONCESSION	198 Warren Ave W		Park concession	Park food concession						
Kiwaniis Park	P2	LTU	POCERS - After School Program	470 Edmonton Ave		Child care facility	Use of building and grounds for operation of social service programs	5	2012-03-01	2017-02-28	Y	N/A - old pool	Y
Kiwaniis Park	P2	LTU	POCERS - Alternative & Little Triumphs	500 Edmonton Ave	1.75 ac	Child care facility	Use of building and grounds for operation of social service programs	5	2012-03-01	2017-02-28	Y	N/A - old pool	
Kiwaniis Park	P2	LTU	PENTICTON SAFETY VILLAGE SOCIETY	490 Edmonton Ave	85 ac	Child safety facility	Use of building and grounds for operation of children's safety village and for equipment storage	5	2013-11-01	2018-10-31	Y	N/A	
Lakeside Road (Dog Beach)	P2	Lease	0634813 B.C. LTD. (Shaner / Shaha Dog Beach)	4951 Lakeside Rd	22 ac	Private	Sublease of Crown land for operation of cabana for property owner to the east	9	2013-08-12	2022-06-12	N	Shaha Lake Beach	Sandy beach

Lions Park	P2	LTU	PENTICTON BMX ASSOCIATION	Lions Park	2.5 ac	Sports club	Use of land for operation of bicycle motocross track and facility	N/A	1888-01-31	when cancelled	Y	Lions Park	South east corner of 188 Warren Ave
McNicoll Park	P2	LTU	SOCIETE DE LA PETITE ENFANCE DE L'ECOLE ENTREE LACS	1091 Penticton Ave	028 ac	Pre-school facility	Use of land for fenced playground for pre-school aged children	5	2014-07-01	2016-06-30	Y	McNicoll Park	Between schools
Riverside Park	P2	LTU	COYOTE CRUISES	215 Riverside Drive	17 ac	Recreational business	Use of building for operation of a rental concession and transportation service - float the channel	5	2014-10-01	2016-09-30	Y	Riverside	South of skate park
Senior's Drop-in Centre	P1	LTU	PENTICTON HORSESHOE PITCHERS CLUB, THE	2905 South Main St	5 ac	Sports club	Use of horse pitches in exchange for maintenance and upkeep of land	3	2015-05-01	2016-04-30	Y	Seniors Centre Robinson Park	
Vancouver Avenue Park	P2	LTU	PEN COMMUNITY GARDENS SOC	480 Vancouver Ave	1.04 ac	Community gardens	Use of land for community gardens	5	2016-01-01	2020-12-31	Y	Vancouver Hill	North portion of park
Vancouver Avenue Park	P2	LTU	PENTICTON DISC GOLF	480 Vancouver Ave	2.22 ac	Sports club	Operation of disc golf facility	3	2016-03-15	2016-03-14	Y	Esplanade	All
Baskin Park	P2	LTU	FOOD FORESTERS SOC OF CANADA	2460 Baskin St	18 ac	Community gardens	Use of land for operation of community garden plots	5	2013-06-01	2016-05-31	Y	Undeveloped	North most portion of park
Darrouah Park	R2	LTU	DAIBOW, AVERY	314 Greenwood Dr	15 ac	Private residence	Use of land for quiet enjoyment	5	2014-11-01	2016-08-31	Y	Under 2715 Darrouah Dr	Behind lot

Dunsmouth Park	R2	LTU	AMANTE F. L & J	310 Greenwood Dr	038 ac	Private residence	Use of land for quiet enjoyment - garden	5	2015-05-01	2020-04-30	Y	Undeveloped 2715 Dunsmouth	Garden behind 881	
Special Purpose														
Lawn Bowling Club	P2	Lease	PEN LAKEVIEW LAWN BOWLING CLUB	290 Burnswick St	55 ac	Sports club	Use of land and building for operation of a lawn bowling club		20	2000-01-01	2020-12-31	N		
Loce Landing	P2	Lease	LOCO LANDING ADV. GOLF INC.	135 Riverside Dr	1.73 ac	Recreational business	Use of land for the operation of a recreational facility		20	2009-01-01	2028-12-31	N	Riverside Park	
Pentiction Golf and Country Club	P2	Lease	PENTICTON GOLF & COUNTRY CLUB	852 Eckhardt Ave W	13.23 ac	Sports club	Use of building and land for operation of a golf club for renting equipment, providing golf lessons, leisure golfing, tournaments, the sale of refreshments and the rental of facilities as a special events venue		28	2007-07-01	2033-10-31	N		
Pentiction Yacht and Tennis Club	P2	LTU	PENTICTON TENNIS SOCIETY	293 Marina Way	1.7 ac	Sports club	Use of facilities for operation of a tennis club with league play	3	2016-04-01	2017-12-31	Y	Okanagan Lake	East of marina	
Pentiction Yacht and Tennis Club	P2	Lease	PENTICTON YACHT & TENNIS CLUB	293/875 Marina Way	15.8 ac	Marina	Sublease of Crown 'Y' Dock in marina and storage compound to provide a commercial public marina and associated facilities		2016-04-02	2017-12-31	N	Okanagan Lake		
Elsa Creek Parkway	P1	LTU	INTERIOR HEALTH AUTHORITY (Hospice Society House)	1701 Government St	07 ac	Health facility	Use of land for quiet enjoyment - garden and walkway	5	2014-07-01	2019-06-30	Y	Undeveloped park - walking path	Adjacent to Elsa Creek	
Esplanade	P2	LTU	AXWORTHY, B & QUINN, S	345 Vancouver Ave	05 ac	Private residence	Use of land for quiet enjoyment - yard fenced	5	2014-08-01	2019-07-31	Y	Esplanade	Fenced yard	

Esplanade	P2	LTU	PENTICTON DISC GOLF	1500 Marina Way														
Penticon Creek Pathway	P2	LTU	MUNSONS PROPERTIES	1551 Penticon Ave	20 ac	Private residence	Use of land for quiet enjoyment	5	2014-11-01	2018-10-31	Y	Undeveloped park - walking path	Adjacent to Penticon Creek					
Three Blind Mice	FG	LTU	PENTICTON DISC GOLF	1400 Riddle Road	27 ac	Sports club	Operation of disc golf facility	5	2015-03-01	2020-02-29	Y	Three Blind Mice area	South west corner					
Three Blind Mice	FG	LTU	PENTICTON AND AREA CYCLING ASSOCIATION	1400 Riddle Road	320 ac	Cycling Club	Mountain Biking Trails	5	2016-07-01	2018-03-31	Y	Not a Park						
TCT / KVR Trail	AG	LTU	BOGDANOFF, C & BOWEN, P	1645 Lower Bench Rd	25 ac	Private residence	Use of KVR land for agriculture - tenured gardens	5	2012-01-01	2016-12-31	Y	KVR	Fronts trail					
TCT / KVR Trail	AG	LTU	HOLLER, BARBARA ROSE	1181 Davenport Ave	255 ac	Private residence	Use of KVR land for agriculture - grapes	5	2014-05-01	2016-04-30	Y	KVR	Fronts trail					
TCT / KVR Trail	P2	LTU	SHAW, H & M	911/913 Loochore Rd	1.34 ac	Private residence	Use of KVR land for agricultural purposes	7	2013-01-01	2016-12-31	Y	KVR	Fronts trail both sides					
TCT / KVR Trail	P2	Lease	KING FAMILY FARMS LTD. (lots 1-5)	184 Cude Rd	5 ac	Agricultural business	Use of KVR land for Agriculture	5	2001-05-01	2017-05-30	N	KVR	Fronts KVR both sides					

630 Munson Mtn Road	P2	LTU	PENICTON BMX SOCIETY	630 Munson Mtn Rd	2.8 ac	Sports club	Use of land for operation of bicycle motocross track and facility	5	2016-05-01	2021-04-30	Y	Munson Mountain	North west portion
Adidas Sportsplex	P2	Lease	PINNACLES FOOTBALL CLUB AND PENICTON SOCCER CLUB dba ADIDAS SPORTSPLEX	550 Eckhardt Ave W	67 ac	Sports clubs	Use of land and building as a sports complex for football, indoor soccer and a public walking track	20	2015-08-01	2044-09-31	N	Kings park	Indoor use at 550 Eckhardt Ave
McLaren Arena	P2	LTU	OKANAGAN HOCKEY SCHOOL / GROUP	McLaren Arena	23 ac	Sports educator	Use of facility for Hockey school, operation of concession and vending machines	2	Exp.		Y	N/A	
Senior's Drop-In Centre	P2	Lease	PEN SENIORS' DROP IN CENTRE SOC	2065 South Van St		Social club	Use of land and building for operation of a seniors' social facility	20	1999-06-01	2019-05-31	N	Robinson Park	
Memorial & McLaren Arena	P1	LTU	PENICTON & DISTRICT MINOR HOCKEY ASSOC. (Memorial Arena)	398 Power Street		Arena concession	Sale of refreshments and placement of hotfood vending machines		2003-09-01	2016-04-30	Y	Memorial Arena	
South Okanagan Events Centre	P1	Lease	APPLE PLANNING SERVICES INC. & 6926232 B.C. LTD.	888 Westminster Ave W		Private business	Use of a portion of the building as an office	5	2013-01-01	2017-07-31	N	Queens Park	
South Okanagan Events Centre	P1	Lease	INTERIOR HEALTH AUTHORITY Part of SOEC	853 Eckhardt Ave W		Health provider	Use of a portion of the building to operate a cardiac and pulmonary rehabilitation wellness program	5	2014-09-01	2019-09-31	Y		Part of SOEC
South Okanagan Events Centre	P1	Lease	OKANAGAN HOCKEY SCHOOL	853 Eckhardt Ave W		Sports educator	Use of a portion of the building for operation of a hockey school and other related activities	10	2009-01-01	2018-12-31	N	Kings Park	

South Okanagan Events Centre	P1	LTU	PENTICTON TOURISM	853 Eckhardt Ave W	Tourism Organization	Temporary office rental	1	2016-12-31	Y		
Pentiction Curling Rink	P1	Lease	PENTICTON CURLING CLUB	505 Veer Dr	Sports club	Use of a portion of the building for operation of a curling rink for the purpose of providing curling lessons, competitions and bonspiels and sale of refreshments	10	2010-10-01 2020-09-30	Y		
Pentiction Community Centre	P1	Lease	DALE CHARLES & ASSOC. PHYSICAL THERAPIST CORP.	325 Power St	Health provider	Use of a portion of the building for the operation of a physiotherapy clinic	5	2012-04-02 2017-04-01	N		
Pentiction Community Centre	P1	LTU	KISU SWIM CLUB	325 Power St	Swim Club	Office rental	3	2017-09-31	Y		
Pentiction Community Centre	P1	LTU	DRAGON BOAT FESTIVAL	325 Power St	Non-profit group	Office rental (year to year)	1	2016-12-31	Y		
Oxbows	CT2	LTU	OXBOW RV RESORT LTD.	3911 Siska Lake Rd	Recreational business	Use of land for RV Park	5	2012-06-01 2017-05-31	Y	N/A	North of Sudbury Beach
Leis House	P1	Lease	PEN. & DIST. COMMUNITY ARTS COUNCIL - Leis House	220 Manor Park	Arts club	Use of building and land as a place for artists to gather and to work on their art projects	yr-yr	1982-07-01	N		Building at 220 Manor Park

Schedule B – IAP2 International Spectrum of Public Participation

iap2 public participation spectrum

developed by the international association for public participation

	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.	To obtain public feedback on analysis, alternatives and/or decision.	To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advise and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
EXAMPLE TOOLS	<ul style="list-style-type: none"> • Fact sheets • Websites • Open houses 	<ul style="list-style-type: none"> • Public comment • Focus groups • Surveys • Public meetings 	<ul style="list-style-type: none"> • Workshops • Deliberate polling 	<ul style="list-style-type: none"> • Citizen Advisory committees • Consensus-building • Participatory decision-making 	<ul style="list-style-type: none"> • Citizen juries • Ballots • Delegated decisions

The Corporation of the City of Penticton

Bylaw No. 2018-37

A bylaw to dedicate certain parcels of land owned by the City as public park land.

WHEREAS pursuant to section 30 of the *Community Charter*, a council of a municipality may, by bylaw adopted by two-thirds of all members of council, dedicate land owned by the municipality for municipal park purposes;

AND WHEREAS The Corporation of the City of Penticton is the registered owner of the municipal lands described in this Bylaw and wishes to ensure the dedication of such lands as public park;

NOW THEREFORE, the Council of the Corporation of the City of Penticton enacts as follows:

1. This Bylaw may be cited for all purposes as "Park Dedication Bylaw No. 2018-37".
2. The following lands are dedicated for park purposes:
 - (a) 45 LAKESHORE DRIVE E. PID: 006-838-383
 LOT 1 DISTRICT LOTS 202 AND 211S SIMILKAMEEN DIVISION YALE DISTRICT PLAN 22452
 as shown outlined in red on Schedule "A" attached to this Bylaw and known as Okanagan Lake Park;
 - (b) i. 60 LAKESHORE DRIVE W. PID: 010-290-389
 LOT 1 DISTRICT LOT 202 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 5577;
 - ii. 58 LAKESHORE DRIVE W. PID: 010-290-401
 LOT 2 DISTRICT LOT 202 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 5577; and
 - iii. 24 LAKESHORE DRIVE W. PID: 010-290-460
 LOT 3 DISTRICT LOT 202 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 5577
 EXCEPT PLAN 14880;
 - as shown outlined in red on Schedule "B" attached to this Bylaw and known as Gyro Park;
 - (c) i. 886 LAKESHORE DRIVE W. PID: 012-312-401
 LOT 1 DISTRICT LOT 3 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE LYTTON) DISTRICT PLAN 453;
 - ii. 796 LAKESHORE DRIVE W. PID: 025-329-766
 PARCEL A (SEE KT24099) DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN 4937;
 - iii. 797 CHURCHILL AVENUE PID: 025-329-774
 PARCEL B (SEE KT24106) DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN 4937;
 - iv. 97 POWER STREET PID: 010-358-455
 LOT A DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN 5185; and
 - v. 123 POWER STREET PID: 010-358-463
 LOT B DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN 5185,

as shown outlined in red on Schedule "C" attached to this Bylaw and known as Lakawanna Park;

- (d) i. 185 LAKESHORE DRIVE W. PID: 011-952-695
DISTRICT LOT 215S SIMILKAMEEN DIVISION YALE DISTRICT SAID TO CONTAIN 4.78 ACRES MORE OR LESS; and
- ii. PEACH CONCESSION PID: 012-101-257
LOT 42 DISTRICT LOT 4 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE LYTTON) DISTRICT PLAN 756,

as shown outlined in red on Schedule "D" attached to this Bylaw and known as Rotary Park;

- (e) i. 75 RIVERSIDE DRIVE PID: 009-788-603
LOT 2 DISTRICT LOT 201 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 8666 EXCEPT PLAN KAP68866;
- ii. 135 RIVERSIDE DRIVE PID: 008-851-930
LOT 1 OF PENTICTON INDIAN RESERVE NO. 1 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 15294;
- iii. 125 RIVERSIDE DRIVE PID: 009-788-638
LOT 3 DISTRICT LOT 201 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 8666;
- iv. 187 RIVERSIDE DRIVE PID: 009-646-809
LOT 1 DISTRICT LOT 366 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 9669; and
- v. 215 RIVERSIDE DRIVE
PID: 011-699-671/011-699-701/011-699-728/011-699-752/011-699-779/
011-699-795/011-699-809/011-699-825/011-699-841/ 011-699-850/
011-699-868/011-699-894/011-699-892/011-699-906
LOTs 39-50 DISTRICT LOT 366 OSOYOOS DIVISION YALE DISTRICT PLAN 1248 EXCEPT PLAN H281,

Dedicated Road within the proposed Park area, as shown on Plan KAP68866 as shown outlined in red on Schedule "E" attached to this Bylaw and known as Riverside Park;

- (f) i. 3601 PARKVIEW STREET PID: 012-475-696
LOT 1 BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 389 EXCEPT: (1) PART LYING NORTH WEST OF PLAN B3673 (2) PLAN B3673;
- ii. 3630 SKAHA LAKE ROAD PID: 012-475-734
LOT 2, BLOCK 215, DISTRICT LOT 189, SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397 EXCEPT PLAN B3673;
- iii. 3661 PARKVIEW STREET PID: 012-475-769
LOT 3, BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397;
- iv. 3670 SKAHA LAKE ROAD PID: 012-475-866
LOT 4 BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397 EXCEPT: (1) PART LYING NORTH OF PLAN B3673 (2) PLAN B3673

- v. 3680 SKAHA LAKE ROAD PID: 012-475-874
LOT 5 BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397 EXCEPT: (1) PART LYING NORTH OF PLAN 3673 (2) PLAN B3673;
- vi. 3701 PARKVIEW STREET
PID: 012-475-891/012-475-904/012-475-912/012-475-921
LOTS 11, 12, 13 AND 14 BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397;
- vii. 277 SOUTH BEACH DRIVE PID: 010-242-201
LOT 1 PLAN DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 5885;
- viii. 269 SOUTH BEACH DRIVE PID: 010-242-228/010-242-244
LOTS 2 AND 3 PLAN DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 5885;
- ix. 3720 SKAHA LAKE ROAD PID: 012-475-955
LOT 17 BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397 EXCEPT PLANS 29835 AND B3673
- x. 3730 SKAHA LAKE ROAD PID: 012-475-971
LOT 18 BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397 EXCEPT: (1) PART LYING NORTH OF PLAN B3673 (2) PLAN B3673;
- xi. 3750 SKAHA LAKE ROAD PID: 012-475-980
LOT 19 BLOCK 215 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 397 EXCEPT: (1) PART LYING NORTH OF PLAN B3673 (2) PLAN 3673;
- xii. PLAN KAP11517M DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN KAP11517M, CITY OF PENTICTON BYLAW NO 3190 TO STOP UP & CLOSE PORTION OF SOUTH BEACH DR;
- xiii. 3885 SOUTH MAIN STREET PID: 029-633-818
LOT 1 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN EPP50612
- xiv. 3915 LAKESIDE ROAD PID: 012-322-954
AMENDED LOT 4 (SEE 244321F) BLOCK 209 DISTRICT LOT 190 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xv. 98 LEE AVENUE PID: 012-323-454
LOT 12 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xvi. 50 LEE AVENUE PID: 012-323-471
LOT 13 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xvii. 47 ELM AVENUE PID: 012-323-497
LOT 14 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xviii. 3603 SOUTH MAIN STREET PID: 012-323-527
LOT 13A BLOCK 212 DISTRICT LOT 197, SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;

- xix. 3693 SOUTH MAIN STREET PID: 012-323-543
LOT 14A BLOCK 212 DISTRICT LOT 197 SIMILKAMEEN DIVISION YALE DISTRICT
PLAN 466;
- xx. 241 SOUTH BEACH DRIVE PID: 009-992-821
LOT 1 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 7422;
- xxi. 3744 PARKVIEW STREET PID: 009-992-847
LOT 2 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 7422;
- xxii. 3704 PARKVIEW STREET PID: 003-263-355
LOT 3 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 4840;
- xxiii. 231 SOUTH BEACH DRIVE PID: 012-475-025
LOT 16 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN
397;
- xxiv. 208 ELM AVENUE PID: 010-073-230
LOT 1 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 6699;
- xxv. 209 SOUTH BEACH DRIVE PID: 010-073-248
LOT 2 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 6699;
- xxvi. 202 ELM AVENUE PID: 009-992-251
LOT 1 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 7439;
- xxvii. 201 SOUTH BEACH DRIVE PID: 009-992-260
LOT 2 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 7439;
- xxviii. 198 ELM AVENUE PID: 010-060-502
LOT 1 DISTRICT LOT 139 OSOYOOS DIVISION YALE DISTRICT PLAN 7037;
- xxix. 193 SOUTH BEACH DRIVE PID: 010-126-937
LOT 2 DISTRICT LOT 189 OSOYOOS DIVISION YALE DISTRICT PLAN 6510;
- xxx. 182 ELM AVENUE PID: 010-001-646
LOT 1 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 7344;
- xxxi. 170 ELM AVENUE PID: 010-001-654
LOT 2 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 7344;
- xxxii. 179 SOUTH BEACH DRIVE PID: 010-001-662
LOT 3 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 7344;
- xxxiii. 147 SOUTH BEACH DRIVE PID: 010-358-765
LOT 1 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 5525;
- xxxiv. 153 SOUTH BEACH DRIVE PID: 010-358-811
LOT 2 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 5525;
- xxxv. 163 SOUTH BEACH DRIVE PID: 010-358-773
LOT 3 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT, PLAN 5525;
- xxxvi. 139 SOUTH BEACH DRIVE PID: 012-475-050
LOT 22 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN
397;

- xxxvii. 125 SOUTH BEACH DRIVE PID: 012-323-578
LOT 23 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xxxviii. 111 SOUTH BEACH DRIVE PID: 012-323-594
LOT 24 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xxxix. 97 SOUTH BEACH DRIVE PID: 012-323-616
LOT 25 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xl. 41 SOUTH BEACH DRIVE PID: 012-323-624
LOT 26 BLOCK 212 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466;
- xli. 3703 SOUTH MAIN STREET PID: 012-323-659
LOT 26A BLOCK 212 DISTRICT LOT 197 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 466
- xlii. 396 SUDBURY AVENUE PID: 011-888-750
LOT 30 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 966 EXCEPT PLAN B3673
- xliii. 382 SUDBURY AVENUE PID: 011-888-881
LOT 29 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 996
- xliv. 378 SUDBURY AVENUE PID: 011-888-741
LOT 28 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 966
- xlv. 374 SUDBURY AVENUE PID: 009-497-421
LOT 1 DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 11398

as shown outlined in red on Schedule "F" attached to this Bylaw and known as Skaha Park/ Beach;

- (g) 325 POWER STREET PID: 023-678-356
LOT 1 DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN KAP58604 EXCEPT PLANS KAP87244 AND KAP87245

as shown outlined in red on Schedule "G" attached to this Bylaw and known as Queen's Park;

- (h) i. 550 ECKHARDT AVENUE W. PID: 012-563-986
PARCEL A DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN 299;
- ii. 620 PACIFIC CRESCENT PID: 008-375-534
LOT 2 DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN 17680; and
- iii. 850 RAILWAY STREET PID: 001-812-734
LOT 1 DISTRICT LOT 2 GROUP 7 SIMILKAMEEN DIVISION YALE (FORMERLY YALE-LYTTON) DISTRICT PLAN 20829 EXCEPT PLAN KAP75697,

as shown outlined in red on Schedule "H" attached to this Bylaw and known as King's Park;

- (i) i. 650 LOWER BENCH ROAD PID: 012-316-083
LOT 149 DISTRICT LOT 187 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 450
EXCEPT PLANS B5290, B5610 AND H16862; and
- ii. 490 LOWER BENCH ROAD PID: 012-316-091
LOT 150 DISTRICT LOT 187 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 450
EXCEPT PART RED ON PLAN B4176,

as shown outlined in red on Schedule "I" attached to this Bylaw and known as Munson Mountain;

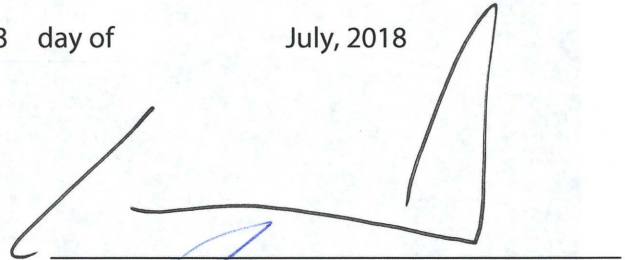
- (j) i. 187 MARINA WAY PID: 012-564346
LOT 77 DISTRICT LOT 188 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 306
EXCEPT: (1) PARCEL A (PLAN A11) (2) THAT PART LYING TO THE EAST OF PARCEL A
(PLAN A11);
- ii. 725 Marina Way PID: 012-564-338
LOT 76 PLAN KAP306 DISTRICT LOT 188 SIMILKAMEEN DIVISION YALE DIST EXCEPT
PLAN B12444 A378; and
- iii. 750 MARINA WAY PID: 012-564 010
PARCEL A (PLAN B1244) OF LOT 76, DL 188, SDYD, PLAN 306 EXCEPT: (1) PLAN
6611 (2) OUTLINED IN RED ON PLAN A378

and as shown outlined in red on Schedule "J" attached to this Bylaw and known as Esplanade; and

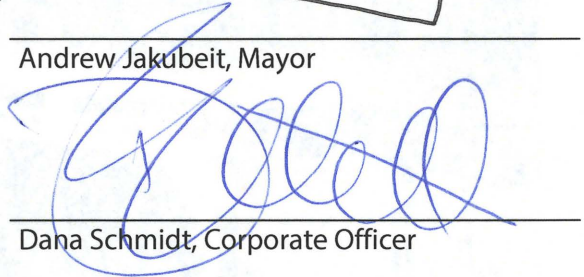
- (k) Land owned by the Corporation of the City of Penticton extending from Vancouver Place, up to the Northern Boundary of the City of Penticton, approximately 6.5km in linear length consisting of approximately 60 lots as shown marked in red on Schedule "K" and known as the Kettle Valley Railway.
3. The City may, from time to time, grant a licence of use or a licence of occupation for all or part of the public park referred to in this Bylaw for a use permitted in the applicable zoning bylaw, where such use is consistent with the City's Park Land Protection and Use Policy.
 4. Prior to granting a lease of all or part of the land dedicated as park under this Bylaw, the City shall first obtain the approval of the electors.
 5. If any part of this Bylaw is held invalid by a court of competent jurisdiction, then the invalid portion may be severed and the remainder of this Bylaw is deemed to have been adopted without the severed section, subsection or paragraph.

6. The City of Penticton Park Dedication Bylaw No. 2002-42 (2002) and amendments thereto are repealed upon the adoption hereof.

READ A FIRST time this	19	day of	June, 2018
READ A SECOND time this	19	day of	June, 2018
READ A THIRD time this	19	day of	June, 2018
ADOPTED this	3	day of	July, 2018



Andrew Jakubeit, Mayor



Dana Schmidt, Corporate Officer

Schedule "A" – Okanagan Lake Park





Schedule "C" - Lakawanna Park





Schedule "E" – Riverside Park





Schedule "G" – Queen's Park





Schedule "I" – Munson Mountain





Schedule "K" – Kettle Valley Railway



Date: October 17, 2023
To: Anthony Haddad, City Manager
From: Sheri Raposo, Land Administrator

File No: 4320-80

Subject: Licence to Use Agreement – Bishop’s Snow and Marine Ltd. Operating as Pier Water Sports

Staff Recommendation

THAT Council refer the three (3) year License to Use Agreement renewal with Bishop’s Snow and Marine Ltd., operating as Pier Water Sports, for the use of approximately .55 ac. of Rotary Park foreshore, and use of the building for the operation of water leisure activities on Okanagan Lake, to the Parks and Recreation Advisory Committee for their review and recommendation.

Strategic priority objective

Vision: A vibrant, resilient and healthy waterfront city focused on safety, livability and vibrancy.

Background

Bishop’s Snow and Marine Ltd (Pier Water Sports) is a family-owned business. It employs 12 to 14 employees each season, many of whom are local youths from the community. They have been operating out of Rotary Park in Penticton since 1998. This year will be their 25th season. Pier Water Sports has requested a 3 to 5 year License to Use Agreement (LTU) extension.

The business offers rentals of ski boats, surf boards, pontoon boats, kayaks and parasailing as well as instructing water activities. Mr. Bishop has a fleet of 12 boats and 10 seadoos. Their newest addition this year is a 34 ft., 10-passenger Lake Monster towable boat tube that they take customers on. They also have the only Waterski Canada, certified professional instructor and school in Penticton. Since 1998, their financial investment in this business exceeds \$1 million, as follows:

- Building rebuild and upgrade \$80,000
- Dock System \$104,000
- Fuel system upgrade \$20,700
- Rental equipment inventory \$853,000

History

A history of the tenure over the Rotary Park foreshore location to the current Licensee:

- 1998 Pier Water Sports retained tenure over the space until 2002
- 2003 an RFP under Beach & Park Vending program resulted in a 3 year LTU with an option to renew for two additional years for the purpose of offering water leisure activities on Okanagan Lake. Granted to proponents George Bishop, Robert Bateman, John Cain, and Robert Grey. The RFP submission included replacing an existing kiosk with a prefab structure with an attached covered patio and expand their existing floating docks at a cost of \$21,000. The option to renew was exercised
- 2006 a 2 year LTU under the Beach & Park Vending program was provided to Pier Water Sports
- 2009 a 5 year LTU (with an option to renew on mutually agreed terms) was granted and a building permit was issued for renovations to the building
- 2013 the renewal option was granted for 5 additional years
- 2018 staff brought a report to Council, requesting an additional 5 year LTU for Pier Water Sports. With the condition that prior to the start of the 2019 season, a compliant fueling system within the licensed area be installed, at the operator's expense. This condition was completed. This current agreement expires December 31, 2023

Park Land Protection and Use Policy References

As the land, where the building is located, is dedicated parkland, the Park Land Protection and Use Policy requires new agreements or renewal of agreements within our parkland follow the following procedure:

- Step 1: Application to renew submitted to City staff
- Step 2: Proposal brought forward to Open Council meeting
- Step 3: Circulation of application to City Departments and Parks and Recreation Advisory Committee
- Step 4: City staff conduct License Review to confirm conditions of license met and license in good standing
- Sept 5: City staff review finding with Parks and Recreation Advisory Committee
- Sept 6: Parks and Recreation Advisory Committee review application and feedback from Staff
- Sept 7: Parks and Recreation Advisory Committee would then make a recommendation to Council to approve or deny the renewal

If directed by Council, Staff will present a report to the Parks and Recreation Advisory Committee at the next available meeting, for their review and recommendation, and would return to Council at the next available Council meeting.

Council does have the discretion to consider the criteria of the Park Land Protection and Use Policy and to provide staff with alternative direction and staff have provided those opportunities in the Analysis section of this report.

Request for Proposal Process (RFP)

An RFP is used when the City has a need and is seeking proposals to provide a specific product or a specific service. The New West Partnership Trade Agreement does not require issuance of an RFP for revenue generating opportunities such as this, however it may be an appropriate solution to seek out a future operator through a competitive process. The last time that this specific tenure was offered publically was in 2003.

License to Use Summary

The Licensee will continue to be responsible for utilities, property taxes, and all repairs and maintenance necessary to maintain the facility in a safe and first class condition and not to utilize an area larger than the licensed area. Staff have obtained a current appraisal for this area. The LTU fee will be based on that appraised value at \$11,000 annually plus CPI. The Licensee will be required to carry \$10,000,000 (Ten Million Dollars) liability insurance.

Aerial no. 1 - Licence area outlined in blue.



Analysis

A number of options are available for Council's review and are summarized below.

Waive the Park Land Protection & Use Policy and Renew with Existing Operator

Council are not obliged to follow the Park Land Protection and Use Policy, which required the process in Section 6.1 of the Policy to be followed. Considering the investment that has been made in this location by the existing operator and the request that has been made (Attachment A), should Council wish to continue with the existing operator for a further three years or a five year period, Council could pass the following resolution without moving the renewal through the Committee process:

THAT Council direct staff to not present a report to the Parks and Recreation Advisory Committee, and renew the License to Use agreement, for a 3-Year term or a 5-year term, at a rate of \$11,000 per annum, plus CPI to Bishops Snow and Marine operating as Pier Water Sports.

1-Year Extension prior to RFP

Should Council wish to provide a one-year extension to the existing operator that would allow a longer duration for staff to work with the PRAC and begin a competitive process for use of the area as part of an RFP process. The existing operator would be permitted to prepare for the 2024 season and staff would then commence the RFP process in the Fall of 2024. The following resolution is drafted should this be determined appropriate.

THAT Council direct staff to enter into a one year extension agreement with Pier Water Sports and direct staff to refer the three year LTU agreement to Parks and Recreation Advisory Committee and issue an RFP for an operator for use of the facility and foreshore location.

Request for Proposal Process

Should Council wish to seek a competitive process for use of this area; a competitive process through an RFP can be considered. A three year time period for a Licence to Use is outlined in the policy, however depending upon a proposal that may come forward, a longer time period may be considered appropriate, up to, in staff's review a maximum of five years. Should the RFP process be supported by Council, after review by the Committee, staff will commence this process immediately to ensure that a new LTU agreement is in place for the 2024 season.

Attachments

Attachment A – Bishops Snow and Marine Ltd., Letter Request

Attachment B – Park Land Protection and Use Policy

Attachment C – Draft License to Use Agreement

Respectfully submitted,

Sheri Raposo

Land Administrator

Approvals

<p>Director of Finance and Administration</p> <p><i>AMC</i></p>	<p>City Manager</p> <p><i>PH</i></p>
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Attachment A – Bishops Snow and Marine Ltd., Letter Request

Bishop's Snow and Marine Ltd.
Doing business as: Pier Water Sports
450 Tennis Street
Penticton, BC V2A 5R3
250-493-8864

January 10, 2023

The City of Penticton
171 Main St.,
Penticton, BC V2A 5A9

Attention: Mayor Bloomfield and Councillors

Dear Mayor Bloomfield,

We would like to formally request a 3 or 5 year extension to our existing contract that ends December 31, 2023. We ask that this license to use be renewed prior to our 2023 season.

The following is in support of our request:

Bishop's Snow and Marine Ltd operating as Pier Water Sports has been operating out of Rotary Park in Penticton since 1998 and 2023 will be our 25th season.

We are a family run business and also employ 12 to 14 employees each season, many of whom are local youths from the community, students continuing their studies and others that are right out of high school and are excited to gain experience in their first job. Our customer following has grown over the years with our 2022 season serving well over 10,000 people, including many repeat customers from prior seasons.

We have provided excellent services to the public including: rentals of PWC (Seadoos), ski boats, surf boats, pontoon boats, paddle boards and kayaks. Our other watersport activities have included: Banana boat rides, Ski/wake/surf board school and parasailing.

We began in 1998 renting personal watercraft and a couple ski boats directly off the leased beach area. Since then we have improved and expanded our operations by recognizing that we needed to have a dock/moorage system instead of operating directly off the beach. We brought in a portable/temporary polypropylene floating dock system to operate from and each year thereafter we have expanded this system to its current size which includes a daytime

moorage and staging area and refueling dock. This system is disassembled at the end of each season and stored on the beach until the next season.

We also started out by buying an existing wooden shanty building from the previous operator that had been there for many years prior. Due to the growth of our business and customer increase we then replaced it with the existing portable building. Our current contract does require that we remove this building at expiration.

It has taken 25 years of hard work and financial investment to bring Pier Water Sports to where it is today. Not only have we invested a substantial amount of money it has become our life and livelihood. Our expenditures and investments exceed \$ 900, 000 and are outlined as follows:

Building rebuild and upgrade	\$ 80,000
Dock System	104,000
Fuel system upgrade	20,700
Rental equipment inventory	703,000

At Pier Water Sports we pride ourselves on being responsible successful corporate business owners, we continue to be a driving force for Penticton Tourism and we truly love contributing to our community. For these reasons we hope that you will strongly consider our request for contract extension. We are willing to pay fair market value for an extension of this permit and offer \$ 11,000.00 plus GST. We would like to continue providing Penticton and its tourists with ongoing quality service, including a wide variety of water sports activities and economic enrichment.

Thank you for your continued support and consideration.

Yours truly,



George Bishop
Bishop's Snow and Marine Ltd.

Attachment B – Park Land Protection and Use Policy

<https://www.penticton.ca/sites/default/files/docs/city-hall/council-policies/Park%20Land%20Protection%20and%20Use%20Policy.pdf>

Approval date: June 19, 2018

Resolution No.: 275/2018

Subject: Park Land Protection and Use Policy

1. PURPOSE

1.1. The purposes of the Park Land Protection and Use Policy are:

- 1.1.1. To provide direction on the protection and uses of public park land within the City of Penticton in accord with the Official Community Plan, Parks & Recreation Master Plan and Zoning Bylaw.
- 1.1.2. To protect parks as public assets of the City of Penticton. This policy will ensure that city parks remain in the public domain through community engagement and support and with the implementation of the Park Land Protection and Use Policy.
- 1.1.3. To support the community's use and enjoyment of the parks, provide opportunities for primarily outdoor recreation and nature appreciation thereon, and to protect, conserve, and preserve the natural, physical, historical and cultural resources thereon.
- 1.1.4. To improve the quality of parks in our community through enhanced park stewardship and sustainable resource management.

2. GUIDING PRINCIPLES

- 2.1. The community developed a vision, a park definition and set of values in the 2018 Parks and Recreation Master Plan to guide future use of Penticton's parks and recreation services in the City of Penticton. These values directed the development of the Park Protection and Use Policy and will guide its implementation.
 - 2.1.1. A public park is an unencumbered tract of land wherein the land title is held by a public entity for the benefit, use and enjoyment of the people and for the protection, conservation, preservation of the natural, physical, historical and cultural resources thereon, and wherein an encumbrance is a burden, obstruction, or impediment to the foundational purpose or purposes for which the park was established.

2.1.2. Policy Objectives and their resulting policies have been created based on the Vision, Park Definition, Values and community engagement undertaken with the Parks & Recreation Master Plan and will be used to guide the use of parks.

- *Support recreational opportunities, healthy living and enhance public enjoyment of parks*
- *Safeguard public access and community affordability*
- *Protect public ownership*
- *Protect, preserve and promote park land*
- *Engage the community in park governance and decisions*

3. POLICY

3.1. Support recreational opportunities, healthy living and enhance public enjoyment of parks

3.1.1. The City of Penticton supports uses, recreational opportunities, provides for a healthy lifestyle and improves the public enjoyment of parks. These uses are identified as Permitted Uses in the Zoning Bylaw and shall meet applicable subdivision and development regulations contained within each Park Zone.

3.1.2. Requests for uses that are not identified as Permitted Uses in the Zoning Bylaw shall follow the zoning procedure for *Uses in a Park Zone that are not a Permitted Use* as outlined in this policy prior to being considered by Council.

3.2. Safeguard public access and community affordability

3.2.1. The City of Penticton does not support uses that inhibit long term public access through exclusive memberships, prohibitive fees or permanent physical structures that detract from the natural setting and use of the park.

3.3. Protect public ownership

3.3.1. A *License*, as defined under this policy permits the use of something or allows an activity to take place; a Licensee shall not be guaranteed exclusive use of the property, is not an entitlement to the land, and includes a cancellation clause allowing the Licensor (City) to cancel the license at any time by providing the stipulated required notice; additional licenses to unrelated parties may be granted over the same property or portions of property; a license cannot be registered on the title of the property.

3.3.1.1. The City of Penticton may issue a License-to-Use for a portion of public park land to support a Permitted Use in a Park Zone. These licences are typically for a short term or seasonal in nature, up to a maximum of three (3) years, and shall be approved in accordance with the zoning procedure for *Permitted Uses* outlined in this policy.

3.3.2. A Lease, under this policy is defined as a contract by which one party conveys exclusive use of land or real property to another for a specified period of time and provides entitlement to the land, usually in return for a periodic payment. A lease is a stronger form of tenure than a License and typically cannot be cancelled during the term of the lease as long as Lessee honours terms and conditions. Leases may be registered with the Land Title office creating a legal enforceable charge against the property for the term of the lease. In the context of park land within the City of Penticton, a lease of municipal park land grants a private interest rights to public land and diminishes public ownership and control.

3.3.2.1. The City of Penticton will not enter into a lease of land dedicated as park under Park Dedication Bylaw 2018-37 without the approval of the electors.

3.4. Protect, preserve and promote park land

3.4.1. If the proposed use is deemed to uphold Council Policy Section 2.1.1 and to have a net benefit to municipal park land, the City will then submit the proposal for public engagement in accordance with Section 3.5 of this policy.

3.4.2. The City of Penticton supports the growth and enhancement of public park land for community use in accordance with the Parks & Recreation Master Plan.

3.4.3. The City of Penticton recognizes that there are a number of private encroachments into existing public park land. There shall be no further encroachments into public park land and existing encroachments will be managed to ensure removal of encroachments where considered feasible.

3.5. Engage the community in park governance and decisions

3.5.1. The community is involved in governance of the protection and use of parks and the implementation of this policy through their membership on the Parks & Recreation Advisory Committee.

3.5.2. The community shall be engaged before a decision is made on any proposed change to use or regulation within any Park Zone in accordance with the procedure outlined in Section 5.2 of this policy. This policy provides for increasing levels of engagement based on the scale and impact of the proposed use. City staff and the Parks & Recreation Advisory Committee will establish the level of engagement according to the impact of the proposed use, in accordance with the zoning procedure for *Requests for Uses that are not Permitted Uses* and in accordance with the IAP2 International Spectrum of Public Participation (See Schedule B).

4. Legacy Licenses and Leases

- 4.1. The City of Penticton recognizes that a number of existing legacy uses in public parks may not be permitted under this policy (See Schedule A). The City of Penticton may or may not allow these licences and leases to continue in accordance with the agreements that are in place at the time of the creation of this policy. At the termination of the existing agreement, the use may or may not be allowed to continue in accordance with this policy, applicable bylaws and the *Procedure for uses that are not Permitted Park Uses* (See section 5.2.2 of this policy).

5. PROCEDURES – ZONING BYLAW

5.1. Permitted Uses

- 5.1.1. Permitted Uses within any Park Zone and no other uses than those provided for in the list of permitted uses in the Zoning Bylaw shall be allowed on City park land.
 - 5.1.1.1. Permitted Uses in a Park Zone may occur in accordance with the subdivision and development regulations of the Park Zone.
 - 5.1.1.2. City staff will report to the Parks & Recreation Advisory Committee on any new licences for permitted uses in a Park Zone.

5.2. Uses in a Park Zone that are not Permitted

- 5.2.1. Uses that are not a Permitted Use within a Park Zone or a regulation change must be reviewed through a Zoning Amendment application and a Public Hearing held in accordance with Section 890 of the Local Government Act.
- 5.2.2. The procedural review for any new use on Park Zoned Land is as follows:

Step 1: Zoning Amendment Application submitted to City staff

Step 2: Proposal brought forward to Open Council meeting for introduction to the community

Step 3: Circulation of application to City Departments and Parks & Recreation Advisory Committee for review against the Official Community Plan, Parks and Recreation Master Plan, Zoning Bylaw, Park Protection and Use Policy and any other applicable regulations

Step 4: Parks & Recreation Advisory Committee meet to review application and determine level of community engagement required in accordance with the IAP2 International Spectrum of Public Participation (See Schedule B)

Step 5: Public Participation process occurs receiving input from community

Step 6: Parks & Recreation Advisory Committee to meet and review application

Step 7: Parks & Recreation Advisory Committee to provide a recommendation to Council

Step 8: Council report introduced to Council outlining proposed Park Protection and Use or regulation change

Step 9: Public hearing advertised and held in accordance with Section 890 of the Local Government Act.

Step 10: After hearing from the public and receiving a recommendation from the Parks and Recreation Advisory Committee, Council renders a decision on a park proposal.

5.2.3. The procedural review contained within Section 3.5 of this policy may be followed for review of other park use related matters as determined by staff and the Parks & Recreation Advisory Committee.

6. PROCEDURE – LICENSE TO USE RENEWAL

6.1. A Licence to Use may or may not be renewed up to a maximum of three (3) years: The procedural review for any renewal is as follows:

- Step 1: Application to renew submitted to City staff
- Step 2: Proposal brought forward to Open Council meeting for introduction to the community
- Step 3: Circulation of application to City Departments and Parks & Recreation Advisory Committee
- Step 4: City staff conduct License Review to confirm conditions of license met and license in good standing
- Step 5: City staff review findings with Parks & Recreation Advisory Committee
- Step 6: Parks & Recreation Advisory Committee review application and feedback from staff
- Step 7: Parks & Recreation Advisory Committee would then make a recommendation to Council to approval or deny the renewal.

7. SCHEDULES

- A. List of existing Park Licenses & Leases
- B. IAP2 International Spectrum of Public Participation

8. Previous revisions

Amendment process for this policy.

N/A

Certified Correct:



Dana Schmidt, Corporate Officer

Schedule A – List of existing Park Licenses & Leases

City of Penitcion - Current Leases and Licenses in Parks and Recreation Facilities 2016													
Park Name	Zone	Lease / LTU	Licensee	Address	Area (hectares)	License Type	Activity / Use	Term in Years	Start Date	Expiry Date	Extend Clause Y/N	Park Name	Location within Park (in or near to parking lot)
Kings Park	P2	LTU	PENITCION SOCCER CLUB	550 Esplanade Ave W	15 ac	Sports club	Use of building for club activities	mo-mo	2013-10-15	until terminated	Y	Kings Park	Adjacent to parking lot
Lakawana Park	P2	Lease	1952002 BC LTD. (Gord Ferguson) Lakawana - Pao Burger	790 Lakeshore Dr W	11 ac	Park concession	Use of land and building for operation of concession patio and washroom facility	29	2016-05-20	2045-04-30	N	Lakawana Park / Okanagan Lake	Concession at Lakawana
Marina Way Park	CT1	LTU	PRAQUE CAFE, THE	102-260 Marina Way	003 ac	Cafe	Use of land for an outdoor patio for customers	Y	2016-09-01	2021-09-31	Y	Okanagan Lake	Gross area at Okanagan Lake
Marina Way Park	P1	Lease	PENITCION ART GALLERY	199 Marina Way		Art gallery	Use of land and building for displaying art and providing parking	20	1996-10-01	2019-09-30	N	Okanagan Lake	Building at Okanagan Lake
Okanagan Beach	P2	Lease	CONCESSION OKANAGAN BEACH - THE PEACH Localizing Adventure Golf 10A2002 BC Ltd.	185 Lakeshore Dr W		Beach concession	Beach food concession	20	2003-02-01	2022-01-31	Y	Okanagan Lake	Concession at Okanagan Lake
Okanagan Beach		Lease	PENITCION WATER PARK LTD. (WIBIT)	Okanagan Lake	82 ac	Water / Recreational business	Sublease of Crown land for operation of a WIBIT water park	5	2016-06-01	2020-05-31	N	Okanagan Lake	Water and sand area at Okanagan Lake
Rotary Park	P2	LTU	BISHOP'S SNOW AND MACHINE LTD.	195 Lakeshore Dr	095 ac	Recreational business	Use of building and grounds for operating business of providing rental equipment for water based activities	5	2014-01-01	2019-12-31	Y	Rotary Park	On beach
Staha Park	P2	LTU	CONCESSION SKANA EAST - Nicholas, Jeneva	2885 South Main St		Beach concession	Beach food concession	2	2016-05-01	2017-09-30	Y	Staha Lake	Concession at Staha East

Shaha Park	P2	LTU	CONCESSION, SHAHIA MAIN - Thomas & Cain Fine Foods Ltd. (Toblerery's)	3701 Parkview St		Beach concession	Beach food concession	5	2017-05-01	2022-09-30	Y	Shaha Lake	Concession at Shaha Main
S.S. Scamious Park	P2	Lease	S.S. SCAMIOUS / MARGARITA	1059 Lakeshore Dr W	2 ac	Tourist attraction	Sub-license to Use of Crown land for mortgage of the S.S. Scamious to operate a museum and host special events		1988-06-01	until terminated	N	Okanagan Lake	
Sudbury Beach	P2	LTU	CONCESSION, SUDBURY BEACH - Glow Sup Adventures (Dorey Godfrey)	3940 Shaha Lake Rd		Beach concession	Beach food concession	2	2015-05-05	2017-09-30	Y	Shaha Lake	Concession at Sudbury Beach
Lions Park	P2	LTU	LIONS PARK CONCESSION	198 Warren Ave W		Park concession	Park food concession						
Kiwaniis Park	P2	LTU	POCERS - After School Program	470 Edmonton Ave		Child care facility	Use of building and grounds for operation of social service programs	5	2012-03-01	2017-02-28	Y	N/A - old pool	Y
Kiwaniis Park	P2	LTU	POCERS - Alternative & Little Triumphs	500 Edmonton Ave	1.75 ac	Child care facility	Use of building and grounds for operation of social service programs	5	2012-03-01	2017-02-28	Y	N/A - old pool	
Kiwaniis Park	P2	LTU	PENTICTON SAFETY VILLAGE SOCIETY	490 Edmonton Ave	85 ac	Child safety facility	Use of building and grounds for operation of children's safety village and for equipment storage	5	2013-11-01	2018-10-31	Y	N/A	
Lakeside Road (Dog Beach)	P2	Lease	0634813 B.C. LTD. (Shaner / Shaha Dog Beach)	4951 Lakeside Rd	22 ac	Private	Sublease of Crown land for operation of cabana for property owner to the east	9	2013-08-12	2022-06-12	N	Shaha Lake Beach	Sandy beach

Lions Park	P2	LTU	PENTICTON BMX ASSOCIATION	Lions Park	2.5 ac	Sports club	Use of land for operation of bicycle motocross track and facility	N/A	1888-01-31	when cancelled	Y	Lions Park	South east corner of 188 Warren Ave
McNicoll Park	P2	LTU	SOCIETE DE LA PETITE ENFANCE DE L'ECOLE ENTIRE LACS	1091 Penticton Ave	028 ac	Pre-school facility	Use of land for fenced playground for pre-school aged children	5	2014-07-01	2016-06-30	Y	McNicoll Park	Between schools
Riverside Park	P2	LTU	COYOTE CRUISES	215 Riverside Drive	17 ac	Recreational business	Use of building for operation of a rental concession and transportation service - float the channel	5	2014-10-01	2016-09-30	Y	Riverside	South of skate park
Senior's Drop-in Centre	P1	LTU	PENTICTON HORSESHOE PITCHERS CLUB, THE	2905 South Main St	5 ac	Sports club	Use of horse pitches in exchange for maintenance and upkeep of land	3	2015-05-01	2016-04-30	Y	Seniors Centre Robinson Park	
Vancouver Avenue Park	P2	LTU	PEN COMMUNITY GARDENS SOC	480 Vancouver Ave	1.04 ac	Community gardens	Use of land for community gardens	5	2016-01-01	2020-12-31	Y	Vancouver Hill	North portion of park
Vancouver Avenue Park	P2	LTU	PENTICTON DISC GOLF	480 Vancouver Ave	2.22 ac	Sports club	Operation of disc golf facility	3	2016-03-15	2016-03-14	Y	Esplanade	All
Baskin Park	P2	LTU	FOOD FORESTERS SOC OF CANADA	2460 Baskin St	18 ac	Community gardens	Use of land for operation of community garden plots	5	2013-06-01	2016-05-31	Y	Undeveloped	North most portion of park
Darrouth Park	R2	LTU	DAWIDOW, AVERY	314 Greenwood Dr	15 ac	Private residence	Use of land for quiet enjoyment	5	2014-11-01	2016-08-31	Y	Under 2715 Darrouth Dr	Behind lot

Dunsmouth Park	R2	LTU	AMANTE F. L & J	310 Greenwood Dr	038 ac	Private residence	Use of land for quiet enjoyment - garden	5	2015-05-01	2020-04-30	Y	Undeveloped 2715 Dunsmouth	Garden behind 881	
Special Purpose														
Lawn Bowling Club	P2	Lease	PEN LAKEVIEW LAWN BOWLING CLUB	290 Burnside St	55 ac	Sports club	Use of land and building for operation of a lawn bowling club		20	2000-01-01	2020-12-31	N		
Loce Landing	P2	Lease	LOCO LANDING ADV. GOLF INC.	135 Riverside Dr	1.73 ac	Recreational business	Use of land for the operation of a recreational facility		20	2009-01-01	2028-12-31	N	Riverside Park	
Pentiction Golf and Country Club	P2	Lease	PENTICTON GOLF & COUNTRY CLUB	852 Eckhardt Ave W	13.23 ac	Sports club	Use of building and land for operation of a golf club for renting equipment, providing golf lessons, leisure golfing, tournaments, the sale of refreshments and the rental of facilities as a special events venue		28	2007-07-01	2033-10-31	N		
Pentiction Yacht and Tennis Club	P2	LTU	PENTICTON TENNIS SOCIETY	293 Marina Way	1.7 ac	Sports club	Use of facilities for operation of a tennis club with league play	3	2016-04-01	2017-12-31	Y	Okanagan Lake	East of marina	
Pentiction Yacht and Tennis Club	P2	Lease	PENTICTON YACHT & TENNIS CLUB	293/875 Marina Way	15.8 ac	Marina	Sublease of Crown 'Y' Dock in marina and storage compound to provide a commercial public marina and associated facilities		2016-04-02	2017-12-31	N	Okanagan Lake		
Elsa Creek Parkway	P1	LTU	INTERIOR HEALTH AUTHORITY (Hospice Society House)	1701 Government St	07 ac	Health facility	Use of land for quiet enjoyment - garden and walkway	5	2014-07-01	2019-06-30	Y	Undeveloped park - walking path	Adjacent to Elsa Creek	
Esplanade	P2	LTU	AXWORTHY, B & QUINN, S	345 Vancouver Ave	05 ac	Private residence	Use of land for quiet enjoyment - yard fenced	5	2014-08-01	2019-07-31	Y	Esplanade	Fenced yard	

Esplanade	P2	LTU	PENTICTON DISC GOLF	1500 Marina Way														
Penticon Creek Pathway	P2	LTU	MUNSONS PROPERTIES	1551 Penticon Ave	20 ac	Private residence	Use of land for quiet enjoyment	5	2014-11-01	2018-10-31	Y	Undeveloped park - walking path	Adjacent to Penticon Creek					
Three Blind Mice	FG	LTU	PENTICTON DISC GOLF	1400 Riddle Road	27 ac	Sports club	Operation of disc golf facility	5	2015-03-01	2020-02-29	Y	Three Blind Mice area	South west corner					
Three Blind Mice	FG	LTU	PENTICTON AND AREA CYCLING ASSOCIATION	1400 Riddle Road	320 ac	Cycling Club	Mountain Biking Trails	5	2016-07-01	2018-03-31	Y	Not a Park						
TCT / KVR Trail	AG	LTU	BOGDANOFF, C & BOWEN, P	1645 Lower Bench Rd	25 ac	Private residence	Use of KVR land for agriculture - tenured gardens	5	2012-01-01	2016-12-31	Y	KVR	Fronts trail					
TCT / KVR Trail	AG	LTU	HOLLER, BARBARA ROSE	1181 Davenport Ave	255 ac	Private residence	Use of KVR land for agriculture - grapes	5	2014-05-01	2016-04-30	Y	KVR	Fronts trail					
TCT / KVR Trail	P2	LTU	SHAW, H & M	911/913 Loochore Rd	1.34 ac	Private residence	Use of KVR land for agricultural purposes	7	2013-01-01	2016-12-31	Y	KVR	Fronts trail both sides					
TCT / KVR Trail	P2	Lease	KING FAMILY FARMS LTD. (lots 1-5)	184 Cude Rd	5 ac	Agricultural business	Use of KVR land for Agriculture	5	2001-05-01	2017-05-30	N	KVR	Fronts KVR both sides					

630 Munson Mtn Road	P2	LTU	PENICTON BMX SOCIETY	630 Munson Mtn Rd	2.8 ac	Sports club	Use of land for operation of bicycle motocross track and facility	5	2016-05-01	2021-04-30	Y	Munson Mountain	North west portion
Adidas Sportsplex	P2	Lease	PINNACLES FOOTBALL CLUB AND PENICTON SOCCER CLUB dba ADIDAS SPORTSPLEX	550 Eckhardt Ave W	67 ac	Sports clubs	Use of land and building as a sports complex for football, indoor soccer and a public walking track	20	2015-08-01	2044-09-31	N	Kings park	Indoor use at 550 Eckhardt Ave
McLaren Arena	P2	LTU	OKANAGAN HOCKEY SCHOOL / GROUP	McLaren Arena	23 ac	Sports educator	Use of facility for Hockey school; operation of concession and vending machines	2	Exp.		Y	N/A	
Senior's Drop-In Centre	P2	Lease	PEN SENIORS' DROP IN CENTRE SOC	2065 South Van St		Social club	Use of land and building for operation of a seniors' social facility	20	1999-06-01	2019-05-31	N	Robinson Park	
Memorial & McLaren Arena	P1	LTU	PENICTON & DISTRICT MINOR HOCKEY ASSOC. (Memorial Arena)	398 Power Street		Arena concession	Sale of refreshments and placement of hotfood vending machines		2003-09-01	2016-04-30	Y	Memorial Arena	
South Okanagan Events Centre	P1	Lease	APPLE PLANNING SERVICES INC. & 6926232 B.C. LTD.	888 Westminster Ave W		Private business	Use of a portion of the building as an office	5	2013-01-01	2017-07-31	N	Queens Park	
South Okanagan Events Centre	P1	Lease	INTERIOR HEALTH AUTHORITY Part of SOEC	853 Eckhardt Ave W		Health provider	Use of a portion of the building to operate a cardiac and pulmonary rehabilitation wellness program	5	2014-09-01	2019-09-31	Y		Part of SOEC
South Okanagan Events Centre	P1	Lease	OKANAGAN HOCKEY SCHOOL	853 Eckhardt Ave W		Sports educator	Use of a portion of the building for operation of a hockey school and other related activities	10	2009-01-01	2018-12-31	N	Kings Park	

South Okanagan Events Centre	P1	LTU	PENTICTON TOURISM	853 Eckhardt Ave W	Tourism Organization	Temporary office rental	1	2016-12-31	Y		
Pentiction Curling Rink	P1	Lease	PENTICTON CURLING CLUB	505 Veer Dr	Sports club	Use of a portion of the building for operation of a curling rink for the purpose of providing curling lessons, competitions and bonspiels and sale of refreshments	10	2010-10-01 2020-09-30	Y		
Pentiction Community Centre	P1	Lease	DALE CHARLES & ASSOC. PHYSICAL THERAPIST CORP.	325 Power St	Health provider	Use of a portion of the building for the operation of a physiotherapy clinic	5	2012-04-02 2017-04-01	N		
Pentiction Community Centre	P1	LTU	KISU SWIM CLUB	325 Power St	Swim Club	Office rental	3	2017-09-31	Y		
Pentiction Community Centre	P1	LTU	DRAGON BOAT FESTIVAL	325 Power St	Non-profit group	Office rental (year to year)	1	2016-12-31	Y		
Oxbows	CT2	LTU	OXBOW RV RESORT LTD.	3911 Siska Lake Rd	Recreational business	Use of land for RV Park	5	2012-06-01 2017-05-31	Y	N/A	North of Sudbury Beach
Leis House	P1	Lease	PEN. & DIST. COMMUNITY ARTS COUNCIL - Leis House	220 Manor Park	Arts club	Use of building and land as a place for artists to gather and to work on their art projects	yr-yr	1982-07-01	N		Building at 220 Manor Park

Schedule B – IAP2 International Spectrum of Public Participation

iap2 public participation spectrum

developed by the international association for public participation

	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.	To obtain public feedback on analysis, alternatives and/or decision.	To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advise and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
EXAMPLE TOOLS	<ul style="list-style-type: none"> • Fact sheets • Websites • Open houses 	<ul style="list-style-type: none"> • Public comment • Focus groups • Surveys • Public meetings 	<ul style="list-style-type: none"> • Workshops • Deliberate polling 	<ul style="list-style-type: none"> • Citizen Advisory committees • Consensus-building • Participatory decision-making 	<ul style="list-style-type: none"> • Citizen juries • Ballots • Delegated decisions

Attachment C

Draft License to Use Agreement



LICENSE TO USE AGREEMENT

Nature of Agreement:	License to Use	File No.: 4320.80
Particulars:	Use of a portion of land, foreshore and existing building located at 185 Lakeshore Drive West, known as Rotary Park, for the operation of offering water leisure activities on Okanagan Lake.	

THIS AGREEMENT dated for reference the _____ day of _____, 2023.

BETWEEN:

THE CORPORATION OF THE CITY OF PENTICTON

a duly incorporated City Municipality under the laws of the Province of British Columbia, located at 171 Main Street, Penticton, BC V2A 5A9

(the “City”)

OF THE FIRST PART

AND:

BISHOPS SNOW AND MARINE LTD.

d.b.a Pier Water Sports

450 Tennis Street
Penticton, BC V2A 5R3

(the “Licensee”)

OF THE SECOND PART

WHEREAS the City has agreed to grant a license to the Licensee to enter onto that parcel of land described in Schedule A attached hereto (hereinafter referred to as the “**Licensed Area**”);

NOW THEREFORE, in consideration of the fee to be paid by, and the covenants of the Licensee, the parties agree as follows:

1. Grant of License

The City, on the terms set forth herein grants a license to the Licensee to enter onto the Licensed Area for the purposes described in the Management Plan attached hereto as Schedule B (herein called the “**Management Plan**”) on an “as is” basis and the City

makes no representations or warranties as to the suitability of the Licensed Area for the intended use.

2. Duration

2.1 This Agreement and the rights granted shall be for a term of _____ years commencing on the **1st day of January, 2024** (the "**Commencement Date**") through to the _____ **day of _____ 20**__, unless cancelled in accordance with the terms of this agreement.

2.2 In a year prior to the expiry of this agreement the City reserves the right to offer tenure over the Licensed Area through an open and competitive process. The Licensee may participate in the competitive process.

3. License Fee

3.1 The Licensee shall pay to the City, an annual License Fee of **ELEVEN THOUSAND (\$11,000.00) DOLLARS** plus **GST** (the "**License Fee**").

3.2 On each and every anniversary of the Commencement Date thereafter during the term of this agreement, the License Fee shall be adjusted by an amount equivalent to the change in the Consumer Price Index for Province of British Columbia for the preceding year.

4. Utilities

The Licensee will be responsible for the cost of electricity and ensure the transfer of the utility account into their name for the term of this Agreement.

5. Covenants of the Licensee

The Licensee covenants and agrees with the City:

- a) to pay the License Fee due at the address of the City first written or at such other place as the City may specify from time to time;
- b) to pay and discharge when due all applicable property taxes, levies, charges and assessments which relate to the Licensed Area or any improvements thereon ("**Property Taxes**");
- c) to observe, abide by and comply with all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Licensed Area and improvements situate thereon, or their use and occupation;
- d) not to commit or suffer any willful or voluntary waste, spoil or destruction on the Licensed Area or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to owners or occupiers of the property or the adjoining land.

- e) to indemnify, save harmless, release and forever discharge the City, their elected and appointed officials and employees from and against all manners of actions, causes of actions, claims, debts, suits, damages demands and promises, at law or in equity, whether known or unknown, including without limitation for injury to persons or property including death, or any person directly or indirectly arising or resulting from, or attributable to, any act, omission, negligence or default of the Licensee in connection with or in a consequence of this agreement, save and except to the extent caused by any act, omission, negligence or default of the City, its elected and appointed officials and employees;
- f) to keep the Licensed Area in a safe, clean, tidy and sanitary condition satisfactory to the City and to make clean, tidy and sanitary any portion of the Licensed Area or any improvement that the City may direct by notice in writing to the Licensee;
- g) to use and occupy the Licensed Area in accordance with the provisions of this agreement including those provisions and requirements set forth in the Management Plan;
- h) to permit the City, or its authorized representative, to enter upon the Licensed Area at any time, with 72 hours of notice to the Licensee, to test, inspect or perform such other work as the City may deem necessary or desirable;
- i) that on the expiration or at the earlier cancellation of this agreement unless renewed:
 - i. to peaceably quit and deliver possession of the Licensed Area to the City;
 - ii. to remove all fixtures, structures, machinery, apparatus and all other things placed on the Licensed Area by the Licensee, leaving the Licensed Area in a clean and clear condition within **ONE HUNDRED AND EIGHTY (180)** days of the termination of this agreement and leave the Licensed Area in good repair, restoring the Licensed Area to a condition similar to that at the Commencement Date. One hundred and eighty (180) days after the expiration or cancellation of this license, any improvements or fixtures that remain on the Licensed Area shall be absolutely forfeited and become the property of the City and the City, at their sole discretion, may remove any or all of the improvements or fixtures that were requested to be removed, but left by the Licensee, from the Licensed Area and the Licensee shall, on demand, compensate the City for all costs incurred by the City respecting their removal and disposal.
- j) and to the extent necessary, this covenant shall survive the expiration or cancellation of this agreement;

- k) to effect and keep in force during the term, insurance protecting the City and the Licensee (without any rights of cross-claim or subrogation against the City) against claims for personal injury, death, property damage or third party or public liability claims arising from any accident or occurrence on the property to an amount not less than **TEN MILLION (\$10,000,000.00) DOLLARS**, and to name the City as an additional insured on the policy with the inclusion of the following clauses:

“Cross Liability” clause:

“The insurance afforded by the insurance policy shall apply in the same manner to all insureds, as though separate policies were issued to each insured in the event an action is brought against any of the additional insured by or on behalf of any other additional insured.”

“Cancellation” clause:

“It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled (prior to thirty (30) days after written notice of such change or cancellation shall have been given or sent by registered mail to all additional insured).”

and to deliver to the City written confirmation of the required insurance coverage upon execution of this agreement;

- l) the Licensee will provide the City with a new Certificate of Liability Insurance annually upon renewal;
- m) notwithstanding subsection k) of paragraph 5, the City may from time to time notify the Licensee that the amount of insurance posted by the Licensee pursuant to that subsection be changed and the Licensee shall, within sixty (60) days of receiving such notice, cause the amount of insurance posted, pursuant to subsection k) of paragraph 4 to be changed to the amount specified in the notice and deliver to the City written confirmation of the change;
- n) not to place any improvements on the Licensed Area other than those described elsewhere in this agreement, without prior written consent of the City;
- o) not cause or permit any unusual or objectionable noises, or lights, to emanate from the Licensed Area;
- p) not cause or permit any unusual or objectionable odours which may be noxious or offensive or which could constitute a public or private nuisance;
- q) not cause or permit any waste or damage;

- r) not to conduct merchandising, display or advertising on the Property without obtaining prior written permission from the City, which can be unreasonably withheld;
- s) to observe and comply with any rules or regulations the City may make from time to time pertaining to the operation, reputation, safety, care or cleanliness of the Licensed Area and any use thereof as provided herein;
- t) that if, as a consequence of any release of a Hazardous Substance resulting from the Licensees use of the Licensed Area in or on the Licensed Area by the Licensee or its servants, agents, or contractors or any person for whom the Licensee is in law responsible, any actions are required to be taken in order to comply with any Government Requirement applicable to the use, presence or removal of such Hazardous Substance on or from the Licensed Area (including any Governmental Requirement relating to testing for or identification of Hazardous Substances) and if the Licensee has received notice in writing of such Governmental Requirement from the relevant authority (whether the requirement is made of the City or Licensee), then the Licensee shall at its expense take such action as required by the Governmental Requirement (or alternatively such other action as may be acceptable to the relevant authority after discussing with the Licensee).

For the purposes of this paragraph:

Governmental Requirement(s) means all requirements made or imposed pursuant to law by federal, provincial, municipal or other governments including requirements of the Environmental Laws.

Hazardous Substances means any substances that are defined as or regulated as being waste, contaminants, pollutants, fungicides, insecticides, herbicides, dangerous substances, industrial waste, special waste, toxic substances, hazardous waste, hazardous material, or hazardous substance whether or not defined as such or pursuant to any law, regulation or order

Environmental Laws means all applicable federal, provincial, municipal or local laws, statutes or ordinances, as they may be amended from time to time after the Commencement Date of the license relating to the environment, occupational safety and the transportation or regulations of Hazardous Substances.

- u) That if, the Licensee fails to take any action required to be taken pursuant to any consequence of any release of a Hazardous Substance the City may (but not be obligated to) take such action after giving thirty (30) days written notice to the Licensee of its intention to do so, unless within such thirty (30) day period that Licensee has taken the required action or has commenced in and is continuing diligently to carry out such action, and the City shall for that purpose, be permitted to enter the Licensed Area with the appropriate

equipment. The Licensee covenants to reimburse the City for all reasonable costs incurred by the City in taking such required action pursuant to the release of any Hazardous Substance within thirty (30) days after receiving from the City an invoice and reasonable supporting details relating to such costs.

6. **Non-Exclusivity**

- 6.1 The Licensee acknowledges and agrees that this agreement herein shall not entitle the Licensee to exclusive possession of the Licensed Area.
- 6.2 The Licensee covenants and agrees not to interfere with the activities of any other person to enter on and use the Licensed Area under any prior or subsequent license granted by the City.
- 6.3 The parties hereto acknowledge that the license granted to the Licensee herein is a license only and shall not, under any circumstances, constitute a partnership, lease or joint venture between the parties.

7. **Assignment**

The License is not assignable.

8. **Cancellation**

8.1 In the event that:

- a) the City requires the Licensed Area for its own use or in its sole discretion, considers that it is in the public interest to cancel the rights herein granted, in whole or in part;
- b) the Licensee ceases to use the Licensed Area for the purposes permitted herein;
- c) the City, in its sole discretion, considers that it is no longer necessary for the Licensee to use the Licensed Area for the purposes permitted herein;

the City may on **ONE HUNDRED AND EIGHTY (180)** days written notice to the Licensee, cancel this license and the rights herein granted, in whole or in part and the Licensee agrees that the City shall not be responsible for payment of any costs, compensation, reimbursement or any monies whatsoever as a result of a notice pursuant to paragraph 8.1 (a), (b), or (c). The City will not exercise this ONE HUNDRED AND EIGHTY (180) DAY clause during the working season.

- 8.2 If the Licensee is in default in the observance of any covenant, agreements, provisions or conditions contained herein and such failure continues for a period of thirty (30) days after the giving of written notice by the City to the Licensee of the nature of the failure the City may cancel this license without prejudice to any rights to which the City has accrued under this license before the said cancellation.

8.3 Thirty (30) days after expiration or cancellation of this license, any improvements or fixtures that remain unremoved from the Licensed Area shall be absolutely forfeited and become the property of the City and the City may remove them from the Licensed Area and the Licensee shall, on demand, compensate the City for all costs incurred by the City respecting their removal.

9. **General**

9.1 The terms and provisions of this agreement shall extend to, be binding upon and enure to the benefit of the parties, hereto and their successors and permitted assigns.

9.2 This agreement and all the terms and conditions of it may be inspected by the public at such times and at such places as the City may determine.

9.3 Time is of the essence in this agreement.

9.4 The records of the City shall be conclusive evidence of the contents of any schedule referred to in this agreement.

9.5 In this agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.

9.6 Where in this agreement there is a reference to Bylaws, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires all Bylaws referred to herein are enactments of the City of Penticton.

9.7 Any waiver or acquiescence by the City of or in any breach by the Licensee of any covenant or condition shall not be deemed to be a waiver of the covenant or condition of any subsequent or other breach of any covenant or condition of this agreement.

9.8 If the Licensee continues to exercise the agreement granted after the expiration of the term of it without objection by the City and without any written agreement providing otherwise, the Licensee shall be deemed to be a Licensee from month to month, and subject to the provisions of this license insofar as applicable, but it shall be lawful for the City to cancel and determine the license granted by delivering to the Licensee notice to that effect, and upon delivery of such notice the license shall cease without prejudice to any rights of the City under this agreement accrued before the cancellation.

10. **Notice**

10.1 Any notice required to be given by either party shall be deemed to have been well and sufficiently given if mailed, faxed, emailed or delivered:

To the City:

The City of Penticton
171 Main Street
Penticton, BC V2A 5A9
Attn: Corporate Officer
Email: corpadmin@penticton.ca

To the Licensee:

Bishop's Snow and Marine Ltd.
450 Tennis Street,
Penticton, B.C. V2A 5R3
Email: pierwatersports@hotmail.com

or such other address as the Licensee may from time to time direct in writing, and any such notice by the City to the Licensee shall be deemed to have been received, if mailed, five (5) days after the time of mailing, or if faxed or emailed, seventy-two (72) hours after the time of the fax or email and if hand delivered upon the date of delivery. If normal mail, fax or email service is interrupted by strike, slow down, force majeure or other cause, a notice sent by the impaired means of communication will not be deemed to have been received until actually received, and the City may utilize any such services which have not been so interrupted.

11. **Payment of City's Expenses**

If at any time an action is brought or the City is otherwise required to employ the services of a bailiff, an agent, or its solicitors because of a breach by an act or omission of any covenant herein contained on the part of the Licensee, the Licensee shall pay to the City all expenses incurred by the City in the enforcement of its rights and remedies hereunder (including the City's administrative costs and legal fees on a solicitor and his own client basis in connection therewith) together with interest thereon at the rate equivalent to the prime rate of Valley First Credit Union plus three percent (3%) per annum calculated monthly not in advance from the date due until paid. For the purposes of this paragraph the prime rate shall mean the annual percentage rate of interest established from time to time by Valley First Credit Union, Main Branch, Penticton, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian Dollar loans to customers in Canada and designated by Valley First Credit Union as the prime rate.

IN WITNESS WHEREOF the parties hereto have hereunto executed this agreement on the following page as of the date and year first above written.

THE CORPORATION OF THE CITY OF PENTICTON

by its authorized signatories:

BISHOPS SNOW AND MARINE LTD.

by its authorized signatory(ies):

George Bishop

SCHEDULE A LICENSED AREA

Legal description: District Lot 215s, SDYD, PID №: 011-952-695

Including, existing building and the water lot for seasonal placement of docks as shown outlined in red below, periodic use of the boat ramp approximately 30 m. to the NE of the License area as indicated below, and two parking stalls located in the Martin Street Extension parking lot.



SCHEDULE B MANAGEMENT PLAN

1. Purpose

The Licensee shall have the use of the Licensed Area shown outlined in red and described in Schedule A for the operation of offering water leisure activities on Okanagan Lake.

2. Annual requirements

The Licensee must annually ensure they have:

- a) Work Safe BC;
- b) City of Penticton business license;
- c) Evidence of Insurance as indicated in this license agreement.

3. Vandalism

- 3.1 All incidents of vandalism shall be repaired within 48 hours of occurrence.
- 3.2 The Licensee is responsible for removal of graffiti from the Licensed Area.

4. Miscellaneous

- 4.1 Notwithstanding the above, the Licensee shall carry out all maintenance necessary to maintain the Licensed Area in a safe and first class condition.
- 4.2 The Licensee shall not utilize an area larger than the Licensed Area.
- 4.3 The Licensee shall not place signs outside of the Licensed Area without the consent of the City.
- 4.4 The Licensee shall not place any permanent structures on the Licensed Area without the consent of the City.

5. Safety/Protection

5.1 The Licensee shall ensure proper procedures are followed for:

- a) Fire Safety/Evacuation;
- b) W.H.M.I.S.;
- c) Accident/Incident Reporting;
- d) Safety Program (WCB); and
- e) Fuel spill cleanup.

5.2 The Licensee shall ensure that all staff receives proper instruction on the use and operation of fire safety equipment, fueling system and fuel spill clean-up, ensure that the fueling area is maintained and kept clear, and properly vented at all times,

and ensure that all staff comply with all safe work practices and procedures when using the fueling system

- 5.3 The Licensee shall ensure all Fire extinguishers are kept up to date.
- 5.4 Any and all accidents or damages involving an employee or volunteer of the Licensee that occurs within the Licensed Area MUST be immediately reported to the City's Occupational Health & Safety Representative, Daniel York at 250-490-2553 or daniel.york@penticton.ca.
- 5.5 All accidents or incidents shall be reported to the City within 48 hours of occurrence, wherein a representative of the City will investigate the occurrence.

6. **Special Events**

Please be advised that the City does have special events that may affect your licensed location. Please be advised that during these special events the City of Penticton is not responsible to find you alternate locations nor will the City compensate you during this time.



Council Report



Date: October 17, 2023 **File No:**
To: Anthony Haddad, City Manager
From: Brittany Seibert, Emergency Program Coordinator
Address: 250 Nanaimo Ave W., Penticton B.C

Subject: 2024 UBCM CEPF Disaster Risk Reduction-Climate Adaptation Grant

Staff Recommendation

THAT Council allow the City of Penticton’s Emergency Management program to apply for the 2024 UBCM Community Emergency Preparedness Disaster Risk Reduction-Climate Adaptation (DRR-CA) grant for up to \$150,000 to utilize towards a Hazard, Risk and Vulnerability Assessment (HRVA) for the City, in accordance with the legislative requirements outlined in the *Emergency Program Act*.

Strategic priority objective

Safe & Resilient: The City of Penticton will enhance and protect the safety of all residents and visitors to Penticton.

Background

Under the *Emergency Program Act (EPA)*, all local governments are required “to maintain an emergency management organization to develop and implement emergency plans and other preparedness, response and recovery measures for emergencies and disasters.” For an emergency management program to be effective, disaster and emergency managers must understand the hazards, risks, and vulnerabilities associated with their local jurisdictions.

As such, the United Nation’s *Sendai Framework for Disaster Risk Reduction* recognizes the need for progressive and accurate risk assessments as its first priority in reducing disaster impacts. The modernization of the *EPA* will be adopting the requirement for all local governments to develop and maintain risk assessments. Historically, risk assessments were hazard-centric. Under the new legislations, risk assessments must include considerations for vulnerable and disproportionately affected populations, consist of local and traditional Indigenous Knowledge, and incorporate expected climate change impacts.

The City of Penticton’s Emergency Management program risk assessment was last conducted in May 2008, as part of a Regional District of Okanagan-Similkameen HRVA. Procurement of grant funding for an updated HRVA would allow the City to align with the modernization of the *EPA*, as well as localized the outcomes of the risk analysis process.

Financial implication

The Community Emergency Preparedness Fund (CEPF) is a suite of funding streams intended to support First Nations and local governments to better prepare for disasters and reduce risks from natural hazards in a changing climate. The DDR-CA grant can contribute 100% of cost eligible activities.

Climate Impact

There is growing irrefutable evidence of the connection between climate change, and the escalating frequency and devastation of emergencies. The modernization of B.C.'s emergency management legislation, risk assessments will be required to consider how climate change will affect any given hazard.

As such, the risk assessments will provide informed direction on mitigation and preparedness efforts that will be required of the City as part of their emergency management program.

Attachments

Attachment A – *Sendai Framework for Disaster Risk Reduction 2015-2030*

<https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030>

Attachment B – *Emergency Program Act*

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00_96111_01

Attachment C – B.C.'s Modernized Emergency Management Legislation: A New Framework for Disaster Risk Reduction, Response, and Recovery

https://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/emergency-preparedness-response-recovery/embc/legislation/tp_bc_modernized_em_legislation.pdf

Attachment D – 2023/24 Disaster Risk Reduction-Climate Adaptation Program Guide

<https://www.ubcm.ca/sites/default/files/2023-08/CEPF-2023-24-DRR-CA-Program-Guide-2023-08.pdf>

Respectfully submitted,



Brittany Seibert
Emergency Program Coordinator

Concurrence

Director of Finance and Administration <i>AMC</i>	City Manager <i>SB</i>
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Community Emergency Preparedness Fund

Disaster Risk Reduction – Climate Adaptation

2023/24 Program and Application Guide (Updated August 2023)

Application Deadlines: October 6, 2023 and March 28, 2024

1. Introduction

The [Community Emergency Preparedness Fund](#) (CEPF) is a suite of funding streams intended to support First Nations and local governments to better prepare for disasters and reduce risks from **natural hazards** in a changing climate. Funding is provided by the Province of BC and is administered by the Union of BC Municipalities (UBCM).

As of April 2023, the funding streams include:

- Disaster risk reduction-climate adaptation
- Emergency operations centres equipment and training
- Emergency support services equipment and training
- Extreme temperatures risk mapping, assessment, and planning
- Indigenous cultural safety and cultural humility training
- Public notification and evacuation route planning
- Volunteer and composite fire departments equipment and training

Please refer to [Appendix 1](#) for definitions of terms used in this guide. All defined terms are in **bold** in the program guide.

Background

Many communities across the province have experienced serious economic loss, social disruption, and damage to important infrastructure from **natural hazards** and climate-related disasters. Investing in **disaster risk reduction** and enhancing the **resilience** of communities will help reduce these impacts in the future.

Natural hazards can include earthquakes, tsunamis, floods, drought, heatwaves, debris flows, and landslides. Some **hazards** are slow in their onset (e.g., changes in temperature and precipitation leading to ecosystem impacts), while others happen more suddenly (e.g., earthquakes, floods, heat waves). Climate change increases the likelihood of weather-driven **natural hazards** occurring (e.g., debris flows, drought, wildfire), the severity of disasters, and the occurrence of cascading events.

Disaster Risk Reduction – Climate Adaptation (DRR-CA) Funding Stream

The intent of the DRR-CA funding stream is to support eligible applicants to reduce **disaster risks** from **natural hazards** and climate-related events. Funding is divided into three categories:

- [Category 1](#): Foundational activities (risk mapping, risk assessments, planning)
- [Category 2](#): Non-structural activities (land use planning, community education, purchase of eligible equipment)
- [Category 3](#): Small scale structural activities

Foundational activities support community **resilience** by providing data, building partnerships, and supporting long-term **disaster risk reduction-climate adaptation** planning. Knowledge that is up-to-date and accessible will help guide land use and development decisions of communities and helps to identify areas of high risk, and areas in need of non-structural or structural projects, including enhanced education and awareness, strategic relocation, and nature-based solutions.

For support integrating climate change into your community's application, contact [EMCR's Disaster Mitigation & Adaptation Branch](#).

2. Eligible Applicants

All First Nations (bands and Treaty First Nations) and local governments (municipalities and regional districts) in BC are eligible to apply.

Eligible applicants can submit one application per funding stream intake. This includes applying as a partnering applicant in a regional application.

3. Grant Maximum

The DRR-CA funding stream can contribute 100% of the cost of eligible activities to a maximum of:

- [Category 1](#) (Foundational Activities): \$150,000 per applicant
- [Category 2](#) (Non-Structural Activities): \$150,000 per applicant
- [Category 3](#) (Small Scale Structural Activities): \$5 million

The Evaluation Committee may recommend that an application be approved in full or in part, based on available funding and the merit of the proposed project in each category.

To ensure transparency and accountability in the expenditure of public funds, all other contributions for eligible portions of the project must be declared and, depending on the total value, may decrease the value of the funding. This includes any other grant funding and any revenue that is generated from activities that are funded by the CEF.

4. Eligible Projects

To qualify for funding, proposed activities must support eligible applicants to reduce **disaster risks** from **natural hazards** and climate-related events and be:

- A new or a subsequent phase of a DRR-CA related project (retroactive funding is not available);
- Capable of completion by the applicant within two years from the date of grant approval;
- For either:
 - **First Nations land, Provincial Crown Land or publicly owned land;**
 - **First Nations owned buildings or publicly owned buildings;** and/or,
 - **Publicly, provincially and First Nations owned Critical Infrastructure.** Note, for [Category 3](#) projects, the asset or infrastructure must be owned by the primary applicant or a sub-applicant.

Updated August 2023 - Category 1 projects may include mapping, assessment and/or planning for **private land** only with the land owners' consent

- Demonstrative of engagement with:
 - First Nations and/or Indigenous organizations in advance of submitting the application and as part of the proposed project (e.g., collaborative planning tables; incorporating First Nation values and perspectives in proposed activities; existing outreach, plans,

engagement reports or processes; including First Nation engagement costs in the budget; completion of Indigenous Cultural Safety and Cultural Humility Training). Engagement by local governments both locally and regionally can help build relationships with First Nations, benefit both communities and enhance reconciliation. More information on engagement best practices is available [here](#);

- Neighbouring jurisdictions and other impacted or affected parties (e.g., equity organizations, agricultural sector, critical infrastructure owners) as appropriate to the project.
- Evidence-based, including Indigenous knowledge. [The United Nations Words into Action: Using Traditional and Indigenous Knowledges for Disaster Risk Reduction guide](#) provides more information about how to use Traditional Knowledge to reduce, prepare for, and respond to disasters;
- Where applicable, eligible for required approvals, authorizations, and permits;
- Developed and constructed to ensure that project risk is not increased, or transferred, to any parties or to the environment (e.g., transfer of flood risk downstream, destruction of fish habitat, introduction of pollutants to the environment; and,
- Able to demonstrate that climate change is integrated into project methodology and deliverables to adapt to the impacts of climate change. While a range of scenarios are recommended, at a minimum the use of emissions scenarios RCP 8.5 or SSP5_8.5 is required. Small scale structural projects should use scenarios (or equivalent amount of global warming) appropriate for the design life. Refer to [Appendix 2](#) for examples of climate information sources.
- Updated August 2023 - For projects located on **Provincial Crown Land**, able to demonstrate support from Provincial Crown Land Manager (BC Parks, Mountain Resort Branch, Natural Resource District and/or Recreation Sites and Trails) at the time of application submission.

Regional Projects

Funding requests from two or more eligible applicants for regional projects may be submitted as a single application for eligible, collaborative projects. For [Category 1](#) and [Category 2](#), the maximum funding available would be based on the number of eligible applicants included in the application. For [Category 3](#), the maximum funding is \$5 million regardless of the number of projects or partnering applicants.

It is expected that regional projects will demonstrate cost-efficiencies in the total grant request. Regional approaches to DRR-CA are strongly encouraged where appropriate. Approved projects in neighbouring geographic regions may be asked to coordinate to ensure risks to both communities are adequately addressed.

The primary applicant submitting the application for a regional project is required to submit a resolution as outlined in [Section 7](#) of this guide. Each partnering applicant is required to submit a resolution that clearly states their approval for the primary applicant to apply for, receive, and manage the grant funding on their behalf.

5. Requirements for Funding

As part of the approval agreement, approved applicants must agree to the following requirements for funding:

- Approved applicants are required to grant the Province of British Columbia free and clear access and distribution rights, specifically a perpetual, royalty-free, non-exclusive, worldwide license to use, reproduce, modify, and distribute, any and all of reports, spatial data products and images acquired/produced using CEPF funding;
- Approved applicants may need to work with EMCR and GeoBC to support integration of Value-Added Products, derived products, and methodology into the Provincial Data Repository and

Web Mapping Platforms. This may include transferring knowledge to replicate the solutions created on proprietary mapping platforms managed by the applicants. EMCR may work with applicants to ensure an integrated and collaborative approach is taken to collect, capture, analyze, visualize, and manage data and information based on consistent standards and data models to be used by all applicants;

- Please note that the two statements above do not apply to any product, data, information or image which may include Indigenous knowledge. EMCR and GeoBC respect the First Nations principles of Ownership, Control, Access and Possession (OCAP)®;
- Any in-person activities, meetings, or events must meet public health orders and/or guidance;
- Activities must comply with all applicable privacy legislation under the *Freedom of Information and Protection of Privacy Act* in relation to the collection, use, or disclosure of personal information while conducting funded activities. Personal information is any recorded information about an identifiable individual other than their business contact information. This includes information that can be used to identify an individual through association or inference;
- Develop project deliverables (input data, final maps, digital deliverables, and technical reports) that, where applicable, meet all existing federal and provincial guidelines and adhere to any relevant EGBC Professional Practice Guidelines. Refer to [Appendix 2](#) for examples of applicable standards and guidelines; and,
- Where applicable, the Qualified Professionals that manage the proposed project must be subject matter experts and any professional activities must be developed and signed by a qualified professional as per the *Professional Governance Act*. Refer to [Appendix 2](#) for examples of applicable standards and guidelines.

6. Eligible and Ineligible Costs and Activities

Eligible Costs and Activities

Eligible costs are direct costs that are approved for funding, properly and reasonably incurred, and paid by the applicant to carry out eligible activities. Eligible costs can only be incurred from the date of application submission until the final report is submitted.

Category 1: Foundational Activities

In addition to the eligibility and funding requirements for all proposed activities identified in [Section 4](#) and [Section 5](#), all Category 1 projects must demonstrate that a new/updated body of knowledge related to one or more **natural hazards** and/or climate risks is developed or revised.

Risk Mapping

Risk mapping allows a community to determine its vulnerabilities more accurately in relation to **natural hazards** and climate risks. Eligible activities include the development and/or modernization of maps (e.g., tsunami, flood, extreme temperatures) as well as maps focused on better understanding community assets and/or vulnerabilities.

For example, flood risk maps (i.e., inundation, **hazard**, risk) identify the boundaries of a potential flood event and show the likely effects of floods on human health, economic activity, the environment, and cultural values and heritage.

Prior to submitting a proposal for flood risk mapping please contact EMBCDisasterMitigation@gov.bc.ca.
At this time, seismic microzonation mapping is currently not an eligible activity. For more information, please contact Seismic@gov.bc.ca.

Risk and Resilience Assessments

Risk and **resilience** assessments identify the social, economic, and environmental impacts that events will have on the community, including identifying **natural hazards**, climate-related risks, cascading or compounding events, community and infrastructure vulnerabilities, risk tolerance or risk threshold, and the overall risk profile for a community.

Eligible activities include development of risk and/or **resilience** assessments for one or more **natural hazards** and/or climate related risks.

Planning

DRR-CA plans must address **natural hazards** and climate-related risks through the prioritizing of options and development of recommendations to reduce current and/or potential impacts. This can include identifying broad **disaster risk reduction** and **climate adaptation** goals, objectives, and strategies to meet those goals, and key planning activities including developing options (e.g., structural and non-structural) as well as preliminary cost estimates for these options.

Eligible activities include:

- Completion of a DRR-CA plan or a multi-**natural hazard**/climate risk **resilience** plan, including extreme temperature or drought plans;
- Assessment of the community's adaptive capacity;
- Preliminary planning and design activities related to the development of proposed structural projects; and,
- Benefit-cost analysis to assess the future risk reduction options under consideration and comparing the potential benefits to its costs. It is recommended that a comparison between structural (green or grey infrastructure) and non-structural (bylaws, strategic relocation) is included, where possible.

Category 2: Non-Structural Projects

Applicants may apply for Category 2 projects that are dependent on the outcomes of [Category 1](#) activities provided that the project workplan clearly demonstrates that the Category 1 activities will be completed before Category 2 activities are started.

Non-structural projects are measures designed to reduce risks to a community from **natural hazards** and climate-related risks through modifications in human actions, human behaviour, or natural processes. Eligible projects must build on the foundational activities outlined above and support communities to effectively reduce risks from **natural hazards** and climate-related disasters.

Land Use Planning and Education

Land use planning, community education, and monitoring equipment support community **resilience** by using data, building partnerships, and supporting long-term **disaster risk reduction-climate adaptation** at the community level. Eligible activities include:

- Land use planning that contributes to long-term **disaster risk reduction-climate adaptation** (e.g., amendments to relevant plans, bylaws, and policies);
- Developing **disaster risk reduction-climate adaptation** policies and practices for the design and maintenance of **First Nations land** and/or **publicly owned land**, such as parks and open spaces, and/or for the design and maintenance of **First Nations owned buildings** and/or **publicly owned buildings**
- Updated August 2023 - Purchasing monitoring equipment for data collection related to **disaster risk reduction-climate adaptation** (e.g., hydrometric stations, seismic and tsunami monitoring equipment, water monitoring equipment or meters). Installation of monitoring equipment is limited to **First Nations land, publicly owned land, First Nations owned buildings, publicly**

owned buildings, and/or **publicly and First Nations owned critical infrastructure**. Refer to [Appendix 2](#) for examples of existing monitoring resources and organizations.

- Delivering community education and awareness projects (e.g., community workshops, story maps, public art projects) that are primarily focused on community-level **disaster risk reduction-climate adaptation**

Temporary Mitigation Equipment

Temporary **mitigation** equipment reduces community risk from **natural hazards** and climate-related disasters in situations where no long-term structural solutions are readily available or where a community needs more time to find a long-term structural solution. Applications that include temporary **mitigation** equipment must demonstrate that the community has the capacity and a plan in place for the maintenance and repair of the equipment, as well as a deployment and removal plan.

Eligible temporary **mitigation** equipment includes the purchase of:

- Types of sandbags that are not provided by EMCR (e.g., Bulk Bags)
- Other flood barrier assets (e.g., Tiger dams, gabion baskets, etc.)
- Portable air conditioners and air scrubbers (only for use in **First Nations owned buildings** and **publicly owned buildings**)
- Misting/water bottle refill stations
- Storage for temporary **mitigation** equipment, limited to shipping containers and trailers, and including minor renovations (e.g., wiring, cabling, installation of shelving) to storage units.

Ongoing operations (including installation and removal), maintenance, training, and deployment of temporary **mitigation** equipment are the responsibility of the applicant(s), and applicants need to demonstrate that they have a plan in place.

Category 3: Small-Scale Structural Projects

Small-scale structural projects include new construction and/or modification or reinforcement of existing **publicly, provincially, and First Nations owned Critical Infrastructure, First Nations owned buildings** or **publicly owned buildings**, including **natural infrastructure**, in order to reduce the risks of **natural hazards** and climate-related disasters.

For the purpose of CEPF funding, small-scale structural projects are required to reduce the risks of **natural hazards** and climate-related disasters in relation to existing community composition, land use, infrastructure, etc. Generally speaking, it is not the intent of Category 3 funding to support recreational infrastructure or future or recent development in a known **hazard** area.

In addition to the eligibility and funding requirements for all proposed activities identified in [Section 4](#) and [Section 5](#), Category 3 projects must:

- Demonstrate that:
 - the appropriate foundational activities (risk mapping, assessment, and/or plans) have been completed. The foundational activities ([Category 1](#)) required to support Category 3 projects cannot be submitted in the same application;
 - impacted and affected parties were engaged before the application is submitted; and,
 - the project is ready for implementation.
- Be financially sustainable for the community.

Eligible activities include:

- Installation of structural flood protection works, or upgrades/retrofits to modernize existing structural flood protection works (e.g., dikes, flood walls, pump stations, flood boxes, debris catchment structures, seawalls, bulkheads, jetties, dam flood risk reduction);

- Construction of flood conveyance works (e.g., bypass channels);
- Daylighting or opening up buried watercourses (e.g., streams, creeks, rivers) and restoring to more natural conditions;
- Dam or dike decommissioning and floodplain restoration;
- Slope stabilization projects relating to debris flow risk reduction;
- Wetland restoration and/or rain gardens, bioswales, and infiltration bulges;
- Beach nourishment and/or bank stabilization;
- Restoring natural shoreline protection through wetland, kelp forests, clam beds, and marsh and beach nourishment to create a soft edge natural shoreline structure to protect against sea level rise and storm surges;
- Public cooling/warming infrastructure, including **natural infrastructure** (e.g., treed areas), to reduce community vulnerability to extreme temperatures (e.g., designated cooling/warming centres, cooling corridors), excluding activities funded under the [Extreme Weather Response program](#);
- Vertical evacuation refuge structures limited to communities with potential tsunami inundation and where the population is unable to evacuate to high ground. Applicants must demonstrate the planned and potential uses for a refuge structure; and,
- Other innovative projects that clearly demonstrate risk reduction potential and/or transferable learnings to other communities in BC.

In order for the technical review team to evaluate Category 3 projects, enough information must be provided to ensure the proposed project meets the criteria listed above. Generally, this means that the risk reduction and/or adaptation strategy has been identified, preliminary planning and design is complete, cost estimates are developed, and benefit-cost analysis has been completed.

If these components are not complete, applicants should apply to complete this work under [Category 1](#) or [Category 2](#) funding. If this option is pursued, the balance of the project cannot be applied for under Category 3 in the same application. Funding permitting, the balance of the project could be proposed under future intakes of DRR-CA provided that the Category 1 and/or Category 2 project is complete.

Additional Eligible Costs and Activities (for all Categories)

The following expenditures are also eligible provided they relate directly to the eligible activities identified above:

- Incremental applicant staff and administration costs (e.g., creating a new position or adding new responsibilities to an existing position);
- Consultant/contractor costs. Please note: if you intend to hire a qualified professional to support proposed activities, professional consultant rates will only be considered for activities that represent respective professions. For other activities (e.g., planning events) consultant rates are expected to be commensurate with the type of activity being undertaken;
- Identification/incorporation of community and cultural values. This includes seeking advice from Indigenous Knowledge Holders, other experts (e.g., health authorities, First Nations Health Authority) and the community (e.g., equity-denied populations, Indigenous organizations, Indigenous Nations, local governments, agricultural sector, critical infrastructure owners).;
- Honoraria for cultural leaders, Elders, Indigenous knowledge keepers, and/or cultural keepers. Note: these honoraria should reflect the role of Indigenous Peoples as subject matter experts and be equitable to consultant rates;
- Costs related to local cultural protocols (e.g., gifts, cultural ceremonies);
- Honoraria for equity-denied populations or service organizations that support equity-denied populations;

- Translation costs and the development of culturally appropriate education, awareness, or engagement materials;
- Presentation to Band Council, Treaty First Nation government, local government Council or Board, or community organizations, etc.;
- Where applicable, costs related to required approvals, authorizations and permits, including costs related to fish friendly design and fish habitat compensation works as required to meet permitting requirements; and,
- Public information costs. Please note: public information costs (e.g., workshops, printed materials) need to align with the intent of the funding stream and provide benefit to the community at large.

Ineligible Costs and Activities (for all Categories)

Any activity that is not outlined above or is not directly connected to activities approved in the application is not eligible for grant funding. This includes:

- Routine or ongoing operating costs or activities (e.g., heating, cooling and lighting; security, software or service subscriptions; or membership fees);
- Routine or ongoing planning costs or planning activities that are not incremental to the project;
- Regular salaries and/or benefits of applicant staff or partners;
- Duplication of recently developed information, maps, or imagery (e.g., LIDAR) provided the information remains accurate;
- Project-related fees payable to the eligible applicant(s) (e.g., permit fees);
- Costs related to individual or household preparedness or **mitigation** work, including workshops and purchase of emergency supplies (e.g., first aid kits, evacuation supplies) for community members or households;
- Development of curriculum for Kindergarten to Grade 12 education;
- Major capital improvements or major renovations to existing facilities and/or construction of new, permanent facilities (except designated cooling/warming centres);
- Purchase of promotional items, door/raffle prizes, give-away items, and/or gifts for community members (except costs related to local cultural protocols);
- Wildfire risk reduction and FireSmart planning and activities (refer to [FireSmart Community Funding & Supports](#));
- Low carbon, energy, and/or emissions inventories and plans (refer to [the Community Climate Funding Guide](#));
- Qualitative Hazard, Risk and Vulnerability Assessment (HRVA) activities not directly related to the approved project;
- Temporary **mitigation** equipment that is provided by EMCR (e.g., sand, burlap, and photodegradable polypropylene sandbags);
- Purchase of buildings or land and/or legal or contract costs related to the purchase of buildings or land;
- Purchase of public notification systems; and,
- Projects that create an orphan structure for which tenure and/or maintenance responsibility does not remain with the First Nation or local government.

In addition, for [Category 3](#), the following activities are not eligible for funding:

- On-going operating and maintenance costs;
- Storm water infrastructure;
- [Updated August 2023](#) - Relocation or raising of homes, businesses, communities, and/or structures (other than **Publicly, Provincially, and First Nations owned Critical Infrastructure**) ;

- Sediment or debris removal, or clean out of debris control structures;
- Updated August 2023 - Design or construction of evacuation roads; and,
- Purchase of heat pumps (refer to [Clean BC Better Buildings](#)), unless they are part of improvements to designated cooling/warming centres identified above.

7. Application Requirements and Process

UBCM is in the process of implementing an online application tool.
Information on this tool will be available later in 2023.

Application Deadline

Funding permitting, two application deadlines are scheduled for 2023/2024: October 6, 2023 and March 28, 2024. Applicants will be advised of the status of their application within 120 days of the application deadline.

Required Application Contents

EMCR and GeoBC respect the First Nations principles of OCAP®. Any product, data, or information which may include Indigenous knowledge may be submitted at the discretion of the applicant.

All applicants are required to submit an electronic copy of the completed application, including:

- Completed Application Form and all required attachments;
- Band Council resolution, Treaty First Nation resolution, or local government Council or Board resolution indicating support for the current proposed activities and willingness to provide overall grant management;
- Detailed work plan that includes a breakdown of work activities, tasks, deliverables or products, resources, timelines (start and end dates), and other considerations or comments;
- Detailed budget that indicates the proposed expenditures from CEPF and aligns with the proposed activities outlined in the application form. Although additional funding or support is not required, any other grant funding or in-kind contributions must be identified;
- Map(s) indicating the location of the proposed project(s);
- If applicable, copies of any relevant documents that support the rationale for this project must be included with this application;
- Updated August 2023 - For projects located on **Provincial Crown Land**, evidence of support from Provincial Crown Land Manager (BC Parks, Mountain Resort Branch, Natural Resource District and/or Recreation Sites and Trails);
- For regional projects only: Band Council resolution, Treaty First Nation resolution, or local government Council or Board resolution from each partnering applicant that clearly states their approval for the primary applicant to apply for, receive, and manage the grant funding on their behalf. Resolutions from partnering applicants must include this language.

Submission of Applications

Applications should be submitted as Word, Excel, or PDF files. Total file size for email attachments cannot exceed 20 MB.

All applications should be submitted to Local Government Program Services, Union of BC Municipalities by e-mail: cepf@ubcm.ca

Review of Applications

UBCM will perform a preliminary review of applications to ensure the required application contents have been submitted and to ensure that basic eligibility criteria have been met. Only complete application packages will be reviewed.

All eligible applications will be assessed and scored as part of a technical review process. Point values and weighting have been established within each of these scoring criteria. Only those applications that meet a minimum threshold point value will be considered for funding.

Higher application review scores will be given to projects that:

- Align with the intent of the DRR-CA funding stream:
 - Demonstrate rationale and evidence of how the **natural hazard** and/or climate risk is being assessed through threat levels (e.g., as identified in completed risk assessments) and projected climate risks and/or recent history (e.g., evacuation order, disaster financial assistance);
 - Meaningfully consider and adapt to the impacts of climate change in the project methodology and deliverables (e.g., planning, design);
 - Increase understanding of the social, cultural, economic, and/or environmental impacts of **natural hazards** and/or climate-related risks to the community; and,
 - Identify or achieve co-benefits (e.g., assessing multiple **hazards**, protecting valuable cultural assets, reducing greenhouse gas emissions, improving community health and wellbeing, enhancing biodiversity);
- Demonstrate evidence of engagement with First Nations and/or Indigenous organizations in advance of submitting the application and as part of the proposed project (e.g., collaborative planning tables; incorporating First Nation values and perspectives in proposed activities; existing outreach, plans, engagement reports or processes; including First Nation engagement costs in the budget; completion of Indigenous Cultural Safety and Cultural Humility Training);
- Effectively engage with neighbouring jurisdictions and other impacted or affected parties (e.g., equity organizations, agricultural sector, critical infrastructure owners) as appropriate to the project. Rural and remote communities may want to consider engaging with regional districts and/or health authorities, and First Nation applicants may want to consider engaging with the First Nations' Emergency Services Society or the First Nations Health Authority;
- Are cost-effective. Projects with higher requested funding amounts will be evaluated to ensure they demonstrate a proportionately higher risk reduction benefit to justify the increased funding amount;
- Contribute to a comprehensive, cooperative, and regional approach and benefits; and,
- Demonstrate how diverse populations, including equity-denied populations, will be involved or benefit from this project (e.g., engagement considers for non-English speaking populations, DRR-CA measures that benefit equity-denied populations);

As required, the Evaluation Committee may consider the provincial, regional, and urban/rural distribution of proposed projects and previous CEPF funding. Recommendations will be made on a priority basis. All funding decisions will be made by UBCM.

UBCM may share all applications with the Province of BC and First Nations' Emergency Services Society
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8. Grant Management and Applicant Responsibilities

Grants are awarded to approved applicants only. The approved applicant is responsible for completion of the project as approved and for meeting reporting requirements.

Approved applicants are responsible for proper fiscal management, including maintaining acceptable accounting records for the project. UBCM reserves the right to audit these records.

Notice of Funding Decision and Payments

All applicants will receive written notice of funding decisions. Approved applicants will receive an Approval Agreement, which will include the terms and conditions of any grant that is awarded. The Approval Agreement is required to be signed and returned to UBCM within 30 days.

Grants are awarded in two payments: 50% when the signed Approval Agreement has been returned to UBCM, and the remainder when the project is complete and the final reporting requirements have been met.

Please note that in cases where revisions are required to an application, or an application has been approved in principle only, the applicant has 30 days from the date of the written notice of the status of the application to complete the application requirements. Applications that are not completed within 30 days may be closed.

Progress Payments

To request a progress payment, approved applicants are required to submit the [Interim Report Form](#). The form will require the following information:

- Description of activities completed to date;
- Description of funds expended to date; and,
- Written rationale for receiving a progress payment.

Post Grant Approval Meeting

As a condition of grant approval, all approved applicants may be required to meet with EMCR or an applicable provincial partner (e.g., GeoBC, Deputy Inspector of Dikes for the region), or designate, to discuss the project prior to commencing work.

Changes to Approved Projects (Amendment Requests)

Approved grants are specific to the project as identified in the approved application and grant funds are not transferable to other projects. Generally speaking, this means funds cannot be transferred to an activity that was not included in the approved application or to a new or expanded location.

Approval from UBCM and/or the Evaluation Committee will be required for any variation from the approved project. Depending on the complexity of the proposed amendment, requests may take up to 120 days to review.

To propose changes to an approved project, applicants are required to submit the [Interim Report Form](#). If UBCM determines the amendment is eligible for consideration, applicants will be required to submit:

- Amended application package, including updated, signed application form, required attachments, and an updated Band Council resolution, Treaty First Nation resolution, or local government Council or Board resolution;
- For regional projects only, evidence of support from partnering applicants for proposed amendments; and,
- Written rationale for proposed changes to activities and/or expenditures.

Applicants are responsible for any costs above the approved grant unless a revised application is submitted and approved prior to work being undertaken.

Extensions to Project End Date

All approved activities are required to be completed within the time frame identified in the approval agreement and all extensions beyond this date must be requested in writing and be approved by UBCM.

The [Interim Report Form](#) will be required to be submitted for all extensions request over six months. Extensions will not exceed one year from the date of the original final report deadline.

9. Final Report Requirements and Process

All funded activities must be completed within two years of notification of funding approval and final reports are due within 30 days of project completion.

EMCR and GeoBC respect the First Nations principles of OCAP®. Any product, data or information which may include Indigenous knowledge may be submitted at the discretion of the applicant.

Final Reports

Applicants are required to submit an electronic copy of the complete final report, including the following:

- Completed Final Report Form with all required attachments;
- Detailed financial summary that indicates the actual expenditures from CEPF and other sources (if applicable) and that aligns with the actual activities outlined in the Final Report Form;
- Copy of final technical report (i.e., consultant's report) and, where applicable, the following:
 - Completed Risk Maps, Risk Assessments, and DRR-CA Plans;
 - Evidence of Non-Structural activities undertaken (e.g. bylaws, photos of non-structural community engagement activities); or,
 - Evidence of a completed Small-Scale Structural project including project details (location, background, scope, funding agency), design analyses and assumptions, construction completion report, field work considerations, as-built drawings, recommendations on operation and maintenance of structural works, regulatory approvals received, etc.; and,
 - High resolution photos of completed Small-Scale Structural projects.
- Full size PDF copies of all maps created as result of the project;
- Spatial data and metadata for all maps identified above. LiDAR and orthoimagery products data and derivative products acquired/produced with CEPF funding must meet [Specifications for Airborne LiDAR for the Province of British Columbia](#);
- Photos of funded activities and/or completed projects; and,
- Links to media directly related to the funded project.

Submission of Final Reports

Final reports should be submitted as Word, Excel, or PDF files. Total file size for email attachments cannot exceed 20 MB.

All reports should be submitted to Local Government Program Services, Union of BC Municipalities by e-mail: cepf@ubcm.ca.

Review of Final Reports

UBCM will review final reports to ensure the required report contents have been submitted. Following this, all complete final reports and deliverables will be reviewed by EMCR.

UBCM may share all report materials with the Province of BC and the First Nations' Emergency Services Society

10. Additional Information

Union of BC Municipalities
525 Government Street
Victoria, BC, V8V 0A8

E-mail: cepf@ubcm.ca

Phone: (604) 270-8226 ext. 220

Appendix 1: Definitions

Please refer to [CEPF Definitions](#) for defined terms used throughout the Community Emergency Preparedness Fund program and application materials. The following definitions apply to the Disaster Risk Reduction-Climate Adaptation funding stream.

Climate Adaptation: Proactively understanding and preparing for the changing climate and reducing climate-related risks. Some climate impacts are related to sudden disaster events, such as flooding and wildfire, while others occur more slowly over time such as sea level rise, species and ecosystem shifts, and water shortages ([BC's Climate Preparedness and Adaptation Strategy](#))

Disaster Risk: The potential loss of life, injury, or destroyed or damaged assets which could occur to a system, society, or a community in a specific period of time, determined probabilistically as a function of **hazard**, exposure, vulnerability and capacity ([Sendai Framework for Disaster Risk Reduction](#)).

Disaster Risk Reduction (DRR): **Disaster risk** reduction is aimed at preventing new and reducing existing **disaster risk** and managing residual risk, all of which contribute to strengthening **resilience** and therefore to the achievement of sustainable development ([Sendai Framework for Disaster Risk Reduction](#)).

First Nations land: First Nation reserve land, land owned by a Treaty First Nation (as defined by the *Interpretation Act*), land under the authority of an Indigenous National Government, or other land owned by a First Nation or Treaty First Nation.

First Nations owned buildings: Buildings owned by a Treaty First Nation (as defined by the *Interpretation Act*) or buildings owned by a First Nation band.

Hazard: A process, phenomenon or human activity that may cause loss of life, injury or other health impacts, property damage, social and economic disruption, or environmental degradation ([Sendai Framework for Disaster Risk Reduction](#)).

Mitigation: the lessening or minimizing of the adverse impacts of a **hazard** (modified from [Sendai Framework for Disaster Risk Reduction](#)).

Natural hazards: **hazards** that are predominantly associated with natural processes and phenomena ([Sendai Framework for Disaster Risk Reduction](#)).

Natural infrastructure: naturally occurring landscape features and/or nature-based solutions that promote, use, restore or emulate natural ecological processes

Updated August 2023 - **Private land:** fee-simple land that is not owned by a level of government.

Updated August 2023 - **Provincial Crown Land:** land (or land covered by water like rivers or lakes) that is owned by the Province of BC.

Publicly owned buildings: Buildings owned by a local government or public institution (such as health authority or school district).

Publicly owned land: Land owned by a local government or land owned by a public institution (such as a health authority or school district).

Updated August 2023 – **Publicly and First Nations owned critical infrastructure**: Assets owned by a local government, public institution (such as health authority or school district), First Nation, or Treaty First Nation that are:

- Identified in a Local Authority Emergency Plan;
- Essential to the health, safety, security or economic wellbeing of the community and the effective functioning of society, and;
- For the purpose of CEPF funding, are clearly related to **disaster risk reduction-climate adaptation**.

Resilience: The ability of a system, community, or society exposed to **hazards** to resist, absorb, accommodate, adapt to, transform, and recover from the effects of a **hazard** in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions through risk management ([Sendai Framework for Disaster Risk Reduction](#)).

Appendix 2: Standards, Guidelines and Resources

It is the responsibility of the applicant to ensure that qualified professionals that manage the proposed project are subject matter experts and that any professional activities are developed and signed by a qualified professional as per the *Professional Governance Act*.

Examples of Climate Information Sources

- [ClimateData.ca](#)
- [Pacific Climate Impacts Consortium Climate Explorer](#)
- [Climate Atlas of Canada](#)
- [Design Value Explorer](#)

Examples of Monitoring Resources and Organizations

- [Water Survey Canada](#)
- [Provincial Groundwater Network](#)

Examples of Applicable Federal and Provincial Standards and Guidelines

- [Provincial Flood Hazard Area Land Use Management Guidelines \(2004\)](#)
- [Federal Flood Mapping Guideline Series](#)
- [Coastal Flood Risk Assessment Guidelines for Buildings & Infrastructure Design \(2020\)](#)
- [Climate Change and Asset Management: Sustainable Service Delivery Primer](#)
- [Seismic Design Guidelines for Dikes \(2014\)](#)
- [Dike Design & Construction Guidelines: Best Management Practices for BC \(2010\)](#)
- [Canadian Society of Landscape Architects – Canadian Landscape Standard \(2023\)](#)
- [International Guidelines on Nature-Based Features for Flood Risk Management \(2021\)](#)
- [Irrigation Industry Association of BC “Standards for Landscape Irrigation Systems” \(2018\)](#)
- [Specifications for Airborne LiDAR for the Province of British Columbia \(2020\)](#)
- [Coastal Floodplain Mapping – Guidelines and Specifications \(2011\)](#)
- [BC Water Sustainability Act \(2016\)](#)

Examples of Applicable Engineers & Geoscientists BC (EGBC) Professional Practice Guidelines

- [Floodplain Mapping in BC \(2017\)](#)
- [Legislated Flood Assessments in a Changing Climate in BC \(2018\)](#)
- [Seismic Assessment and Seismic Design of Dikes in BC Guidelines \(2021\)](#)

Council Report

penticton.ca

Date: October 17, 2023 File No: RMS 1610
To: Anthony Haddad, City Manager
From: Courtney Jones, Financial Planning and Budget Specialist
Subject: **Third Quarter 2023 Financial and Corporate Business Plan Update**

Staff Recommendation

THAT Council receive into record the report dated October 17, 2023 titled "Third Quarter 2023 Financial and Corporate Business Plan Update";

AND THAT Council approve amending the 2023-2027 Financial Plan to provide for budget amendments noted in the report.

Strategic Priority Objective

Mission: Penticton will serve its residents, businesses and visitors through good governance, partnership and the provision of effective and community focused services.

Organizational Excellence: The City of Penticton will support a culture of service excellence built on good governance, leadership and sound financial decisions.

Background

The 2023-2027 Financial and Corporate Business Plan was adopted April 18, 2023, and the second quarter report was received by Council on September 12, 2023. The third quarter report, found in Attachment A, includes activities up to September 30, 2023 and outlines the impacts to the City's revenues and expenses as a result of the third quarter budget amendments, and end of year forecast, as well as an update on the Corporate Business Plan initiatives. The City of Penticton's 2023 Financial and Corporate Business Plan outlines 35 initiatives that advance Council's Strategic Priorities as well as projects that have been identified by the Senior Leadership Team which will improve service delivery and business functions for the City.

Financial Implication

The City's financial position for the third quarter has total revenues expected to be similar to budget and operating expenses are anticipated to be 1.4% lower than budget.

The following financial implications are expected as a result of the budget amendments and forecasts made during the year:

- General Operating Fund forecasted draw of \$1.9M, compared to \$3.0M adopted budget draw;

- Electric Operating Fund forecasted a draw of \$2.4M, compared to adopted budget draw of \$2.5M;
- Sewer Operating Fund forecasted surplus of \$1.1M, compared to \$1.2M adopted budget surplus;
- Water Operating Fund forecasted surplus of \$179k, compared to the approved budget surplus of \$783k.

Analysis

Some highlights from the report include:

Third Quarter Budget Amendments

Revenue

The revenue budget has increased \$214k due to successful grant applications by the Fire department.

Expenses

Due to a change in internal practice to include annual amortization expenses in the Financial Plan to more closely align with the annual Financial Statements, expenses increased \$14.6M this quarter across all funds. This change has an offsetting transfer which results in an overall net change of zero. The balance of the increased expenses for the General Fund is for the additional successful grants, mentioned above in revenue, and the Council approved draw from surplus for a civic grant increase of \$3k for the Penticton & Area Access Society.

Capital

Third quarter capital budget amendments total \$90k and are summarized by fund below:

- General Capital has increased overall in the third quarter by \$64k. Fleet, parks and facilities have deferred projects to future years, which has allowed savings to be redirected to other emerging projects of replacement of City Yards fuel storage and delivery system, single-axel with hook lift truck, light vehicle replacement additional costs, SOEC cooling tower heat exchanger replacement, and lock block wall construction. In addition, a portion of the Community Centre retrofit grant funds budgeted for 2024, moved to 2023 for consultant work in preparation of 2024 construction. And lastly, Council approved the purchase and installation of decorative seasonal lights of \$45k (Res. 207/2023).
- Water Capital has increased by \$26k, required to advance preliminary design for grant application decision for the Ellis 4 Dam upgrades funded by Water Reserve.

Amended Budget to Forecast Variances

The forecast has been updated to reflect known or expected variances compared to budget and are noted below, with specific items being monitored by staff included in the attached report.

Revenue

Revenue is forecasted \$76k lower than the amended budget. Increases in revenue comparative to budget are attributed to higher interest revenue on cash and investments, and Online Accommodation Platform

revenue higher than anticipated. Decreases in revenue are for lower anticipated building permit revenue, water utility revenue, and grants continuing into 2024.

Expenses

General Fund expenses are forecasted \$1.8M lower than the amended budget, with the majority of the forecast variance attributed to savings to date for vacancies in various departments, including the RCMP, and reduced recreation costs for the extended pool closure. Increased costs have been forecasted for insurance premiums and interest paid on monies held by the City for higher than budgeted interest rates.

Strategic Initiatives

- 28 initiatives are on track to be completed by the end of 2023;
- Two initiatives are delayed in the third quarter report of 2023 including the Sport and Event Strategy and IAFF Local 1399 bargaining. Reasons cited for delays include capacity challenges, staffing vacancies and conflicting schedules; and
- Five initiatives have been successfully completed in 2023.

Alternate Recommendations

THAT Council direct staff to provide them with further information prior to receiving into record the report dated October 17, 2023 titled "Third Quarter 2023 Financial and Corporate Business Plan Update".

Attachments

- Attachment A – 2023 Third Quarter Update

Respectfully submitted,

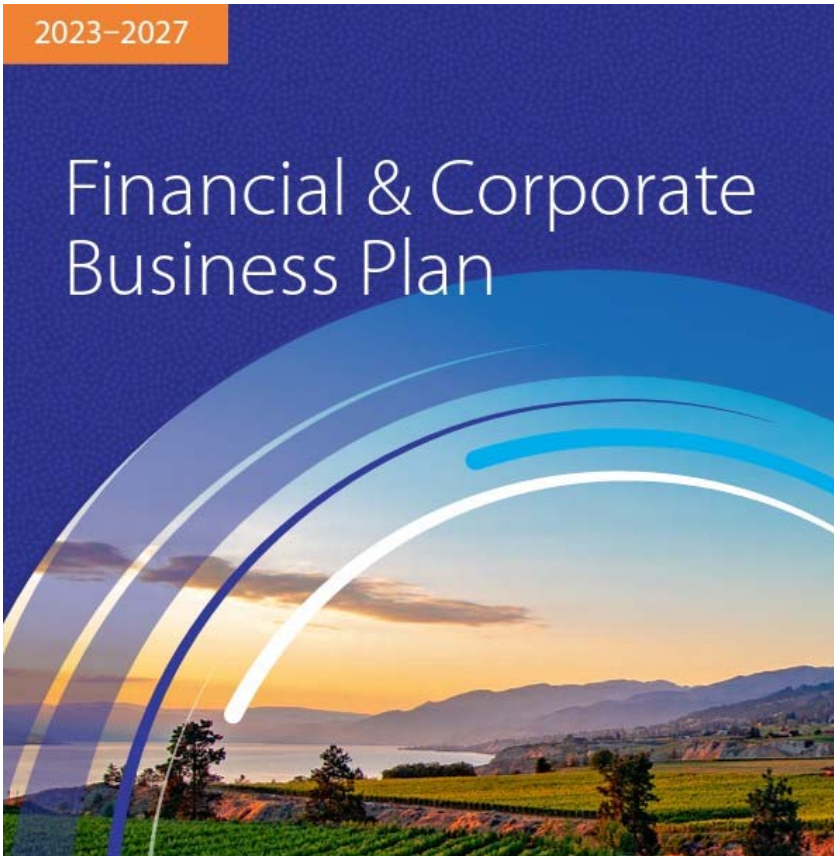
Courtney Jones

Courtney Jones
Financial Planning & Budget Specialist

Director Finance and Administration <i>AMC</i>	GM Infrastructure <i>KD</i>	GM Community Services <i>SPH</i>	Director Development Services <i>BL</i>	City Manager <i>SPH</i>
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2023-2027

Financial & Corporate Business Plan



City of Penticton

Financial and Corporate Business Plan
October 17, 2023

Third Quarter 2023 Update



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 Corporate Business Plan 11

Introduction to Quarterly Updates

The Corporate Quarterly report is produced three times a year to present the City's financial position for the quarter and communicate progress made on Strategic Initiatives.

There are four components within this report:

1. Financial Summary - provides a quarterly update on the City's financial position. Included in this section of the report are summaries for the City's operating and capital funds as well as details on cash & investments, reserves, debt, and a summary of revenue and expenses.
2. Operating Variance Analysis – provides highlights on operating funds for current forecast variances as well as budget amendments made during the quarter.
3. Capital Variance Analysis - provides highlights on capital funds budget amendments made during the quarter.
4. Strategic Initiatives - includes progress update on the initiatives detailed in the City's Financial and Corporate Business Plan.

Financial Summary

The 2023 -2027 budget was adopted by Council on April 18, 2023, with the first quarter update received by Council on May 16, 2023 and the second quarter update received by Council on September 15, 2023. This third quarter report summarizes the City's overall financial activities up to September 30, 2023. The City's financial position remains stable through the third quarter with revenues remaining steady at \$143M overall and operating expenses are anticipated to be 1.4% lower than budget.

General Fund

After the third quarter, the 2023 forecasted draw from General Fund surplus reserve is lower than budget, with a draw of \$1.9M, compared to adopted budget draw of \$3.0M.

Operating - forecasted draw of \$1.9M

Third quarter revenue increases are attributed to successful grants. For expenses, cost savings are being forecasted for staffing and RCMP vacancies, offset by increased costs for interest paid by the City and higher insurance costs. The Operating Variance section below provides a more in-depth analysis of the variances.

Capital - \$16.4M

The General Fund 2023 Capital amended budget is \$16.4M, an increase of \$1.2M from the approved budget of \$15.2M, detailed below in the Capital Variance Analysis section. The Point Intersection Kinney and South Main project is underway, with completion planned for 2024, with the majority of the work to date occurring in the Galt/South Main/Pineview area. The AAA Lake to Lake Bike Network route will begin construction in 2024. The Penticton Creek rehabilitation in stream work is completed, with pathway and curbing completion anticipated late October 2023.

Utilities

Electric Fund

Operating – forecasted draw of \$2.4M

The forecasted draw from the Electric reserve has decreased by \$66k, compared to the adopted budget of \$2.5M, for higher than anticipated miscellaneous revenue.

Capital - \$5.3M

The 2023 amended budget is \$5.3M, same as the approved budget. The Point Intersection Kinney and South Main electrical portion \$2.5M, underground electric work is now mostly complete.

Sewer Fund

Operating – forecasted surplus of \$1.1M

The forecasted transfer to Sewer surplus is \$1.1M, a decrease of \$57k from the adopted budget of \$1.2M for planned trunk cleaning work that is not anticipated to complete in 2023.

Capital - \$3.3M

The 2023 amended budget was increased in the second quarter by \$100k to \$3.3M. The majority of the capital is for the Advanced Waste Water Treatment Plant upgrades which is currently in detail design phase with planned tendering late 2023, and construction in 2024.

Water Fund

Operating – forecasted surplus of \$179k

The forecasted transfer to Water surplus is \$179k, compared to the adopted 2023 budget transfer of \$783k, a decrease of \$605k overall which are attributed to capital amendments of \$344k detailed below in capital and a \$50k increase for higher than planned water main repairs and a reduction of \$200k for lower anticipated water revenue.

Capital - \$4.6M

The 2023 amended budget is \$4.6M, an increase of \$344k from the adopted budget of \$4.2M, for planned water capital works, waterline upgrades, and portable water supply station costs that are coming in higher than originally anticipated. The Ridgedale Reservoir \$4.2M is in predesign phase and awaiting land approvals before moving forward with tendering. Penticton Ave Pressure Reducing Valve (PRV) upgrade \$2.9M, design is complete, expected to tender in November 2023, with construction in 2024.

Cash & Investments

As at the end of September 2023, the City’s cash and term deposit balance is \$160.1M, an increase of \$26.8M over the beginning of year balance of \$133.3M. Approximately \$7.7M is attributed to capital project borrowing received that will be utilized when the project costs are incurred further in 2024. Each year, the City receives substantial funds prior to the property tax due date in July, which is utilized to fund operations into the next year.

During the third quarter the City increased total investments, locking in terms to tier future cash flows and capitalize on elevated interest rates, as well as increase overall diversification. These investments have earned approximately \$4.6M in investment income to date.

Diversification of current investments can be seen in the table below:

Table 1 Portfolio Allocations (in millions)

Financial Institution	2022 Portfolio Amount	2022 Percentage	2023 Q3 Portfolio Amount	2023 Q3 Percentage
MFA Pooled Investment Funds	\$ 41.1	30.8%	\$ 42.7	26.6%
DUCA Financial	16.4	12.3%	26.4	16.5%
Agrove	2.5	1.9%	2.5	1.6%
FNBK	2.5	1.9%	2.5	1.6%
Tandia Financial	5.0	3.8%	5.0	3.1%
Haventree Bank	5.0	3.8%	5.0	3.1%
Meridian Credit Union	9.1	6.8%	14.1	8.8%
Prospera Credit union	0.0	0.0%	6.0	3.7%
Scotiabank	0.0	0.0%	5.0	3.1%
Valley First Credit Union	51.7	38.8%	51.0	31.8%
Total	\$ 133.3	100.0%	\$ 160.1	100.0%

Reserves

The City’s statutory reserve balances at the beginning of 2023 were \$32M, and forecasted to be \$31M, at the end of 2023, and does not yet reflect the \$7.177M earmarked for disbursement from the Growing Community Reserve. Mandatory reserve balances at the beginning of 2023 were \$19M and are forecasted to be \$13M at the end of 2023 due to the Council resolution to withdraw up to \$4.1M from the Asset Emergency Reserve to fund the Community Centre facility condition improvements and upgrades. Non-statutory reserve balances at the beginning of 2023 were \$63M, and are forecasted to be \$44M at the end of 2023.

The City's reserve balances are detailed in the table below and forecasted based on year to date results as well as transfers as approved in the City’s 2023-2027 Financial Plan:

Table 2 Reserve Forecast Summary (in thousands of dollars)

Reserve	2022	2023	2024	2025	2026	2027
	Financial Statement	Forecast	Forecast	Forecast	Forecast	Forecast
Statutory	31,882	31,333	31,133	33,935	35,334	36,974
Mandatory	18,761	13,386	10,894	10,436	5,829	4,134
Non-Statutory	63,423	44,209	38,134	38,656	39,202	39,951
Total	114,067	88,928	80,162	83,026	80,365	81,060

Debt

The City’s forecasted debt balance to the end of 2023 is \$27M. Debt is currently represented by issues for the General, Water and Sewer funds. Liability Servicing Cost is legislatively limited to 25% where debt servicing costs cannot exceed 25% of specific municipal revenues of the previous year. A five year forecast of long-term debt is included in the table below:

Table 3 Long Term External Debt Budget Forecast (in millions of dollars)

	2022	2023	2024	2025	2026	2027
	Financial Statement	Forecast	Forecast	Forecast	Forecast	Forecast
Opening balance		\$ 20.80	\$ 26.69	\$ 29.60	\$ 27.32	\$ 25.48
Principal Repayment		\$ 1.91	\$ 2.19	\$ 2.28	\$ 1.84	\$ 1.84
New debt		\$ 7.80	\$ 5.10	\$ -	\$ -	\$ -
Ending balance	\$ 20.80	\$ 26.69	\$ 29.60	\$ 27.32	\$ 25.48	\$ 23.64
Estimated Liability Servicing Cost %	2.8%	2.8%	3.6%	3.6%	3.5%	3.1%

In October 2022, Council approved (Council resolutions 339/2022, 340/2022, 341/2022) up to \$12.9M in new debt, for upgrades and expansions at the Advanced Waste Water Treatment Plant (AWWTP), Penticton Ave PRV, and Ridgedale Reservoir. The loan proceeds of \$7.8M for the AWWTP and Ridgedale Reservoir have been issued and received. The remaining loan authorization of \$5.1M for the Penticton Ave PRV is expected to be drawn on in 2024. The Proposed borrowing in future years in the Financial Plan have not been incorporated into the above table at this time.

In June 2022, Council approved (Council resolution 224/2022) up to \$7.4M in internal borrowing for the Bike Network, Point Intersection Kinney Ave & South Main St, and Fire Hall 2 – 2 bay garage, with repayment over 10 years. Annual repayments are to be funded from existing reserves, currently these borrowings are the City’s only internal debt. To date \$3.5M has been borrowed internally with the remainder anticipated to be drawn during 2023 and 2024. Repayments of this borrowing is will begin in 2023.

Operating Variance Analysis

Third Quarter Budget Amendments

Revenue - \$214k increase

- The City was successful in receiving the following operating grants:
 - Union of BC Municipalities 2023 Community Resiliency Investment grant of \$185k
 - Union of BC Municipalities Emergency Operation Center and Training grant of \$29k.

Expense - \$14.6M increase

- In efforts to more closely aligning the Financial Plan with the Annual Financial Statement reports, the 2023-2027 budget was amended to include the annual amortization expense which is recorded during the year end process. The total amount of this change is \$14.4M which is offset lower in the statement, creating a zero net change on the budget. The amendment in each fund is:
 - General \$10.6M
 - Electric \$1.6M
 - Sewer \$1.2M
 - Water \$1.0M
-
- General Operating, in addition to the amortization adjustment above, had a further \$217k in budget amendments for:
 - Increased expenses of \$214k for successful grants mentioned above.
 - Council approved draw from surplus for a civic grant increase of \$3k for the Penticton & Area Access Society.

Forecast Variances

Each quarter, actual revenue and expense are reviewed comparative to budget, and the forecast is updated to reflect anticipated changes, and highlights or specific items that are being monitored are noted below.

Revenue

- Sales of Service \$263k
 - Transit revenue and franchise fee revenue forecast increased to reflect the higher revenue as noted in second quarter report.
 - Building Permit revenue decreased by \$400k to reflect lower anticipated revenue due to apprehension in the market with the high costs of construction and increased borrowing rates.
- Water revenue was reduced by \$200k due to lower usage than anticipated.
- Fiscal Services is \$400k higher for increased interest revenue on cash and investments than budgeted.
- Grant revenue is forecasted \$228k lower, as revenue and expenses must be recorded in the same year, per accounting regulations, so projects that are carrying onto 2024, those revenues are deferred and are forecasted accordingly.
- Other contributions have increased by \$140k for online accommodation platform revenue higher than anticipated, these funds are transferred directly into the OAP Reserve.

Expenses

- General Fund
 - The forecast reflects anticipated savings for vacancies in various departments and the RCMP.
 - Savings of \$250k for SOEC event initiative not anticipated to occur in 2023.
 - Facilities forecasts are \$82k lower than budget for an updated estimate of anticipated work to be completed by end of year.
 - Recreation department is forecasting savings of \$125k for extended pool closure and staffing vacancies.
 - Grant expenses matching revenue deferred to 2024, as noted in the revenue section above.
 - Insurance premiums and claims are forecasted to be \$70k higher than budget.
 - Based on current interest rates, interest paid on monies held by the City is forecasted \$200k more than budget.
- Electric Utility
 - Bulk Energy purchases are anticipated to be similar to budget. Fortis BC was successful in their appeal for an additional 2023 rate increase, however we do not expect a retroactive increase in 2023, instead an adjustment to rates for 2024 and beyond is expected.

Capital Variance Analysis

Third Quarter Budget Amendments

The third quarter capital budget amendments total \$90k, and are as follows:

- *General Capital \$64k*
 - Facilities \$116k
 - SOEC Cooling Tower Heat Exchanger has significant pitting in the plates creating corrosion in building piping and requires replacement of \$75k.
 - City Yards Salt Shed Extension & Enclosure incurring additional costs of \$26k for the lock block wall construction
 - A portion of the Community Centre Retrofit grant funds budgeted for 2024, was moved to 2023 for consultant work of \$55k, in preparation of 2024 construction.
 - Overall facility expenses were reduced by deferral of facility projects of \$40k to future years.
 - Fleet (\$183k)
 - Fleet purchases were reassessed to determine immediate need based on delivery and availability, with projects identified for deferral to future years totaling \$356k. The savings will be offset by a replacement of a single-axel with hook lift truck of \$152k and additional costs of \$5k for light vehicle replacement.
 - Parks (\$64k) – project was deferred to a future year.
 - Public Works \$195k
 - Replacement of City Yards fuel storage and delivery system due to underground leaking and environmental concerns of \$150k.
 - Council approved the purchase and installation of decorative seasonal lights of \$45k (Res. 207/2023).
- *Water Capital \$26k*
 - Additional funds required to advance preliminary design for grant application decision for the Ellis 4 Dam upgrades.

Forecast Variances

The capital forecast is equivalent to the capital budgets as projects may continue into future years, with funding be carried forward to fund the completion of the project.

Strategic Initiatives

Corporate Business Plan

To ensure strong public accountability each year the City's Strategic Initiatives are published in the Corporate Business Plan. In 2023, there were a total of 35 strategic priorities and initiatives outlined for completion across City divisions and departments.

In 2023, Council introduced and adopted their strategic priorities to guide their four-year term from 2022 – 2026. Council's Priorities are:

- **Safe & Resilient** – Enhance and protect the safety of all residents and visitors to Penticton;
- **Livable & Accessible** – Proactively plan for deliberate growth and focus on community infrastructure to support an inclusive, healthy, safe and desirable place to live;
- **Vibrant & Connected** – Support vibrant and diverse activities creating opportunities for connection; and
- **Organizational Excellence** – Support a culture of service excellence around governance, leadership and sound financial decisions.

Q3 Update

In the second quarter, City Divisions reported 30 initiatives were on track to successfully complete within their stated timelines, with three (3) initiatives being considered delayed. For the third quarter update, 28 initiatives are on track to successfully complete within project schedules, five (5) initiatives have been completed and two (2) initiatives are considered delayed.

Completed initiatives include:

- **Develop a Privacy Management Program** – Under direction and in accordance to the Minister responsible for FOIPPA the Legislative Services department developed and introduced a privacy management program for the City of Penticton.
- **Increase Hours for Existing Library Pages** -- Staff schedules for the existing Library Pages have been adjusted to include expanded hours as approved by Council.
- **Serious Crimes Administrator** – Municipal RCMP position in the serious crimes section has been successfully hired and completed orientation. This position will oversee electronic disclosure best practices and support RCMP Members in electronic investigation work.
- **Increasing Bylaw Officer Authority** – Council's support of designating Bylaw Enforcement Officers as Peace Officers was successfully completed and these officers are now working with enhanced authority.
- **Improved Operational Readiness** – Penticton Fire Department is pleased to report that the additional four (4) officers completed their training program and are began working shifts in Q2. The positive impact of this additional resource is being evidenced in PFD operations for Q3.

Below is a summary of delayed projects:

- **Sport and Event Strategy Update** – This initiative is currently on hold due to staff vacancies and emerging priorities. Work is expected to resume on this initiative in Q4.

- **Collective Bargaining with IAFF Local 1399** – Due to a conflict in available schedules for the bargaining team, collective agreement bargaining is expected to resume in Q4.

Summary Tables Strategic Initiatives

Safe & Resilient	
Enhance and protect the safety of all residents and visitors to Penticton	
Initiative	Status
Community Safety Building Design Development Space planning has completed and final site selection recommendations are being compiled for Council. This facility will look at consolidating Fire, Emergency Operations, Bylaw, Community Safety Officers and a portion of RCMP detachment within one multi-use community safety centre	↑
Fire Hall #2 Renovations Apparatus storage building arrived at the end of July. Construction was delayed due to unforeseen site conditions however construction is planned to commence and complete in Q4. The construction of the new two-bay building at Fire Hall #2 will increase capacity for firefighting apparatus.	↑
Dam Safety Compliance The City must ensure all dams meet the regulatory requirements and continue to provide safe water retention and storage for the community. Ellis 4 project nearing completion, Ellis 2 detail design underway and expected to continue into Q1 2024.	↑
Increase Resiliency and Reliability of the Electric Utility Options to increase the reliability and resiliency of the electrical utility have been analyzed and one recommendation is being investigated by staff to develop a Battery Energy Storage System (BESS) to increase resiliency against targeted and natural power interruptions. The Electric Utility is participating in the City's utility rate review.	↑
Increasing Officer Authority for Bylaw Services Bylaw Services is working towards several initiatives to increase the authority of BEOs and CSOs to reflect the expectations of Council and the community. Council endorsed the Bylaw Enforcement Officer Bylaw on April 3, 2023 to designate Bylaw Enforcement Officers as Peace Officers. Officers have received training related to peace officer authority in Q2. In Q3, Bylaw Enforcement Officers began working with increased authority as Peace Officers.	☑
Building Safer Communities Fund (BSCF) Public Safety Canada has committed \$1.2M in grant funding to the City as part of the Government of Canada's investment to support municipalities with initiatives for at-risk youth. Social Development is leading this program and has committed funds to local programs for youth including Ooknakane Friendship Centre, YMCA of Southern Interior BC and Foundry Penticton. In Q3, partners have operationalized introductory programming and data collection is underway.	↑
Improved Operational Readiness of the Penticton Fire Department The Council-approved increase in four firefighters has brought the PFD's staffing model to the accepted best practice for the industry. In Q2, firefighters completed their six week training program and are on shift. For Q3, the department evidenced the positive impact of these additional firefighters for fire and medical response calls.	☑
First Responder Program Analysis The PFD continues to compile an analysis of all medical emergencies responded to for 2023, the study will continue to the end of Q4.	↑
Community Safety Team Council endorsed two additional RCMP members to establish a specialized team focused on non-enforcement response. Team is a collaborative partnership with the City's Community Safety Officers (CSOs). The team is working closely with community partners.	↑
Serious Crimes Administrator Council supported a new municipal staff position to oversee Electronic File Disclosure and Administrative Coordination. The position has been filled and is working with the Serious Crimes Team to enhance electronic disclosure best practices.	☑
Car40 Program	↑

Car 40 or the Integrated Crisis Response Team (ICRT) is a non-enforcement response to substance use, homelessness and mental health issues. The provincial government has announced funding for this program, timelines for implementation are in development.

Livable & Accessible

Proactively plan for deliberate growth and focus on community infrastructure to support an inclusive, healthy, safe and desirable place to live

Initiative	Status
<p>Attainable and Affordable Housing Development The City is committed to reducing the impacts of the housing crisis by seeking affordable housing partners. The City's OCP Task Force has completed Penticton's Housing Needs Assessment as part of the CMHC Housing Accelerator Fund (HAF) application requirement. In Q3, Council provided direction to staff to submit a grant application to advance housing initiatives for Penticton.</p>	↑
<p>Develop an Urban Forestry Master Plan To further the goals outlined in the City's OCP and the Parks and Recreation Master Plan an urban forest master plan is required, this plan has been branded the ComuniTREE Plan. Staff have completed the background report on the City's urban forest. As part of the public engagement and awareness for the program, a ceremonial tree planting took place in Q3.</p>	↑
<p>Sanitary Sewer Plant Residuals and Organics Waste Management This is a continuing, multi-year initiative for the City. The City has developed recommended options with the Regional District of the Okanagan Similkameen for this project. RDOS has taken recommendations to their Board with estimated completion in 2026.</p>	↑
<p>Climate Action and Sustainability Initiatives To advance the City's Corporate and Community Climate Action Plans, 2023 will focus on initiatives for emissions, recycling and EV charging. Blue Skies Transportation Fund is an ongoing success with 16 bike racks installed this year and 24 EV Ready Plans approved. 20 of 24 EV Ready Plans have been completed and are ready for stratas to begin installing infrastructure.</p>	↑
<p>Points Intersection and Lake-to-Lake All Ages and Abilities Bike Route Completion This project will reduce vehicle congestion along South Main Street and Kinney Avenue as well as improving safety for all road users while encouraging active transportation. In Q2, underground utility work for South Main Street, Galt Avenue and Pineview road was undertaken. Surface works are started with new curbing on South Main Street.</p>	↑
<p>Advanced Waste Water Treatment Plant (AWWTP) Upgrades The AWWTP is in need of upgrades to increase capacity, improve treatment processes and replace end-of-life infrastructure. In Q2, staff completed their first review of the detail design. For Q3, detail design was ongoing due to design changes. Tender is expected to be issued in Fall 2023.</p>	↑
<p>Transportation Safety and Choice This initiative seeks to improve safety for all road users. The Safe Routes to School pilot program is underway at Carmi and Uplands Elementary. Draft reports have been prepared by the consultant and the final consultant report will be available in Q4.</p>	↑
<p>Refinement of Permit and Education Programs The Development Services Division is working to update education and communication tools for developers and stakeholders to increase transparency and gain efficiencies in permit processing and file management. In Q2, the e-newsletter program continues as well as group and individual education session with building industry partners. Online stakeholder sessions conducted for new Cloud Permit software. Four education sessions scheduled for Q4.</p>	↑
<p>Official Community Plan Review The OCP requires updating to ensure our policies align with the new growth projections reflected in the 2021 Canadian Census Report. The OCP Task Force continues to meet and successfully completed the Housing Needs Assessment report. Public engagement sessions started in Q3 and will continue into Q4 for a "Focus on Housing" engagement series.</p>	↑

Vibrant & Connected	
Support vibrant and diverse activities creating opportunities for connection	
Initiative	Status
<p>Sports and Event Strategy Update A review and update of this Strategy is required to ensure the City has a current framework that is aligned with Council and stakeholder priorities to direct support and investment into events in Penticton. This initiative is currently on hold due to staff vacancy and emerging priorities.</p>	↓
<p>Permanent Exhibit Revitalization – Museum Existing permanent exhibits are more than 20 years old and in need of revitalization to ensure they are relevant and remain an indispensable part of the City’s cultural life. The museum is working with fabricators and graphic designers, construction is still underway. Construction continues in Q3.</p>	↑
<p>Arena Use Analysis This initiative is in alignment with the Civic Places and Spaces report recommendations. Data collection is underway. User group engagement is underway and project is on track to complete by year-end.</p>	↑
<p>Increasing Digital Collections This expansion of materials is in response to growth in demand for digital and electronic items. This initiative will be on-going due to demand by patrons for e-content. May 2023 statistics show an increase by over 113% from May 2022.</p>	↑
<p>Skaha Splash Pad Replacement The existing splash pad at Skaha Park was constructed in 1996 and is due for replacement. Splash pad design concept is complete and project is on schedule for construction to start fall 2023. Team is currently working on riparian and splash pad approvals from Interior Health and the provincial government.</p>	↑
<p>Columbia Park Sports Court Upgrades Court requires upgrades to meet the growing demands of users and anticipated future use. RFP is complete and construction to start in August. Construction expected to complete in Q4.</p>	↑
<p>Social Development Framework The development of the Framework and five-year work plan will guide the City’s role and purpose in supporting the social well-being of the community. Social Development presented to Council in July to share preliminary results for the Social Framework. In Q3, engagement and consultation work with partners continued. Council will receive a final report for endorsement of the Framework in Q4.</p>	↑

Organizational Excellence	
Support a culture of service excellence around governance, leadership and sound financial decisions	
Initiative	Status
<p>Develop a Privacy Management Program Changes to the FOIPPA require public bodies to put into place a privacy management program, effective February 1, 2023. This initiative was successfully completed in Q1.</p>	☑
<p>Utility Benchmarking and Rate Review Benchmarking will allow the City to compare water and sewer operations against other similar utilities. The utility rate review will make recommendations for the City’s utilities over the next five years. Benchmarking data has been collected and compiled and public engagement completed in Q3. Staff will bring engagement results to Council on October 3, 2023.</p>	↑

City Mission	
Penticton will serve its residents, businesses and visitors through organizational excellence, partnership and the provision of effective and community focused services.	
Initiative	Status
Expanded Customer Payment Options The addition to accept credit cards at City Hall for payments will be phased in over 2023 and 2024 to allow time for integration. Contract with the payment vendor has been signed and is scheduled for implementation in Q4.	↑
Implement Asset Retirement Obligations Asset Retirement Obligations (AROs) is a new accounting standard that affects municipalities. Accounting staff continue to advance this project in collaboration with City departments. Preliminary ARO values have been obtained and Financial Statements have been updated.	↑
Geographic Information Services (GIS) Upgrade A change in system architecture, product versions and integrations are required. Hardware architecture is up and running. Software upgrades expected to complete in Q4. Utility network modernizations will continue as needed for compliance requirements.	↑
Implement a Computerized Maintenance Management System (CMMS) CMMS will build a complete and current inventory of the City's physical assets and development of computerized scheduled for required maintenance and testing. CMMS was introduced in Q3. Final implementation work will occur in Q4 which will bring additional features online.	↑
Increase Hours for Existing Library Pages To manage growth in patron demand an increase in Senior and Junior Page position hours is required. This initiative was successfully completed in Q1.	☑
Collective Bargaining with IAFF Local 1399 Effective collective bargaining with the Penticton Professional Firefighters union (International Association of Fire Fighters) allows for a progressive and harmonious working environment. This initiative is delayed due to schedule coordination.	↓

Status		Definition
☑	Complete	Initiative was successfully completed
↑	On Track	Initiative is on schedule and progress continues towards milestones
↓	Delayed	Initiative is experiencing challenges or delays
X	Not Started	Initiative work is waiting to begin

Council Report



Date: October 17, 2023
To: Anthony Haddad, City Manager
From: Angela Campbell, Director Finance and Administration
Subject: **2024-2028 Financial Plan Overview**

File No: 1610

Staff Recommendation

THAT Council receive into the record the report dated October 17, 2023 titled “2024-2028 Financial Plan Overview”.

Background

Section 165 of the *Community Charter* directs that a municipality must have a Five Year Financial Plan Bylaw adopted annually, this must be done before the Annual Tax Rate Bylaw and both prior to May 15. The *Community Charter* also provides that the Financial Plan Bylaw may be amended at any time to reflect changes that may occur throughout the year.

The City’s financial plan development process included updating the Fees & Charges Bylaw prior to budget, and compiling capital and operating budgets to present to Council during budget deliberations.

Council’s strategic planning sessions determine the City’s Council Priorities and drive the focus of the budget.

At the August 15, 2023 Council meeting, staff presented the City’s Financial Strategy Framework and the Council policies that support that strategy. The compilation of this budget aligns with the principles of that strategy including maintaining good financial health and stability and predictable tax levies.

Budget Process

The key dates for the 2024 - 2028 financial planning process are as follows:

Date	Description
October 23	Financial & Corporate Business Plan Released to the Public
Oct 23-Nov 12	Public Engagement Period
Nov 17	Release of Budget Materials
Nov 21-23	Council Budget Deliberations
Dec 12	Financial Play Bylaw: First 3 Readings

Public consultation will be undertaken from October 23 through November 12 and will be done through online feedback (Shape Your City) and engagement, and Council’s Open House (Oct 26th). The results of these engagement activities will be provided with the release of the budget materials on November 17 as well as presented during deliberations to Council, prior to making final decisions on the budget.

The budget process for 2024 will include presentations to Council and will be provided by division and department with deliberations set to take place from November 21-23.

Budget Impacts

Tax Deferral

One of the main factors driving this year’s proposed budget is addressing the decisions made during the 2022 budget deliberations Nov 22-23, 2021 to defer taxes.

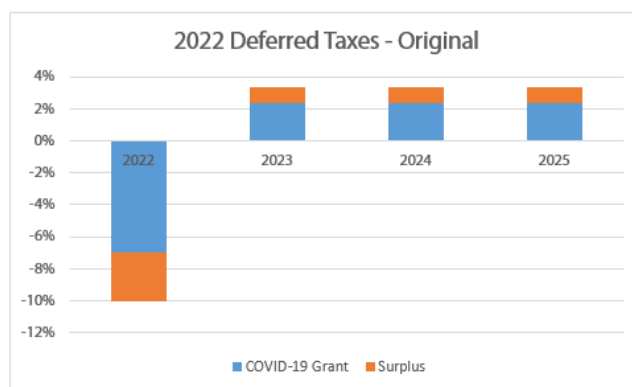
The 2022 Budget had significant challenges including high inflation, sustained revenue losses due to COVID and the increased public demand which resulted in an increase in Community Safety resources that consisted of 3 RCMP members, 2 municipal RCMP employees and 8 Bylaw staff (to accommodate expanded bylaw hours). The result of these challenges were that the City had significant funding shortfalls in the operating fund equivalent to a 15.7% tax increase.

Faced with the difficult challenge of balancing the budget but taking into consideration the financial impact COVID was having on Penticton taxpayers, both residents and businesses, Council made the following decisions to defer taxation to future years:

- 7% reduction in tax increase - Use remaining \$2.4M of COVID-19 Restart Grant (one-time)
- 3% reduction of tax increase - Draw from Surplus

Starting Tax increase	15.7%
COVID-19 Grant	(7%)
Deferral funded by Surplus	(3%)
Ending 2022 Tax Increase	5.7%

The 2022 funding deferral equated to 10% of taxation that was planned to be phased in over 3 fiscal years, 2023-2025, see chart below.



Strategic Initiatives

Strategic initiatives that support either Council’s priorities or the City’s operational effectiveness have been compiled through the Business Planning Process and are detailed in the Financial and Corporate Business Plan for Council review during deliberations. The breakdown of initiatives by area is noted in the table below:


Council Priority	Proposed 2024 Strategic Initiatives
Safe & Resilient	8
Livable & Accessible	6
Organizational Excellence	8
Vibrant & Connected	5
City Mission	1
Total Initiatives	28

Once Council has approved the 2024-2028 Draft Financial Plan in principle, including the rate of tax increase, staff will present the Bylaw for first three readings on December 12th with adoption to follow at the next meeting. Respectfully submitted,



Angela Campbell
Director of Finance and Administration

Concurrence

City Manager


Council Report

penticton.ca

Date: October 17, 2023
To: Anthony Haddad, City Manager
From: Kristen Dixon, GM of Infrastructure

File No: 5500-03

Subject: Renewal of FortisBC Operating Agreement for gas distribution facilities

Staff Recommendation

THAT Council authorize the Corporate Officer and Director of Finance and Administration to execute the attached FortisBC Operating Agreement as generally contained in Attachment A.

Strategic priority objective

Mission: Penticton will serve its residents, businesses and visitors through organizational excellence, partnership and the provision of effective and community focused services.

Organizational Excellence: The City of Penticton will support a culture of service excellence built on good governance, leadership and sound financial decisions.

Background

The City's current operating agreement with FortisBC for its business of distributing gas within the municipality is set to expire December 31, 2023. The overall objective of an operating agreement is to achieve a commercial arrangement that is fair to both the City and FortisBC's customers. The terms of the operating agreement are negotiated as part of an overall package, including the operating fee, operating protocols and other rights and concessions made by each party.

The new proposed Operating Agreement is consistent with the terms of the Village of Keremeos Operating Agreement (Keremeos Terms) that were approved by the BCUC in 2014 (Order C-7-14). The BCUC directed that the Keremeos Terms be the basis for comparison for all future operating agreements with municipalities (Order C-8-14). In addition, the new Operating Agreement contains changes from the Keremeos Terms approved by the BCUC in the 2019 Kelowna Operating Agreement application and in subsequent applications for approval of operating agreements between FortisBC and other municipalities.

Key Provisions of the Operating Agreement requires FortisBC to:

- in its use of public places, comply with all Federal and Provincial laws, regulations and codes as well as City bylaws, standards and policies except to the extent that such City bylaws, standard

and policies conflict with the terms of these operating agreements or conflict with other legislation governing FortisBC;

- provide the City with emergency contact numbers;
- assist the City with locates of FortisBC infrastructure;
- provide the City with notice of its intention to perform certain types of work in the public places of the City; and
- carry out its operations and restoration of the public places to certain standards specified in the agreements.

Key Provisions of the Operating Agreement requires the City to:

- provide notice to FortisBC when the City undertakes construction or maintenance activities that are likely to affect a part of FortisBC's facilities;
- assist FortisBC in FortisBC's efforts to reduce unsafe building practices by third parties;
- notify FortisBC of any new bylaws, standards or policies adopted or passed by the City that are likely to affect FortisBC's operations in Public Places.
- in addition, the City and FortisBC agree to use reasonable efforts in collaborate on construction and maintenance activities to reduce impacts to the public.

The proposed term of the agreement is 20 years, similar to the previous agreement.

Financial implication

Under the current and proposed Operating Agreement, FortisBC agrees to pay to the City a fee of three percent (3%) of the gross revenues (excluding taxes) received by FortisBC for provision and distribution of all gas consumed within the Boundary Limits of the Municipality, with a few exclusions. For 2023, this was roughly \$531k. These revenues are included in the City's operating budget and contribute towards general expenses.

Analysis

The attached agreement has been reviewed by City staff and the City's legal counsel and there may be additional minor adjustments prior to execution. It is important to note that the City has no regulatory authority over FortisBC, however, the City does have some limited rights to negotiate how these services are delivered within the City boundaries. Staff and legal counsel are comfortable with the proposed terms, and recommend signing the agreement. Following Council approval, the agreement will be submitted to the BC Utilities Commission for approval.

Alternate recommendations

None.

Attachments

Attachment A – 2024 Operating Agreement

Respectfully submitted,

Kristen Dixon, P.Eng, MBA
GM of Infrastructure

Concurrence

<p>Director of Finance and Administration</p> <p><i>AMC</i></p>	<p>City Manager</p> <p><i>SBH</i></p>
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OPERATING AGREEMENT

THIS OPERATING AGREEMENT (the “Agreement”) made this _____ day of _____, 2023.

BETWEEN:

THE CORPORATION OF THE CITY OF PENTICTON, a municipal corporation incorporated under the laws of the Province of British Columbia

(hereinafter called the “**Municipality**”)

OF THE FIRST PART

AND:

FORTISBC ENERGY INC., a body corporate duly incorporated under the laws of the Province of British Columbia, formerly known as Terasen Gas Inc., and having its registered office in the City of Vancouver, in the Province of British Columbia

(hereinafter called “**FortisBC**”)

OF THE SECOND PART

RECITALS:

- A. Whereas by a certificate of public convenience and necessity (CPCN), FortisBC was granted the right to construct and operate gas distribution facilities within the Municipality;
- B. And whereas pursuant to the Community Charter, S.B.C. 2003, a Municipal council may, by resolution adopt and enter into a licensing and operating agreement;
- C. And whereas FortisBC and the Municipality are the parties to a Franchise or Operating Agreement dated the 20th day of December, 2002 which has or will expire on December 31, 2023;
- D. And whereas FortisBC and the Municipality wish to enter into this Agreement to clarify and settle the terms and conditions under which FortisBC shall exercise its rights to use Public Places in conducting its business of distributing Gas within the Municipality.

NOW THEREFORE THIS AGREEMENT WITNESSES that the parties covenant and agree as follows:

1. DEFINITIONS

For the purposes of this Agreement:

- (a) “Boundary Limits” means the boundary limits of the Municipality as they exist from time to time and that determine the area over which the Municipality has control and authority;
- (b) “BCUC” means the British Columbia Utilities Commission or successor having regulatory jurisdiction over natural gas distribution utilities in British Columbia;
- (c) “CPCN” means a Certificate of Public Convenience and Necessity granted by the BCUC which allows FortisBC to operate, maintain and install Company Facilities for the distribution of Gas within the Municipality;
- (d) “Company Facilities” means FortisBC’s facilities, including pipes, buildings, structures, valves, signage, storage facilities, machinery, vehicles and other equipment used to maintain, operate, renew, repair, construct and monitor a natural Gas Distribution and transmission system;
- (e) “Distribution Pipelines” means pipelines operating at a pressure less than 2071 kilopascals (300 psi);
- (f) “FortisBC Employees” means personnel employed by or engaged by FortisBC including officers, employees, directors, contractors, and agents;
- (g) “Gas” means natural gas, propane, methane, synthetic gas, liquefied petroleum in a gaseous form or any mixture thereof;
- (h) “Gas Distribution” means fixed equipment, structures, plastic and metal lines and pipe, valves, fittings, appliances and related facilities used or intended for the purpose of conveying, testing, monitoring, distributing, mixing, storing, measuring and delivering Gas and making it available for use within the Municipality;
- (i) “Highway” means street, road, lane, bridge or viaduct controlled by the Municipality or Provincial Government of British Columbia;
- (j) “Mains” means pipes used by FortisBC to carry gas for general or collective use for the purposes of Gas Distribution;
- (k) “Municipal Employees” means personnel employed by or engaged by the municipality, including officers, employees, directors, contractors and agents;
- (l) “Municipal Facilities” means any facilities, including highways, sidewalks, conduits, manholes, equipment, machinery, pipes, wires, valves, buildings, structures, signage, bridges, viaducts and other equipment within the Public Places used by the Municipality for the purposes of its public works or municipal operations;

- (m) “Municipal Supervisor” means the Municipal Engineer or other such person designated by the Municipality to receive notices and issue approval as set out in this Agreement;
- (n) “New Work” means any installation, construction, repair, maintenance, alteration, extension or removal work of the Company Facilities in Public Places except;
 - (i) routine maintenance and repair of the Company Facilities that does not involve any cutting of asphalted road surface;
 - (ii) installation or repair of Service Lines whether or not such installation or repair involves cutting of asphalted road surface; or
 - (iii) emergency work;but notwithstanding such exceptions, New Work shall include any installation, construction or removal of the Company Facilities in Public Places that are planned to disturb underground Municipal Facilities;
- (o) “Pipeline Markers” means post, signage or any similar means of identification used to show the general location of Transmission Pipelines and distribution pipelines or FortisBC Rights of Way;
- (p) “Planned Facilities” means those facilities not yet constructed but which have been identified by way of documented plans for the works of the Municipality, for works of third parties, where such works are identified by documented plans approved by the Municipality, or for works of FortisBC submitted to the Municipality subject to Municipal approval;
- (q) “Public Places” means any public thoroughfare, highway, road, street, lane, alley, trail, square, park, bridge, right of way, viaduct, subway, watercourse or other public place in the Municipality;
- (r) “Service Line” means that portion of FortisBC’s gas distribution system extending from a Main to the inlet of a meter set and, for the purposes of this Agreement, includes a service header and service stubs;
- (s) “Transmission Pipeline” means a pipeline of FortisBC having an operating pressure in excess of 2071 kilopascals (300 psi); and
- (t) “Utilities” means the facilities or operations of any water, waste water, sewer, telecommunications, energy, cable service or similar service provider located in Public Places within the Municipality.

2. INTERPRETATION

For the purposes of interpreting this Agreement:

- (a) the headings are for convenience only and are not intended as a guide to interpretation of this Agreement;
- (b) words in the singular include the plural, words importing a corporate entity include individuals, and vice versa;
- (c) in calculating time where the agreement refers to “at least” or “not less than” a number of days, weeks, months or years, the first and last days must be excluded and where the agreement refers to “at least” or “not less than” a number of days, Saturdays, Sundays and holidays must be excluded;
- (d) the word “including”, when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement.

3. OBLIGATION TO ACT IN GOOD FAITH

FortisBC and the Municipality acknowledge and agree that they will act in good faith, in carrying out the terms and conditions of this Agreement and within reasonable time frames, carry out the obligations under this Agreement.

FortisBC and the Municipality will at all times carry out all work and operations with the due care and attention that is necessary to safeguard the interests of the public, their own employees, and the other party’s employees.

4. FORTISBC RIGHTS TO ACCESS & USE PUBLIC PLACES

The Municipality hereby acknowledges FortisBC’s rights to:

- (a) develop, construct, install, maintain or remove Company Facilities on, over, in and under Public Places in the Municipality;
- (b) enter on Public Places from time to time as may be reasonably necessary for the purpose of maintaining, repairing, or operating the Company’s Facilities;
- (c) place pipeline identification markers within Public Places where a Transmission Pipeline or Distribution Pipeline crosses or is otherwise within a Public Place;

subject to terms and conditions defined in this Agreement.

5. FORTISBC COMPLIANCE WITH STANDARDS FOR USE OF PUBLIC PLACES

5.1 Non-discriminatory Standards for FortisBC

In its use of Public Places, FortisBC shall comply with all Federal and Provincial laws, regulations and codes and shall comply with all Municipal bylaws, standards and policies except that FortisBC shall not have to comply with such Municipal bylaws, standards and policies that:

- (a) conflict with terms of this Agreement or limit any rights or concessions granted to FortisBC by the Municipality under this Agreement; or
- (b) conflict with other legislation governing FortisBC.

Further, where the Municipality has established requirements and standards for work in Public Places, the Municipality shall apply them in a fair, reasonable and non-discriminatory manner consistent with the manner that the Municipality establishes requirements on other Utilities.

5.2 Provide emergency contacts.

FortisBC will provide the Municipality with a 24 hour emergency contact number which the Municipality will use to notify FortisBC of emergencies including; gas leaks, third party accidents around work sites, ruptures of gas lines, and other potentially hazardous situations.

5.3 Assist with facility locates

FortisBC will, at no cost to the Municipality, provide locations of its Company Facilities within a time frame as may be reasonably requested by the Municipality unless the reason for the request is the result of an emergency; in which case the information shall be provided forthwith. FortisBC shall provide gas locations from FortisBC records. FortisBC shall perform on site facility locates in accordance with the *Safety Standards Act – Gas Safety Regulations Section 39*.

6. FORTISBC WORK OBLIGATIONS:

6.1 Notices - General Requirements

6.1.1. Notice for New Work

For New Work, FortisBC shall give notice to the Municipality or such officer or official thereof who has been designated from time to time by the Municipality that it intends to perform such New Work. The Notice shall include:

- (a) a plan and specifications showing the proposed location and dimensions of the New Work;

- (b) FortisBC's plans for the restoration of the Public Place affected by the New Work if FortisBC's restoration plans are different from those set out in Section 6.4.2 of this Agreement;
- (c) the name of a FortisBC representative who may be contacted for more information;
- (d) projected commencement and completion dates; and
- (e) such other information relevant to the New Work as the Municipality may reasonably request from time to time.

6.1.2. Exception for Emergency

Where FortisBC is required to carry out work urgently in the interests of public safety or health or to preserve the safety of property and Company Facilities, FortisBC shall not be required to give prior notice but shall do so as soon as possible thereafter.

6.1.3. Municipal Approval for New Work

The Municipality may object to the New Work on the following grounds:

- (a) the proposed location of the New Work conflicts with existing Municipal Facilities, existing third party facilities or Planned Facilities; or
- (b) the proposed location or design of the New Work is likely to compromise public safety or does not conform with Municipal bylaws, standards or policies; or
- (c) in instances where FortisBC can delay the New Work without compromising the supply, capacity or safety of its Gas Distribution System or its customers' need for gas service and the Municipality intends within the next 3 months to undertake work in the same location and wishes to co-ordinate both work;

by providing FortisBC with notice of its objections, provided such objections are reasonable, no more than 10 days after receiving FortisBC's notice of New Work. If the Municipality has not provided such notice of its objections to FortisBC, or in the case of large and complex New Work, the Municipality has not provided FortisBC with a notice to extend the time to reply to FortisBC until a stated time, the Municipality shall be deemed to have granted its approval of the New Work. The Municipality shall not otherwise withhold or delay its approval.

In addition, the Municipality may request FortisBC to provide the public with notice of the New Work.

6.1.4. Work Not to Proceed

If the Municipality has notified FortisBC of its objections or has requested a time extension, no more than 10 days after receiving FortisBC's notice of New Work, FortisBC shall not proceed with the New Work until FortisBC and the Municipality have agreed upon a resolution to the Municipality's objections. If the Municipality and FortisBC are unable to agree, then the matter shall be resolved in accordance with Section 17 (Resolution of Disputes).

6.2 Notice of Service Lines

FortisBC shall provide the Municipality with notice of its intent to install, remove or repair Service Lines no less than three (3) days prior to commencement of such work. FortisBC's request for the location of the Municipality's Utilities shall be deemed to be a notice of FortisBC's intent to install, remove or repair Service Lines. The Municipality may object to such work on the same grounds as set out in Subsection 6.1.3 (a) and (b) above by providing FortisBC with notice of its objections within two (2) days of receiving FortisBC's notice. If the Municipality has not provided such notice of its objections to FortisBC, the Municipality shall be deemed to have granted its approval of the installation, removal or repair of the Service Lines. The Municipality shall not otherwise withhold or delay its approval.

6.3 FortisBC to Obtain Locate Information

Prior to conducting any New Work, FortisBC shall locate other Utilities and satisfy itself that it is clear to proceed.

6.4 Work Standards

All work carried out by FortisBC shall be carried out in accordance with sound engineering practices.

6.4.1. Specific Work Requirements Remove Materials

FortisBC shall keep its work sites clean and tidy. FortisBC shall remove all rubbish and surplus material from Public Places upon completion of its work.

The Company shall not leave any part of its gas system in such a state as to constitute a nuisance or a danger to the public through neglect, non-use and want of repair.

6.4.2. Restore Surface and Subsurface

Where FortisBC has performed any operations or New Work in a Public Place, FortisBC shall restore without unreasonable delay and return such Public Place, as much as reasonably practical, to the condition and use which existed prior to such activity. The restoration will be in accordance with the specifications set out by the Municipality. Such specifications may include the degree and nature of compaction, subsurface structure, surface finish and landscaping required.

Without limiting the generality of this section and by way of example only, the Municipality may require FortisBC to restore asphalt and concrete surfaces with a permanent repair or a temporary repair. Should a temporary repair be directed, FortisBC or the Municipality at its discretion will subsequently construct a permanent repair in accordance to its usual maintenance/replacement schedule for that area. The cost of permanent and temporary repairs to remediate Highway surfaces will be at the expense of FortisBC proportional to the surface area affected by the New Work.

Where FortisBC is required to cut pavement on a Public Place such cuts and restoration will be limited to less than 1.5 meters unless at the discretion of FortisBC a larger excavation is warranted due to the depth or size of the pipe or requirements of the Workers' Compensation Board or other relevant Provincial or Federal regulations. FortisBC will be responsible for any repairs and maintenance of the surface repair for a period of three (3) years. However, where pavement restoration has been conducted by the Municipality, whether or not such work was undertaken to repair cuts on FortisBC's behalf, FortisBC shall not be responsible for the repairs or maintenance of the surface repair.

6.4.3. Repair Damage to Municipal Facilities

To the extent that any of the work being done by FortisBC results in damage to Municipal Facilities or Public Places, other than the usual physical disruption to Public Places caused by the installation of Company Facilities that FortisBC shall restore in accordance with Section 6.4.2 above, FortisBC will, as soon as reasonably possible, report such damage and reimburse the Municipality for its costs arising from such damage calculated in accordance with Section 14.1 below. Where such damage results directly from inaccurate or incomplete information supplied by Municipality, and FortisBC has complied with all applicable laws and regulations, and with instructions supplied by the Municipality, then the cost of repairing damaged Municipal Facilities or Public Places will be at the expense of the Municipality.

6.5 Conformity Requirement

The New Work must be carried out in conformity with FortisBC's notice of New Work except that FortisBC may make in-field design changes when carrying out the New Work to accommodate field conditions which could not have been reasonably foreseen by FortisBC. If such in-field conditions materially impact FortisBC's plans for restoration or materially change the impact of FortisBC's work on Municipal Facilities, other than in respect of projected commencement and completion dates, FortisBC shall notify the Municipality of the changes and the reasons for them as soon as reasonably possible.

6.6 Non-Compliance

If Company Facilities located in Public Places are later found not to be located in compliance with FortisBC's notice of New Work provided in accordance with Section

6.1 and 6.5, then any alteration or upgrading required to bring them into compliance with such notice will be at the expense of FortisBC provided that the work has not been altered, damaged or modified by the Municipality or a third party.

7. COMPANY FACILITY CHANGES REQUIRED BY THE MUNICIPALITY

7.1 Notice of Closure of Public Places

Before any Public Places containing Company Facilities may be legally closed or alienated by the Municipality, the Municipality shall as soon as reasonably possible notify FortisBC of its intent to close or alienate such Public Places and either:

- (a) grant FortisBC a registered statutory right of way in a form satisfactory to FortisBC so as to maintain FortisBC's right to use the land; or
- (b) request FortisBC to remove and (if possible and practicable) relocate those Company Facilities affected by such closure or alienation at the sole cost of the Municipality.

If the Public Places are expropriated by an expropriating authority and FortisBC is required to remove the Company Facilities then the Municipality shall as soon as reasonably possible notify FortisBC of the expropriation. This provision is applicable when the Municipality receives official notice of expropriation or otherwise becomes aware of expropriation through communications with the expropriating authority.

8. FACILITY CHANGES REQUIRED

8.1 By FortisBC

FortisBC may provide Notice to the Municipality that it requires Municipal Facilities to be altered, changed, temporarily shut-down, temporarily by-passed, or relocated to accommodate its requirements. The Municipality will comply with FortisBC's requests to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of written request. FortisBC agrees to pay for all of the costs for changes to the affected Municipal Facilities.

8.2 By the Municipality

The Municipality may provide Notice to FortisBC that it requires Company Facilities to be altered, changed or relocated to accommodate its requirements. FortisBC will comply with the Municipality's requests to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of written request. The Municipality agrees to pay for all of the costs for changes to the affected Company Facilities. This section 8.2 is an agreement between the Municipality and FortisBC for the purpose of section 76(1)(c) of the *Oil and Gas Activities Act*.

9. JOINT PLANNING, COOPERATION AND COORDINATION

9.1 Conduct of Construction and Maintenance Activities

The Municipality and FortisBC agree to use reasonable efforts in carrying out their construction and maintenance activities in a manner that is responsive to the effect that it may have on the other party, as well as other users of Public Places. Such reasonable efforts include attending the planning meetings described in Section 9.2 below and reducing as much as is practical, the obstruction of access to Public Places, and interference with the facilities and activities of others in Public Places.

9.2 Communication and Coordination Activities

At the initiation of the Municipality, representatives of the Municipality, FortisBC and other affected Utilities and third parties will meet each year, prior to the construction season, to discuss the parties' anticipated construction activities for that year. Such discussions will include

- (a) the use of common trenching, common utility access facilities and such other common facilities as may be commercially reasonable and comply with operating and safety standards; and
- (b) the consolidation of planned maintenance work where pavement must be cut in order to avoid multiple excavations.

9.3 Municipal Planning Lead

During such annual planning meetings, the Municipality shall lead the planning process for all Utilities and third parties with Planned Facilities in Public Places.

10. MUTUAL INDEMNITY

10.1 Indemnity by FortisBC

10.1.1. FortisBC indemnifies and protects and saves the Municipality harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property caused by FortisBC in:

- (a) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Company's Facilities on or under any Public Places;
 - (b) any breach of this Agreement by FortisBC;
- except to the extent contributed by negligence or default of the Municipality or the Municipal Employees.

10.1.2. This indemnity expressly extends to all acts and omissions of FortisBC Employees.

10.2 Indemnity by the Municipality

10.2.1. The Municipality indemnifies and protects and saves FortisBC harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property to the extent caused by the Municipality in:

- (a) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Municipal Facilities on or under any Public Places;
 - (b) any breach of this Agreement by the Municipality;
- except to the extent contributed by the negligence or default of FortisBC or FortisBC Employees.

10.2.2. This indemnity expressly extends to all acts and omissions of Municipal Employees.

10.3 Limitations on Municipality's Liability

All property of FortisBC kept or stored on the Public Places will be kept or stored at the risk of FortisBC. For further certainty, FortisBC acknowledges that the Municipality has made no representations or warranties as to the state of repair or the suitability of the Public Places for any business, activity or purpose whatsoever. FortisBC accepts its use of Public Places on an "as is" basis.

11. OPERATING FEE

11.1 Fee Calculation

11.1.1. FortisBC agrees to pay to the Municipality a fee of three percent (3%) of the gross revenues (excluding taxes) received by FortisBC for provision and distribution of all gas consumed within the Boundary Limits of the Municipality, excluding all compressed natural gas and liquefied natural gas distributed from fueling stations, the provision and delivery of all liquefied natural gas, and all gas consumed by customers from whom the BCUC has not allowed FortisBC to collect the fee, and provided that the Municipality is permitted by law to charge such a fee. Such amount will not include any amount received by FortisBC for gas supplied or sold for resale.

11.1.2. The Municipality will provide FortisBC with thirty (30) days prior written notice of any boundary expansion so that existing and new customers in the expanded area can be included as a part of the annual payment fee.

11.1.3. FortisBC will be responsible for adding those existing and new customers within the new Municipal boundary upon receipt of such notice from the Municipality and the revised calculation of the fee will commence effective the date that is the later of the date of actual boundary change or thirty (30) days after the notification under section 11.1.2.

11.2 Payment Date and Period

Payments by FortisBC to the Municipality will be made on the first day of March of each year of the Agreement in respect of the amount received by FortisBC during that portion of the term of this Agreement which is in the immediately preceding calendar year. By way of example only, payment made on March 1, 2024 will be the amount received during the 2023 calendar year.

11.3 BCUC Decision or Provincial Legislation

In the event that a decision by the BCUC, other than periodic rate changes as a result of commodity, delivery or margin increases or decreases, or new legislation by the Provincial Government, impacts the operating fee being paid to the Municipality so as to increase it or decrease it by more than 5% annually at the time of the decision or in subsequent years, the parties shall negotiate a new operating fee formula which best reflects the revenue stream received by the Municipality under this Agreement. For greater certainty, the parties acknowledge that a change to the BCUC's decision that FortisBC shall provide the agency billing and collections service for marketers on a mandatory basis, as set out in the "Business Rules for Commodity Unbundling dated June 5, 2003 as set out in Appendix A to Letter No. L-25-03, may impact the operating fee being paid to the Municipality.

12. OTHER APPROVALS, PERMITS OR LICENSES

Except as specifically provided in this Agreement, the Municipality will not require FortisBC to seek or obtain approvals, permits or licenses. The Municipality will not charge or levy against FortisBC any approval, license, inspection or permit fee, or charge of any other type, that in any manner is related to or associated with FortisBC constructing, installing, renewing, altering, repairing, maintaining or operating Company Facilities on any Public Places or in any manner related to or associated with FortisBC exercising the powers and rights granted to it by this Agreement (other than for repair of damage to the Municipal Facilities or Public Places in accordance with Section 14).

If the Municipality does charge or levy fees or costs against FortisBC (other than for repair of damage to the Municipal Facilities or Public Places in accordance with Section 14) then FortisBC may reduce the annual operating fee payable to the Municipality under Section 11 by an amount equal to such charges, fees or costs or in the event no annual operating fee is payable, FortisBC will not be required to pay such charges or fees or costs.

13. MUNICIPAL OBLIGATIONS

13.1 Municipal Work

13.1.1. Before the Municipality undertakes any construction or maintenance activity which is likely to affect a part of the Company Facilities, excluding routine maintenance and repair that does not involve any cutting of asphalted road surface, it must give FortisBC notice not less than 10 days before commencing such construction or maintenance activity.

Before the Municipality undertakes routine maintenance and repair that does not involve any cutting of asphalted road surface and is likely to affect Company Facilities, it must give FortisBC notice not less than 3 days before commencing such construction or maintenance activity.

13.1.2. Where the Municipality is required to carry out work urgently in the interests of public safety or health or to preserve the safety of property and Municipal Facilities, the Municipality shall not be required to give prior notice but shall do so as soon as possible thereafter.

13.1.3. FortisBC will be entitled to appoint at its cost a representative to inspect any construction or maintenance activity undertaken by the Municipality. The provisions of this section do not relieve the Municipality of its responsibilities under the *Safety Standards Act, Oil and Gas Activities Act*, and successor legislation, regulations thereunder, or the requirements of the BC Workers' Compensation Board.

13.1.4. In addition, the Municipality shall provide Notice to FortisBC of any work planned that will be adjacent to, across, over or under a Transmission Pipeline or within a right-of-way for a Transmission Pipeline. To the extent that FortisBC requires that permit be issued for construction or other activities within a Transmission Pipeline right-of-way, the Municipality will submit an application for such a permit in sufficient time for the application to be reviewed and approved by FortisBC prior to the commencement of the construction or other activity.

13.1.5. The Municipality shall assist FortisBC in FortisBC's efforts to reduce instances of residences being built over gas lines and other similarly unsafe building practices by third parties.

13.1.6. The Municipality shall not interfere with Transmission Pipeline markers.

13.1.7. The Municipality shall provide notice to FortisBC of any damage caused by the Municipality to Company Facilities or Transmission Pipeline Markers as soon as reasonably possible. To the extent that any of the work being done by the Municipality results in damage to the Company Facilities, the Municipality will report such damage and pay FortisBC its costs arising from such damage in accordance with Section 14.1 below.

Where such damage results directly from inaccurate or incomplete information supplied by FortisBC, and the Municipality has complied with all applicable laws and regulations, and with instructions supplied by FortisBC, then the cost of repairing the damaged Company Facilities will be at the expense of FortisBC.

13.1.8. The Municipality shall notify FortisBC of any new bylaws, standards or policies adopted or passed by the Municipality that are likely to affect FortisBC's operations in Public Places.

14. COSTS AND PAYMENT PROCEDURES

14.1 Definition of Costs

Wherever one party is required to pay the other party Costs as a result of damage caused by one party to the other's property, the Costs shall be:

- (a) all direct expenses and disbursements incurred to restore such property to as good a state of repair as had existed prior to the damage;
- (b) reasonable administration and overhead charges on labour, equipment and materials;
- (c) such taxes as may be required in the appropriate jurisdiction;
- (d) in the case of loss of gas or re-lights, the cost of the commodity as determined by the length of time that the gas is leaking, size of pipe and hole and the pressure; and
- (e) in the case of water, electrical or sewer, cost of supplying alternate service.

14.2 Cost Claim Procedures

14.2.1. Wherever one party is claiming Costs of the other party in regard to any work or issue arising under this Agreement the claiming party shall:

- (a) provide an invoice to the other party no later than one year after incurring Costs;
- (b) provide detailed descriptions of the cost items;
- (c) provide the time period the invoice covers;
- (d) provide a minimum of 21 day terms for payment of the invoice; and
- (e) provide for late payment interest at the rate consistent with the party's policy for charging for late payments, which rate must be reasonable;

14.2.2. The party claiming Costs shall have no right of set off for these invoices against any amounts otherwise payable to the other party, except to the extent so approved in writing by the other party.

14.3 Cost Verification Procedures

14.3.1. Wherever either party is the recipient of or is claiming Costs and or fees that party may at its own discretion request from the other party:

- (a) Certification by an officer or designated representative verifying the calculations and computations of the Costs and or fees, or
- (b) An internal review or audit of the calculations and computations of the Costs and or fees, with the internal review or audit to be carried out by a person appointed by the party being asked to provide the review; or
- (c) An independent external audit of the calculations and computations of the costs and fees, with the independent external auditor being a Chartered or a Certified General Accountant in British Columbia appointed by the party requesting the external audit;

14.3.2. The costs of this cost verification process shall be borne by the party who is required to supply the information except as otherwise specified providing the frequency of such requests does not exceed once per calendar year. For all future cases which occur in that calendar year, the costs of such further verifications shall be at the expense of the requester.

Where the independent external audit finds and establishes errors representing a variance greater than 2% of the originally calculated value in favour of the party claiming Costs, the costs shall be at the expense of the party supplying the information. Once an error has been verified, payment or refund of the amount found to be in error will be made within 21 days.

15. START, TERMINATION AND CONTINUITY

15.1 Municipal Authority to Enter into Agreement

Prior to entering into this Agreement the Municipality will complete all procedures, obtain all consents and enact and bring into force all resolutions required under the *Community Charter*, and amendments thereto, and all other applicable legislation, to approve and authorize this Agreement.

15.2 Agreement Not Binding Until Approved by BCUC

15.2.1. This Agreement will not come into effect and does not bind the parties until FortisBC has obtained such approvals of this Agreement, or its terms, as may be required under the *Utilities Commission Act*. Upon executing this Agreement FortisBC shall make reasonable efforts to fulfill this

condition. If this condition is not fulfilled or waived within one (1) year of the date of execution of this Agreement, then the obligation on FortisBC to make reasonable efforts to fulfill this condition will terminate, and neither party will have any further obligation to the other under this Agreement.

15.3 Termination of Franchise Agreement

If not already terminated or expired, any franchise and operating agreement between the Municipality and FortisBC is terminated upon the effective date of this Agreement as referred to in section 15.2 of this Agreement.

15.4 Term of Agreement

This Agreement will have a term of 20 years from the date that it comes into effect and after the initial term shall continue indefinitely unless terminated in accordance with Section 15.5 below.

15.5 Termination of Agreement

15.5.1. This Agreement may be terminated by the Municipality upon the occurrence of any of the following events:

- (a) FortisBC admits its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency;
- (b) FortisBC starts proceedings or takes any action to commence or executes an agreement to authorize its participation in any proceeding:
 - (i) seeking to adjudicate it bankrupt or insolvent;
 - (ii) seeking liquidation, reorganization, arrangement, protection, relief or composition of it or any of its property or debt or making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws; or
 - (iii) seeking the appointment of a receiver, trustee, agent, custodian or other similar official for it or for any substantial part of its assets or if a creditor seeks the appointment of a receiver, trustee, agent, custodian or other similar official for any substantial part of its assets; and such proceeding is not dismissed, discharged, stayed or restrained within 20 days of the Municipality becoming aware of it.

15.5.2. Either party may terminate if other breaches any term, provision, obligation hereunder and such breach, is a material major breach, and has not been cured within sixty (60) days of receipt of Notice of such breach. A Party will not be considered to be in default if such matter is in dispute

or has been referred to commercial arbitration, the outcome of which is pending, or is being resolved in good faith compliance with the dispute resolution and arbitration processes of this Agreement.

15.5.3. After the initial twenty (20) year term of this Agreement, either party may terminate this Agreement by giving the other not less than one (1) year's notice of termination.

15.6 Amendments and Waivers

This Agreement may be amended only by an agreement in writing signed by the parties. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the parties to be bound, and then only to the specific purpose, extent and instance so provided. No waiver, delay or failure to exercise any rights under this Agreement shall be construed as a continuing waiver of such right or as a waiver of any other right under this Agreement.

The parties agree to meet to discuss the operations of the Agreement within thirty (30) days of either party making the request. Such a meeting will determine whether any amendments are required to this Agreement and the parties shall discuss any proposed amendments with a view to maximizing the benefit of the relationship.

15.7 Negotiations on Termination or Expiry of this Agreement

Upon one party giving Notice to the other of termination of this Agreement, the parties shall negotiate in good faith to enter into a new agreement with respect to the terms and conditions under which FortisBC may use the Public Places. In the event that such negotiations break down and in the opinion of one or other of the parties acting in good faith that settlement is unlikely, either party may give Notice to the other of its intention to apply to the BCUC to seek resolution of the terms and conditions applicable to FortisBC's continued operations and construction activities within the Municipality.

15.8 Continuity In The Event No Agreement Is Settled

Upon termination of this Agreement, if a new agreement has not been ratified or if the BCUC has not imposed the terms and conditions under which FortisBC may use the Public Places, the following provisions will apply:

- (a) The Company Facilities within the boundary limits of the Municipality both before and after the date of this Agreement, shall remain FortisBC's property and shall remain in the Public Places.
- (b) The Company Facilities may continue to be used by FortisBC for the purposes of its business, or removed from Public Places in whole or in part at FortisBC's sole discretion.
- (c) FortisBC may continue to use Public Places within the Municipality for the purposes of its business. FortisBC's employees, may enter upon all the Public Places within the Boundary Limits of the Municipality to maintain,

operate, install, construct, renew, alter, or place Company Facilities; provided that FortisBC continues to operate in a manner consistent with the terms and conditions of this Agreement as if the term had been extended except with respect to the payment of the operating fee.

- (d) FortisBC will with the support of the Municipality take such steps necessary to seek BCUC approvals of the extension of terms and conditions including payment of the operating fee under the terminated agreement during negotiations of a new agreement.
- (e) Should FortisBC no longer be authorized or required to pay the operating fee under any Agreement between it and the Municipality or by any order of the BCUC, the Municipality shall be free to apply such approval, permit and licence fees, charges and levies it is legally entitled to collect.

16. ACCOMMODATION OF FUTURE CHANGES

16.1 Outsourcing of Infrastructure Management

In the event that the Municipality assigns the task of infrastructure management to a third party the Municipality will ensure that:

- (a) its contracts for such infrastructure management contain provisions that will allow the Municipality to meet its obligations under and to comply with the terms and conditions of, this Agreement, and
- (b) FortisBC will accept the appointment of such third party as the Municipality's agent or subcontractor to enable such third party to deal directly with FortisBC so as to enable the Municipality to comply with the terms, obligations and conditions of this Agreement.

16.2 Changes to the Community Charter

In the event that the provisions of the *Community Charter* or other legislation affecting the rights and powers of municipalities change in such a way as to materially, in the opinion of the Municipality, affect municipal powers in respect to matters dealt with in this Agreement,

- (a) the Municipality may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and FortisBC agrees to negotiate such terms; and
- (b) failing satisfactory resolution of the terms of the Agreement either of the parties may seek resolution through the Dispute Resolution Process, Section 17.

16.3 Changes to the Utilities Commission Act

In the event that the provisions of the *Utilities Commission Act* or other legislation affecting the rights and powers of regulated Utilities change in such a way as to materially, in FortisBC's opinion, affect FortisBC's powers in respect to matters dealt with in this Agreement,

- (a) FortisBC may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and the Municipality agrees to negotiate such terms; and
- (b) failing satisfactory resolution either of the parties will seek resolution through the Dispute Resolution Process, Section 17.

17. DISPUTE RESOLUTION

17.1 Mediation

Where any dispute arises out of or in connection with this Agreement, including failure of the parties to reach agreement on any matter arising in connection with this Agreement, the parties agree the dispute shall be mediated pursuant to the National Mediation Rules of the ADR Institute of Canada, Inc.

17.2 Referral to the BCUC or Arbitration

If the parties fail to resolve the dispute through mediation, the unresolved dispute shall be referred to the BCUC if within its jurisdiction. If the matter is not within the jurisdiction of the BCUC, such unresolved dispute shall be referred to, and finally resolved by arbitration under the Arbitration Rules of the ADR Institute of Canada, Inc. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.

17.3 Additional Rules of Arbitration

The arbitrator shall issue a written award that sets forth the essential findings and conclusions on which the award is based. The arbitrator will allow discovery as required by the *Commercial Arbitration Act* of British Columbia in arbitration proceedings.

17.4 Appointment of Arbitrator

If the arbitrator fails to render a decision within thirty (30) days following the final hearing of the arbitration, any party to the arbitration may terminate the appointment of the arbitrator and a new arbitrator shall be appointed in accordance with these provisions. If the parties are unable to agree on an arbitrator or if the appointment of an arbitrator is terminated in the manner provided for above, then any party to Agreement shall be entitled to apply to a judge of the British Columbia Supreme Court to appoint an arbitrator and the arbitrator so appointed shall proceed to determine the matter *mutatis mutandis* in accordance with the provisions of this Section.

17.5 Award of Arbitrator

The arbitrator shall have the authority to award:

- (a) money damages;
- (b) interest on unpaid amounts from the date due;
- (c) specific performance; and
- (d) permanent relief.

17.6 Cost of Arbitration

The costs and expenses of the arbitration, but not those incurred by the parties, shall be shared equally, unless the arbitrator determines that a specific party prevailed. In such a case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.

17.7 Continuation of Obligations

The parties will continue to fulfill their respective obligations pursuant to this Agreement during the resolution of any dispute in accordance with this Section 17, provided that, neither party shall proceed with any work or activity or take any further action which is the subject matter of the dispute.

18. GENERAL TERMS & CONDITIONS

18.1 No Liens

FortisBC will do its best to not allow, suffer or permit any liens to be registered against the Company Facilities located in Public Places as a result of the conduct of FortisBC. If any such liens are registered, FortisBC will start action to clear any lien so registered to the Public Place within ten (10) days of being made aware such lien has been registered. FortisBC will keep the Municipality advised as to the status of the lien on a regular basis. In the event that such liens are not removed within ninety (90) days of the registration of such lien, FortisBC will pay them in full or post sufficient security to ensure they are discharged from title.

18.2 Corporate Authority

FortisBC now warrants, represents and acknowledges that:

- (a) it has the full right, power and authority to enter into this Agreement;
- (b) it is a corporation, duly organized, legally existing and in good standing under the laws of its jurisdiction of incorporation or continuance and is lawfully registered and licensed to do business in British Columbia.

18.3 Representations

Nothing in this Agreement shall be deemed in any way or for any purpose to constitute either party as the legal representative, agent, partner or joint venturer of the other, nor shall either party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name of, or on behalf of the other party.

18.4 Assignments and Enurement

This Agreement and any rights or obligations under it are not assignable by either party, without the prior written consent of the other party hereto, such consent not to be unreasonably withheld. This Agreement shall be binding upon, enure to the benefit of, and be enforceable by, the successors and permitted assigns of the parties hereto.

18.5 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

18.6 General

This Agreement is subject to the laws of Province of British Columbia and the applicable laws of Canada, and nothing in this Agreement will be deemed to exclude the application of the provisions of such laws, or regulations thereunder.

18.7 Entire Agreement

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter herein contained and supersedes all prior agreements and undertakings with respect thereto.

18.8 Severability

If any provision of this Agreement is held invalid by any court, governmental agency or regulatory body, the other provisions to the extent permitted by law shall remain in full force and effect. To the extent permitted by applicable law, the parties hereby waive any provision of law that renders any provision hereof prohibitive or unenforceable in any respect.

18.9 Force Majeure

Neither party shall be liable to the other for temporary failure to perform hereunder, if such failure is caused by reason of an Act of God, labour dispute, strike, temporary breakdown of facilities, fire, flood, government order or regulations, civil disturbance, non-delivery by program suppliers or others, or any other cause beyond the parties' respective control.

18.10 Notice

Any notice or other written communication required, or permitted to be made or given pursuant to this Agreement (the “Notice”) shall be in writing and shall be deemed to have been validly given if delivered in person or transmitted electronically and acknowledged by the respective parties as follows:

A) if to the Municipality:

THE CORPORATION OF THE CITY OF PENTICTON
171 Main Street
Penticton, BC V2A 5A9

(B) If to FortisBC:

FORTISBC ENERGY INC.
16705 Fraser Highway
Surrey, B.C. V4N 0E8
Attention: Vice President, Regulatory Affairs

THE CORPORATION OF THE CITY OF PENTICTON
by its authorized signatories

Authorized Signatory

Authorized Signatory

FORTISBC ENERGY INC.
by its authorized signatories

Authorized Signatory

Authorized Signatory

Council Report

penticton.ca

Date: October 17, 2023
To: Anthony Haddad, City Manager
From: Len Robson, Public Works Manager

File No: 6120-20

Subject: Update on Dog Park Status and Recommended Improvements

Staff Recommendation

THAT Council receive into the record the report dated October 17, 2023 titled "Update on Dog Park Status and Recommended Improvements";

AND THAT Council approve \$200,000 for the capital upgrades to the existing off-leash dog parks to be funded from the Gaming Reserve;

AND THAT Council direct staff to conduct a "leash-optional" pilot project at the following locations;

- Riverside Park – 187 Riverside Drive
- Okanagan Park – 45 Lakeshore Drive East
- Skaha Lake Park – Main – 3661 Parkview Street
- Skaha Lake Park – East – 3895 Lakeside Road
- Water Treatment Plant Entrance – 1900 Penticton Ave

at an estimated capital cost of \$15,000, funded by the Gaming Reserve;

AND THAT the 2023-2027 Financial Plan be amended to include the above noted funding;

AND FURTHER THAT staff be directed in 2024 to develop a longer term strategy to evaluate the need, and identify possible locations, for additional dog facilities within the City.

Strategic priority objective

Livable & Accessible: The City of Penticton will proactively plan for deliberate growth; focused on an inclusive, healthy, safe and desirable place to live.

Vibrant & Connected: The City of Penticton will support vibrant and diverse activities creating opportunities for connection in community.

Background

On August 15, 2023 the “People for Penticton Pets” (PPP) attended the regular Council meeting as a Delegation and presented to Council their ideas for: establishing additional off-leash dog parks, an area for small and senior dogs, relaxed seasonal dog regulations, enhanced conditions for existing dog parks and expanded tourism opportunities. Following which Council resolved:

309/2023

It was MOVED and SECONDED

THAT Council direct staff to report back in October with information on the status of the City dog parks and improvement options.

CARRIED UNANIMOUSLY

In accordance with the above noted resolution, staff conducted an audit of the City’s existing facilities. The City of Penticton’s six off-leash areas can be divided into two categories as outlined in the table below.

Water Front Off-Leash Areas / Parks	General Off-Leash Areas /Parks
<ul style="list-style-type: none"> • Okanagan Lake Park – Okanagan Lake 	<ul style="list-style-type: none"> • Dartmouth Drive Off-Leash Area
<ul style="list-style-type: none"> • 3 Mile Beach – Okanagan Lake 	<ul style="list-style-type: none"> • Ellis Creek Off-Leash Area
<ul style="list-style-type: none"> • Lakeside Rd. Dog Beach- Skaha Lake 	<ul style="list-style-type: none"> • Water Treatment Plant Off-Leash Area

A fully detailed analysis of the amenities and associated deficiencies are provided as Appendix A, and can be generally summarized as follows:

Water Front Off-Leash Areas / Parks	General Off-Leash Areas /Parks
<ul style="list-style-type: none"> • Accessibility concerns 	<ul style="list-style-type: none"> • Accessibility concerns
<ul style="list-style-type: none"> • Inadequate maintenance service levels 	<ul style="list-style-type: none"> • Inadequate maintenance service levels
<ul style="list-style-type: none"> • Trash receptacle access / location 	<ul style="list-style-type: none"> • Limited small dog areas
<ul style="list-style-type: none"> • No defined small dog areas 	<ul style="list-style-type: none"> • Poor surface conditions – dusty / dirty
<ul style="list-style-type: none"> • Inadequate size 	<ul style="list-style-type: none"> • Inadequate / no shade
<ul style="list-style-type: none"> • Parking (capacity & safety) 	<ul style="list-style-type: none"> • No potable water (1 of 3)
<ul style="list-style-type: none"> • Gate improvements 	<ul style="list-style-type: none"> • Gate improvements

On Sept 7, and Sept 19, 2023 staff met with the representatives of PPP to review the existing off-leash areas, identify deficiencies, and to discuss opportunities for improvements. Working in collaboration, staff and PPP developed a list of proposed improvements for each location, which are detailed in Appendix A, and are generally summarized as follows:

All Areas:

- Increase maintenance standards
 - Weekly inspections with follow up maintenance
 - Frequent vegetation control
 - Increased litter pick up and removal

- Improve & update signage
- Install self-closing gates
- Improve accessibility
- Review and improve litter receptacle availability
- Enhanced Bylaw Services presence

Ellis Creek Off-Leash Park – 100 Industrial Place:

- Surface upgrade – engineered wood fiber
- Shade structure installation
- Dog activity area installation (jumps, obstacles, sand feature, etc)
- Provision of overhead lighting

Dartmouth Off-Leash Park – 2088 Dartmouth Road:

- Surface upgrade – pea gravel / engineered wood fiber / alternate surfaces – TBD pending outcome & feedback of Ellis Creek Off-Leash Area surface upgrades
- Reduce the size of the small dog area and develop a “reactive dog area” c/w new access gates and potable water supply to each area
- Shade structure installation for the large dog area

Water Treatment Plant Off-Leash Area – 1900 Penticton Ave:

- Install potable water fountain
- Provision of overhead lighting

Okanagan Lake Beach Off-Leash Area – 45 Lakeshore Drive East

- Install accessible walkway

Lakeside Road - Beach Off-Leash Area – 4851 Lakeside Road

- Install stairs or ramp
- Traffic safety improvements
 - Vegetation removal to improve traffic sight lines
 - Potential speed reduction area
 - Signage

3 Mile Beach Off-Leash Area – 802 Three Mile Road

- Install stairs or ramp

The estimated capital cost for the recommended upgrades to the City’s existing facilities is approximately \$200,000. Staff are also estimating that the increased service levels will require an additional \$17,000 in the Parks Department operating budget, however, staff intend to monitor these costs over 2024 for inclusion in the 2025 budget.

Leash Optional Pilot Program:

Staff also heard from PPP and Council the desire for more off-leash areas throughout the City. Finding suitable dedicated dog park sites and engaging with the broader community on potential locations will take

time, and it is recommended that this work be included in the Parks 2024 work plan. In the meantime, in collaboration with PPP, staff explored the idea of “Leash Optional” areas within the City. Leash optional areas are designated public areas where dog owners / handlers can run or play with their dog off-leash (legally) without exclusive use and without the need for fencing.

These areas, which are being used in other communities, require site specific regulations pertaining to off-leash activities such as the following:

- Must have dog within site and verbal control at all times
- Pick up your dog’s waste
- Keep dog on leash outside of designated leash optional area
- Stop your dog from running into or jumping up on people
- Up to date dog license tags are required
- No aggressive dogs allowed
- No more than 2 dogs per person allowed

Penticton Animal Control and Bylaw Services noted that the areas will need to be well signed, and that shared use of these spaces may lead to increased calls for service. They also expressed general concerns about public safety in some of the locations, such as Riverside Park given the proximity to the skate park, and acknowledged that other areas, such as Okanagan Park, are often used as an unofficial off-leash area with very little issues reported.

The leash optional concept has been implemented in other communities, including Victoria, Esquimalt, Delta, Pit Meadows and others, as such staff is recommending that the City of Penticton implement a pilot project to determine if this type of program could be successful in Penticton. Staff are proposing the pilot project run over a period of 6 months at five different locations, with monitoring and support from bylaw staff, and ongoing public feedback opportunities. It is proposed that the pilot project run from March 1st to August 31st, 2024 after which staff will report the results of the pilot project to Council in order to determine if the program should continue.

Areas within the following Parks are being recommended for inclusion in the Leash Optional Pilot Project (further details of each area can be found in Appendix B – Proposed Leash Optional Areas):

- Riverside Park – 187 Riverside Drive
 - Currently a low use park area / parking area and channel access are busy in summer months
 - Well defined access / egress
 - Grassed area
- Okanagan Lake Park – 45 Lakeshore Drive East
 - Currently often used as a unofficial off-leash area
 - Adjacent off-leash beach area
 - High tourist area
- Skaha Park Main - 3661 Parkview Street
 - Currently a low use section of the park
 - One of the few potential areas on the south side of the City
- Skaha Park East – 3895 Lakeside Road
 - Currently a low use section of the park

- One of the few potential areas on the south side of the City
- 1900 Penticton Ave – Entrance to the Water Treatment Plant
 - Low volume road – closed to traffic daily from 6:00 pm to 6:00 am
 - Access to Water Treatment Plant Off-Leash area

These areas have been selected as they are located within existing park areas (with the exception of 1900 Penticton Ave), and spread out within the community allowing convenient access to residents and tourists. Multiple sites are recommended to minimize the high use impact on an area which could occur if only one site was offered.

It should be noted that leash optional areas that are not fenced can be problematic for the general public and the pet handlers. Potential concerns may include:

- People who are walking their dog on leash often don't want to be approached by off-leash dogs
- People who don't have a dog that is dog friendly don't want to be approached by an off-leash dog
- Some people have fear of their dog getting attacked which is common for seniors with small breed dogs who cannot defend their dog in the event of an attack
- Some people are not comfortable around dogs or are afraid of dogs
- Some people are not fully aware of their dogs behavioral traits that may render the dog not suitable for leash optional areas
- Dogs like to chase moving things which could put people on skate boards, cyclists and motorists at risk

The implementation of the Leash Optional Pilot Project will require public messaging and engagement, as well as signage, trash receptacles, dog bag dispersers, additional monitoring and maintenance by Operations Staff, and support and enforcement by Animal Control and Bylaw. It is important to note that the City can terminate the pilot project at any time should there be issues at one, or all, of the pilot locations.

The estimated capital cost for the pilot project is roughly \$15,000. Staff are also estimating that there may be operational costs associated with the pilot project (such as additional animal control costs), however, staff intend to monitor these costs such that they can be considered in the broader evaluation of the pilot project.

Creation of new "single-use" amenities in the community, such as the traditional fenced dog parks, are difficult to come by due the size of land required. They can also be difficult to locate in existing infill residential neighborhoods where they are most desired. Staff are supportive of piloting the "leash optional" areas as they could support higher utilization of existing park spaces and could eliminate the need for costly, single-use facilities.

Financial implication

The upgrades to the existing off-leash areas are estimated as follows:

- Ellis Creek Off-Leash Area \$65,500
- Dartmouth Off-Leash Area \$65,500 (Pea Gravel) \$79,000 (Engineered Wood Fiber)
- Water Treatment Plant Off-Leash Area \$21,750
- Okanagan Lake Beach Off-Leash Area \$ 9,300
- Lakeside Road - Beach Off-Leash Area \$21,200

impacts dogs can have on those who dislike or fear dogs, and on the environment. Dog walking is an activity with strong public views from a variety of perspectives. Those who own dogs generally want more off-leash opportunities, and some residents (dog and non-dog owners) are concerned about inappropriate behavior by some dogs and their owners. Best practices are to offer a range of types of dog off-leash areas, including parks, trails and beaches, and to provide reasonable access to these areas for most residents.

The benchmarking for the BC communities of a similar population showed that Penticton is at the high end in terms of provision of dog off-leash areas. Most of the other communities do not have beach access for dogs so that is another strength of Penticton. On the other hand, Penticton’s dog off-leash parks are relatively small.

Alternate recommendations

Alternative options include improving the existing dog parks, developing a longer term strategy for additional dog facilities within the City in 2024, but not proceeding with the leash optional pilot project at this time. Or;

Council may wish to proceed with some but not all of the recommended leash optional pilot project areas.

Or;

THAT Council provide alternative direction to staff on the next steps of this task.

Attachments

Appendix A – Off-Leash Areas / Deficiencies / Opportunities

Appendix B – Proposed Leash Optional Areas

Respectfully submitted,



Len Robson
Public Works Manager

Concurrence

General Manager of Infrastructure <i>KD</i>	Director of Development Services <i>BL</i>	Director of Finance and Administration <i>AMC</i>	City Manager <i>SH</i>
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Appendix A – Ellis Creek Off-Leash Park – 100 Industrial Place



Legend	Dog Park Boundary	Petstand	Bike Rack
	Total Area: ~1106 m2	In-Ground Garbage Can	Picnic Table
	Surface Material: Sand & Grass	Potable Water Spout	Bench
	Parking Lot (~560 m2)	G1 Gate 1 - (enclosed w/ chain-link fence)	
	1.2m Chain- Link Fence (196 lm)	G2 Gate 2 - maintenance gate	
	G3 Gate 3 - (enclosed w/ chain-link fence)		
* This dog park has an underground irrigation system			



Deficiencies Identified:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Poor surface – dusty & dirty • Lack of shade • Access concerns for mobility challenged • Gates are not self-closing | <ul style="list-style-type: none"> • Inadequate maintenance levels • No small dog area • No lighting • Inadequate signage |
|--|---|

Recommendations for Improvement:



Opportunities Identified:

- | | |
|---|--|
| <ul style="list-style-type: none"> • Surface Upgrade – Engineered Wood Fiber • Install dog activity area • Shade structure • Install accessible walkway | <ul style="list-style-type: none"> • Increase maintenance service levels • Improved Signage • Self-closing gates • Provide overhead lighting |
|---|--|

Appendix A – Dartmouth Off-Leash Park – 2088 Dartmouth Road



Legend

Dog Park Boundary	In-Ground Garbage Can	Picnic Tables
Parking Lot (~560 m ²)	Potable Water Spout	Petstand
1.2m Chain-Link Fence (270 lm)	G1 Gate 1 - (enclosed w/ chain-link fence)	G2 Gate 2 - (enclosed w/ chain-link fence)
	G3 Gate 3 – maintenance gate	



Deficiencies Identified:	
<ul style="list-style-type: none"> • Poor surface – dusty & dirty • Lack of shade • Access concerns for mobility challenged • Gates are not self-closing • Inadequate signage 	<ul style="list-style-type: none"> • Inadequate maintenance levels • No direct access to small dog area • No water supply to small dog area • No litter disposal in small dog area • Not zoned park – will eventually be removed for industrial / commercial use

Recommendations for Improvement:



Opportunities Identified:	
<ul style="list-style-type: none"> • Surface Upgrade – Pea Gravel or Engineered Wood Fiber • Small dog & reactive dog (in training) areas • New direct access gates to small and reactive dog areas • Shade structure – large dog area • Water supply to small / reactive dog areas 	<ul style="list-style-type: none"> • Regrade parking area • Install accessible walkway to existing sidewalk • Install accessible area within each of the areas • Install additional litter containers • Increase maintenance service levels • Improved Signage • Self-closing gates

Appendix A – Water Treatment Plant Off-Leash Area – 1900 Penticton Ave



Legend	Dog Park Boundary	Path to Dog Park	Picnic Table
	Total Area: ~1496 m ²	In-Ground Garbage Can	Bench
	Surface Material: Sand	G1 Gate 1 - (enclosed w/ chain-link fence)	
	Parking Lot (~255 m ²)	G2 Gate 2 - maintenance gate	
	2.1m Chain- Link Fence (73 lm)		
1.2m Chain- Link Fence (100 lm)			



Deficiencies Identified:	
<ul style="list-style-type: none"> • Poor surface – dusty & dirty • Lack of shade • Access concerns for mobility challenged • Gates are not self-closing • Inadequate signage 	<ul style="list-style-type: none"> • Inadequate maintenance levels • No potable water supply • No small dog area • No lighting

Recommendations for Improvement:



Opportunities Identified:	
<ul style="list-style-type: none"> • Install accessible walkway • Install potable water • Provide overhead lighting 	<ul style="list-style-type: none"> • Increase maintenance service levels • Improved Signage • Self-closing gates

Appendix A – Okanagan Lake Beach Off-Leash Area – 45 Lakeshore Drive East



Legend	 Dog Park Boundary	 Bike Rack
	• Total Area: ~650 m ²	 Picnic Table
	• Surface Material: Sand	G1 Gate 1- (chain-link fence)
	 1.2m Chain- Link Fence (71 lm)	G2 Gate 2 - (chain-link fence)
● Petstand		

Deficiencies Identified:	
<ul style="list-style-type: none"> • Access concerns for mobility challenged • Gates are not self-closing • Inadequate size 	<ul style="list-style-type: none"> • Inadequate maintenance levels • Inadequate signage

Recommendations for Improvement:



Opportunities Identified:	
<ul style="list-style-type: none"> • Install accessible walkway • Improved Signage 	<ul style="list-style-type: none"> • Increase maintenance service levels • Self-closing gates

Appendix A – Skaha Lake Beach Off-Leash Area – 4851 Lakeside Road



Legend	Dog Park Boundary	Petstand
	Parking Lot (~320 m ²)	In-Ground Garbage Can
	1.2m Wood Stake & Mesh Fence (141 lm)	Dog Water Spout
	Picnic Table	Gate 1- (enclosed w/ chain-link fence)
		Gate 2 – maintenance gate



Deficiencies Identified:	
<ul style="list-style-type: none"> • Poor surface – dusty & dirty • Access concerns for mobility challenged • Gates are not self-closing • Inadequate signage 	<ul style="list-style-type: none"> • Inadequate maintenance levels • Inadequate litter disposal • Inadequate parking – parking safety concerns

Recommendations for Improvement:



Opportunities Identified:	
<ul style="list-style-type: none"> • Install stairway or ramp • Improved Signage • Ground cover vegetation removal • Ground leveling & seeding • Increase onsite litter receptacles 	<ul style="list-style-type: none"> • Increase maintenance service levels • Self-closing gates • Improve sight lines to parking area • Improve road signage for safety improvement

Appendix A – 3 Mile Beach Off-Leash Area – 802 Three Mile Road



Legend

- Dog Park Boundary
 - Total Area: ~1700 m²
 - Surface Material: Sand
- Parking Lot (~760 m²)
- In-Ground Garbage Can
- Petstand



Deficiencies Identified:	
<ul style="list-style-type: none"> Access concerns for mobility challenged Inadequate parking 	<ul style="list-style-type: none"> Inadequate maintenance levels Inadequate signage

Recommendations for Improvement:



Opportunities Identified:	
<ul style="list-style-type: none"> Install stairway or ramp Improved Signage Vegetation removal where possible 	<ul style="list-style-type: none"> Increase onsite litter receptacles Increase maintenance service levels

Appendix B – Proposed Leash Optional Areas

Riverside Park – 187 Riverside Drive



Okanagan Park – 45 Lakeshore Drive East



Appendix B – Proposed Leash Optional Areas

Skaha Lake Park Main – 3661 Parkview Street



Skaha Lake Park East – 3895 Lakeside Road



Appendix B – Proposed Leash Optional Areas

Water Plant Off-Leash Area Entrance – 1900 Penticton Ave



Council Report

penticton.ca

Date: October 17, 2023
To: Anthony Haddad, City Manager
From: Ken Kunka, Building and Permitting Manager

File No: RMS/3760-20 Special Projects

Subject: Energy Step Code and Zero Carbon Step Code Update

Staff Recommendation

THAT Council elect to opt-in to the Zero Carbon Step Code;

AND THAT Council direct staff to bring back changes to the Building Bylaw to support EL-1 'measure only' for 2024 with a plan for moving to EL-2 for new construction by 2025;

AND THAT the City maintain the current approach to the energy step code for 2024 and 2025 with the goal of moving to Step 4 for Part 9 buildings in 2026;

AND THAT Council direct staff to amend applicable bylaws putting in place the following incentives for meeting the Zero Carbon Step Code and higher steps of the Energy Step Code:

- Projects that meet EL-2 or higher of the Zero Carbon Step Code receive a similar Building Permit fee refund as is currently in place for the Energy Step Code
- Projects that meet EL-4 of the Zero Carbon Step Code AND Step 4 and above of the Energy Step Code be eligible for an additional accessory dwelling unit on their property, above and beyond what the zoning bylaw currently permits for maximum number of units and density, up to 90m² in size and without a requirement for an additional vehicle parking space

Strategic priority objective

- **Vision:** A vibrant, resilient and healthy waterfront city focused on safety, livability and vibrancy.
- **Livable & Accessible:** The City of Penticton will proactively plan for deliberate growth; focused on an inclusive, healthy, safe and desirable place to live. Committed to minimizing environmental impacts of new development and adopting to climate change in our community.

Executive Summary

The province is accelerating their Clean BC initiative with the introduction of two revisions to the BC Building Code that will see construction of new homes shift to low-carbon in line with the goals of all new construction being zero carbon by 2030. The first change requires all 'new' buildings to meet 20% greater energy efficiency than BC Building Code minimums, which is equal to Step 3 of the *Energy STEP Code*, first introduced in 2017. The second change is the introduction of the new *Zero Carbon STEP Code*. At this time the *Zero Carbon STEP Code* is voluntary for municipalities to opt into if they desire. Penticton has a history of

leadership in adoption of the Energy STEP Code in 2018 and Council directed staff to come back with options to respond to the province’s latest initiatives. This report recommends that the City voluntarily opt-in to the *Zero Carbon Step Code* at the entry level measure, with the goal of moving up to the next level in 2025 and for the City to maintain our current *Energy Step Code* levels, with the goal of moving up to the next levels in 2026, ahead of the provincially mandated jump in 2027. This report also recommends putting in place incentives for those builders wishing to move to higher levels of the Energy Step Code and Zero Carbon Step Code.

Background

At the March 21, 2023 Committee of the Whole, two delegations presented information to City Council making recommendations about sustainable building practices. The first delegation, from First Things First Okanagan, presented on the new BC Zero Carbon Step Code and challenged the City to opt-in to the new Provincial program. The second delegation was from two local designer/builders with recommendations around moving towards more sustainable construction through incentives and streamlining processes rather than through new regulations.

At the Council meeting following the Committee of the Whole, Council passed the following resolution:

135/2023 **It was MOVED and SECONDED**
 THAT Council direct staff to report back with information regarding incentive ideas for step code and net-zero ready building.

CARRIED UNANIMOUSLY

This report is in response to that direction and outlines where the province is at with the existing Energy Step Code and the new Zero Carbon Step Code programs. The report makes several recommendations on where the City should go with regards to the new program, where we should be with regards to the energy step code, and recommends incentives that will make meeting these new requirements attractive to the construction industry.

New provincial initiatives

In May of this year, the province announced new initiatives pertaining to the energy efficiency of new buildings (Attachment A). The first change announced was a requirement for all new construction to meet 20% more energy efficiency than the minimum BC Building Code standard – equivalent to Step 3 on the Energy Step Code for small buildings (Part 9 buildings) and Step 2 for large buildings (Part 3 buildings). The second announcement was the introduction of a new energy modeling system called the Zero Carbon Step Code (ZCSC), which deals with carbon emissions of new construction.

The two announcements are part of the Province’s commitment towards their Clean BC 2030 goals – where new buildings are to be zero carbon by 2030 and net-zero energy ready by 2032.

The province originally introduced the Energy Step Code in 2017. The Energy Step Code has 5 steps, with each step having a higher requirement for energy performance and building efficiency above and beyond what the BC Building Code requires. When originally introduced the province allowed municipalities to opt-in or out of the requirement, but has over time made meeting certain levels of the Step Code increasingly mandatory, leading to the May 2023 changes shared above. The next step up is scheduled for 2027, where all new Part 9 buildings will be required to meet Step 4.

The Zero Carbon Step Code (ZCSC), introduced in May of 2023 has a different but related focus to the Energy Step Code. Whereas the Energy Step Code requires buildings to have a specified energy efficiency, the ZCSC focuses on emissions reductions – with the goal of having buildings with zero carbon emitting emissions (ie no natural gas used for space or water heating or cooking) at its highest level (EL – 4).

Rather than numerical steps the ZCSC is categorized into the following 4 categories “Measure Only” (EL-1), “Moderate Carbon Performance” (EL-2), “Strong Carbon Performance” (EL-3) and “Zero Carbon Emissions” (EL-4). There are two ways of showing compliance to the ZCSC. The first as shown on the graphic below (figure 1), is for BCBC Part 9 buildings, and is a proscriptive method that requires less reliance on natural gas/fossil fuels.

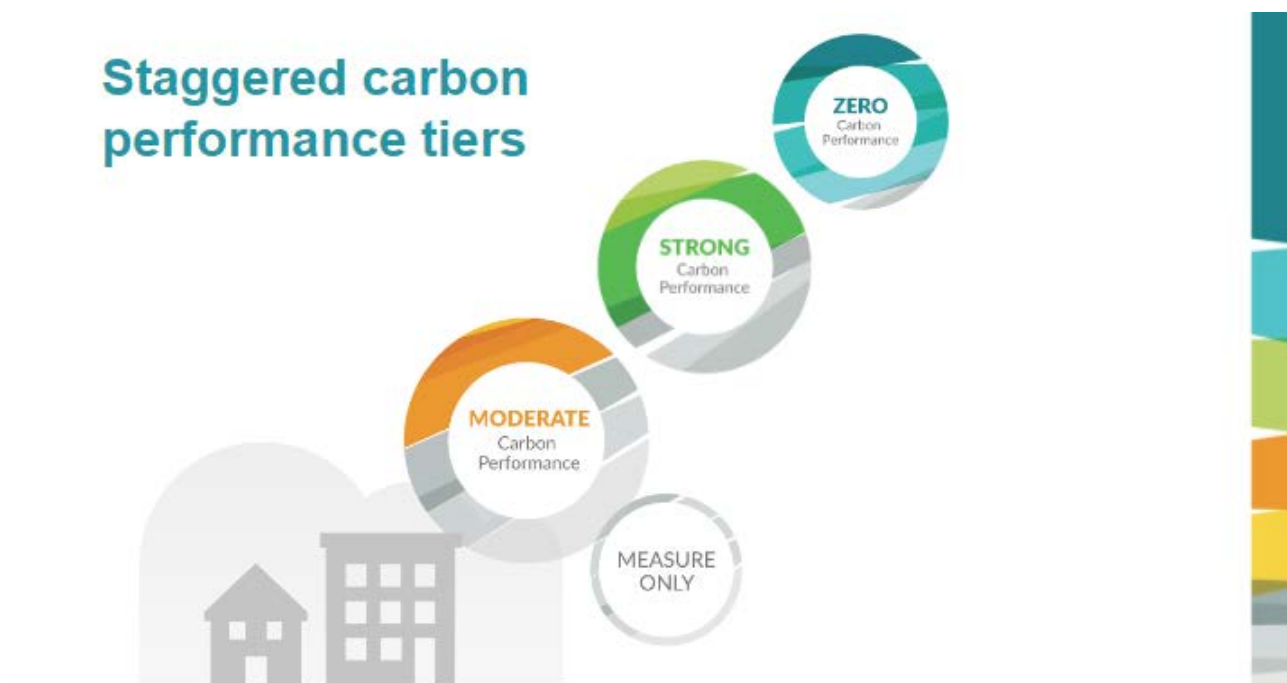


Figure 1: Proscriptive method for meeting Zero Carbon Step Code categories (graphic from BOABC)

The other performance measure used for BCBC Part 3 buildings is a system-based numerical GHG emissions calculation that has a certain allowable emissions level for each step.

Like when the Energy Step Code was first introduced, municipalities have the ability to opt-in to the new standard. The ZCSC will, like the Energy Step Code, become mandatory eventually as the province attempts to meet its 2030 commitments. The province has not shared timelines yet on when the moderate and strong steps will be required, but it is likely that over the next few years the province will mandate these requirements and it is anticipated that they will require EL-4 (Zero Carbon) by 2030.

With regard to the Energy Step Code, Local governments will continue to have the ability to adopt Step 4 or higher for Part 9 buildings, and Step 3 or higher for Part 3 buildings. However, it will no longer be necessary for local authorities to adopt by bylaw either the Step 3 standard for Part 9 buildings or the Step 2 standard for Part 3 as these standards have become universally applicable province-wide as the new minimum acceptable standard for compliance with the BCBC.

The following chart outlines where the province is on the two programs:

	<i>Building Type</i>	<i>May 2023</i>	<i>2024</i>	<i>2027</i>	<i>2030</i>	<i>2032</i>
BC Energy Step Code	<i>BCBC Part 9 (small buildings)</i>	<i>Step 3</i>		<i>Step 4</i>		<i>Step 5</i>
	<i>BCBC Part 3 (large buildings)</i>	<i>Step 2</i>		<i>Step 3</i>		<i>Step 4</i>
Zero Carbon Step Code		<i>Introduced, optional compliance</i>	<i>TBD</i>	<i>TBD</i>	<i>EL-4</i>	

Figure 2: Provincial timelines on energy and zero carbon step codes

Further information related to the Energy and Zero Carbon Step Codes can be found in Attachments A.

Municipal update

Penticton was a leader in the province in the implementation of the Energy Step Code. The adoption of the 2018 Building Bylaw set a high standard for energy efficiency and City Building Department staff have worked hard to bring the local industry along, with both ambitious requirements (usually a step ahead of the province) and incentives for achieving higher levels (ie building permit reductions, blower door testing rebates etc.). Building Department staff have also provided many industry training sessions and through a grant from Fortis BC, hired a specific Building Inspector for two years to assist applicants on meeting the new Energy Step Code requirements.

As of May 1st, the province has caught up to where Penticton is on our Step Code journey. Penticton does continue to offer incentives for projects that build above this level. Incentives for achieving higher Step Code performance than Code minimum will continue to receive a 5% permit fee refund for those projects achieving Step 4 or 5.

In 2021, the City adopted a new Climate Action Plan, which includes commitments around moving to zero emission buildings. That plan showed that 32% of the greenhouse gas emissions generated in the City of Penticton are from our homes and buildings. The main source of those emissions are from space and water heating. The Plan calls for the City to adopt Step 4 of the BC Energy Step Code prior to the 2027 provincial deadline and calls for the City to opt-in to any provincial carbon metrics for new buildings if/when they become available.

The City has also taken many other measures to promote more sustainable construction, such as Electrical Vehicle Ready requirements in all new buildings (2023), increased requirements for shade tree planting (2019) and the support of a parking reduction pilot (2023), among many other policy changes.

With the new Zero Carbon Step Code coming into existence, a decision is required on whether Penticton should take a similar leadership approach as was taken with the Energy Step Code. Several municipalities have already come out with aggressive approaches (Victoria, Nelson, and Nanaimo as examples). Alternatively, the City could take a more measured approach at this time given the current state of the construction industry (discussed in further detail in the Analysis section). The City will also have to make a decision on where we want to be on the Energy Step Code continuum – the province is scheduled to move to make Step 4 mandatory for all small buildings by 2027. As stated above, our Climate Action Plan recommends moving ahead of the province on the requirement for Step 4.

Proposal

Staff are recommending that Council opt-in to the Zero Carbon Step Code but take a ‘monitor only’ (EL-1) approach for 2024 with a goal of moving to EL-2 in 2025. This would provide a year to monitor how closely buildings are coming to meeting the new requirement and for the industry to get ready for the new regulations for 2025. Staff are also recommending no changes to the current approach on the Energy Step Code for 2024 or 2025, but move towards Step 4 for Part 9 buildings in 2026.

Staff are also recommending including incentives for buildings that do meet a higher standard on the ZCSC, similar to what is provided with Energy Step Code compliance (building permit rebates). Building Permit rebates are used by many municipalities to incentivize more sustainable construction. Staff have seen some success in this with 34 projects receiving rebates in the past 3 years. Fortis BC and other governmental organizations also provide rebates and other financial incentives to builders meeting higher levels of sustainability.

In addition to rebates, staff are also recommending that projects that meet the highest levels of the step code be granted a density bonus in the form of an additional dwelling unit, up to 90m2 in size, above and beyond what the density and maximum unit count of the current zoning permits. This unit would also not require an additional parking space.

Should Council support the proposed changes, the Building Department and Climate Action Department staff will host information sessions throughout 2024 to assist the building community in getting ready for the new requirements.

Financial implication


There are no immediate impacts to City finances for opting in to the Zero Carbon Step Code. The 2024 Building Department budget includes ongoing builder workshops and staff training to bring the industry up to speed on the new requirements and to ensure staff have the skills and training to review compliance with the new requirements.

Providing an incentive for meeting the ZCSC may impact the City’s Building Permit revenue. Currently, the City provides a 5% building permit rebate for meeting energy step code levels higher than required by the City. So far, this incentive has had nominal impacts on the City’s Building Permit revenue (\$20,000 in rebates paid out over a 3 year period).

Climate Impact

The City’s Green Build program, which emphasizes new construction, plays a significant part in the City’s overall Community Climate Action Plan (CCAP). The recent changes implemented within the Provincial Energy and Zero Carbon Step Codes are in alignment with the city’s plan outlined in New Build 1.2: Adopt a low-carbon approach to the Step Code (p. 56).

<p>NEW BUILD 1.2</p> <p>Adopt a low-carbon approach to the Energy Step Code</p>	<p><input type="checkbox"/> Conduct consultation with the local building industry about low carbon approaches to the Energy Step Code</p>	<p><input type="checkbox"/> Adopt a tiered approach encouraging low carbon energy systems (e.g. Step 3 community wide, Step 2 if they connect their project to a district energy</p>	<p><input type="checkbox"/> Adopt the Provincial GHG metrics when they become available</p>	<p><input type="checkbox"/> Investigate opportunities to address embodied carbon in the construction sector</p>
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 <p>Lead: Buildings</p>		<p>system or implement a low carbon energy system</p>		
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To meet the CCAP GHG reduction target of a 40% reduction in emissions below 2007 levels by 2030, 67.5% of new homes will be required to have zero-carbon heating sources starting in 2023 (p. 73). New homes will need to be built with zero carbon heating sources, such as heat pumps, as heating homes with natural gas significantly increases emissions in comparison to using electricity for space and water heating.

Electricity is nearly emissions free in BC and heat pumps use 1/2 to 1/4 the energy of a home heated by baseboard heaters, saving energy and money for residents over the long run. Each new building that is inefficient and has a fossil heating system is one more building that will need to be retrofitted at a later date.

Analysis

Staff’s recommendations will make progress towards a lower carbon future and ensure our new buildings are constructed as energy efficiently as possible.

While this recommendation does not move as quickly from a regulatory perspective as some may wish and as quickly as some other communities have done, there are other issues to consider, such as housing affordability and availability. The construction industry, particularly for housing, is in a precarious moment, with several headwinds slowing progress – high construction costs, inflation, high interest rates, labour shortages and supply chain issues. We are seeing these challenges play out in real time with a significant slowing down of housing construction in Penticton over the past year, despite unprecedented demand for housing. Adding additional costs through higher regulations can compound the already precarious state of the industry and add complexity to building projects. In addition, the province is expected to make significant changes to the BC Building Code in late 2023, requiring the industry to evolve to meet those changes as well.

Furthermore, staff are recommending two incentives that have the potential to make meeting higher levels attractive for developers. The reduction in building permit fees can offset some of the additional costs of meeting the new higher Code requirements. But more impactful will be the ability to add a bonus suite to any housing project that meets the higher code requirement.

The proposals recommended by staff move us in a measured way towards the targets in our Climate Action Plan. Staff will continue to work with industry partners to make this transition to a low carbon future as collaborative as possible through continued education sessions and workshops.

In conclusion, staff recommend that Council opt-in to the Zero Carbon Step Code program at a EL-1 (measure only) level for 2025 and EL-2 for 2025 and that the City maintain the status quo on the Energy Step Code for 2024 and 2025, looking to move to Step 4 for Part 9 buildings in 2026. And further that Council support the two incentives recommended by staff: Building Permit fee reductions/refunds and amendments to the zoning bylaw allowing an additional accessory dwelling unit for buildings meeting the higher thresholds.

Alternate recommendations

Council may wish to take a more aggressive approach to meeting our climate action targets. If this is the case, Council could direct staff to amend our bylaws to achieve a higher level on both the Energy Step Code and Zero Carbon Step Code. If that is the direction Council wishes to proceed, staff recommend not going higher than Zero Carbon Step Code EL-2 and Energy Step Code Step 4 for 2024, to ensure the industry has some time to prepare for the changes. Staff, however, are not recommending this approach at this time as Council has set housing affordability and availability as a priority and adding this additional consideration onto an industry currently experiencing significant challenges, may result in a further slowdown in construction.

Alternatively, Council may wish to maintain our status quo approach and monitor the experiences of other communities that are looking at being more aggressive with their building requirements. If that is the case, staff recommend Alternative 2.

1. THAT council elects to opt in to the Zero Carbon Step Code at level EL-2 and Step 4 of the Energy Step Code 4 for 2024.
2. THAT Council opt in to the Zero Carbon Step Code for 2024 at EL-1 and maintain the status quo on the Energy Step Code, but direct staff to bring back a report on a granting program for builders who build to the higher levels.
3. THAT Council elect to take a status quo approach and wait for the province to mandate the Zero Carbon Step Code and any higher steps on the Energy Step Code prior to the


Attachments

- Attachment A – BC Building Safety Standards Branch: 20% Better Energy Efficiency and Zero Carbon Step Code

Respectfully submitted,

Ken Kunka ASCT RBO
Building and Permitting Manager

Concurrence

Director of Development Services <i>BL</i>	General Manager of Infrastructure <i>KD</i>	City Manager 
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Attachment A – BC Building Safety Standards Branch: 20% Better Energy Efficiency and Zero Carbon Step Code



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No. B23-01
May 1, 2023

20%-Better Energy Efficiency & Zero Carbon Step Code British Columbia Building Code 2018 - Revision 5

The purpose of this bulletin is to provide information about the Revision 5 changes to the British Columbia Building Code 2018 (BCBC) regarding energy efficiency and the introduction of voluntary requirements for greenhouse gas reduction. This bulletin also provides information about how these changes may involve or affect local government bylaws.

20%-Better Energy Efficiency

To meet CleanBC’s goal of net-zero energy ready new construction by 2032, the BCBC will gradually increase energy efficiency requirements. As of May 1, 2023, the first incremental change to the BCBC requires new construction to be 20% more energy efficient.

Performance-based Approach

Effective May 1, 2023, most new buildings will be required to comply with the energy efficiency requirements of the BC Energy Step Code. The BC Energy Step Code’s performance-based energy efficiency approach requires that a building’s designed performance be evaluated through whole-building energy modelling and on-site airtightness testing to validate how the building’s design and construction meets performance targets for the desired ‘Step’ of the BC Energy Step Code.

Effective May 1, 2023, the lower Steps in Article 9.36.6.3. for Part 9 buildings and Step 1 in Article 10.2.3.3. for Part 3 buildings will be marked as ‘reserved’ in Division B of the BCBC and are no longer be applicable to new construction.

Local authorities will continue to have the ability to adopt Step 4 or higher of the BC Energy Step Code for Part 9 buildings, and Step 3 or higher for Part 3 buildings. However, it will no longer be necessary for local authorities to adopt by bylaw either the Step 3 standard for Part 9 buildings or the Step 2 standard for Part 3 as these standards will become universally applicable province-wide as the new minimum acceptable standard for compliance with the BCBC.

Prescriptive Approach

As of May 1, 2023, the prescriptive values for energy efficiency in the BCBC will increase, targeting an improvement of 20%. These prescriptive requirements are applicable to Part 9 buildings not within the scope of the BC Energy Step Code such as Part 9 non-residential and some mixed-use buildings. Under the prescriptive approach, buildings must meet specific requirements for insulation, windows, and other equipment. This approach focuses on individual assemblies or pieces of equipment, rather than the performance of the whole building as a system.

The contents of this Bulletin are not intended to be provided as legal advice and should not be relied upon as legal advice. For further information, contact the Building and Safety Standards Branch.



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On a temporary basis, the Building Act General Regulation will allow local authorities to permit the prescriptive approach to be used for those Part 9 buildings that the BC Energy Step Code would otherwise apply to, for example, single-family homes. This may be necessary in rural and remote areas of the province where access to energy modelling and airtightness testing services is limited or impractical.

Where a local authority chooses to allow for compliance with the prescriptive requirements, they may not restrict builders from voluntarily complying with the performance requirements of Step 3, Step 4, or Step 5, as an acceptable alternative to the prescriptive requirements.

However, where a local authority requires compliance with Step 4 or Step 5 for Part 9 buildings, builders may not use the prescriptive requirements and must satisfy the performance requirements of the BC Energy Step Code (energy modelling and airtightness testing), with the exception of log homes.

Bylaw Required to Accept the Prescriptive Approach

Acceptance of the prescriptive approach for Part 9 buildings to which the BC Energy Step Code applies must be done by a bylaw in relation to the conservation of energy. No bylaw is required for those Part 9 buildings to which the BC Energy Step Code does not apply like Part 9 non-residential and some mixed-use commercial buildings.

Local authorities may adopt a specific bylaw to accept the prescriptive requirements in Subsections 9.36.2 to 9.36.4., Division B, of the BCBC or amend an existing bylaw such as a building bylaw. Local authorities should seek legal advice to determine how best to amend bylaws to achieve their desired policy intent, within the limitations established by relevant legislation (e.g. *Building Act*).

Unless a bylaw to accept the prescriptive approach has been adopted, the BCBC requires the performance approach to be followed for Part 9 buildings.

Log Homes

A definition of “log homes” has been added to the BCBC (See Sentence 9, Division B, Article 9.36.1.2.) to describe homes where the exterior vertical walls primarily consist of structural log members.

When the regulatory amendments to the BCBC come into effect on May 1, 2023, log homes will have the option of complying with the BC Energy Step Code but will also have several available compliance paths under the prescriptive approach. (See Sentence 7 in Article 9.36.1.3., Division B, BC Code.) Local authorities do not need to adopt a bylaw to accept the prescriptive approach for log homes and must not limit acceptance of log homes to the performance approach only.

Further information on the changes to the BCBC for energy efficiency can be found in Information Bulletin No. B23-02.

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Zero Carbon Step Code

Previous iterations of the BCBC contained energy efficiency requirements without directly addressing greenhouse gas (GHG) emissions. Amendments to Division B, Parts 9 and 10 of the BCBC will add new optional technical building requirements for the reduction of GHG emissions. These requirements, commonly referred to as the Zero Carbon Step Code, come into force on May 1, 2023.

Technical requirements for GHG emissions have been added to the BCBC using a tiered approach, similar to the BC Energy Step Code. Local authorities have the discretion to determine which of the levels, if any, will apply in their jurisdiction, to further decide in which areas the level or levels will apply, and under what conditions or circumstances. Local authorities must adopt all elements of the selected level(s) and are not able to select individual elements from one or more of the levels.

The Zero Carbon Step Code has four levels of increasing stringency for Part 9 and Part 10 buildings. The first level of the Zero Carbon Step Code is called EL-1 ('Measure-Only') as it only requires measurement of a building's emissions. EL-2 is the next level and will likely require decarbonization of either space heating or domestic hot water systems. The next level is EL-3 which will require decarbonization of both space heating and domestic hot water systems. EL-4 is the fourth and final level and indicates that the operation of the is as close to zero emissions as possible.

Initially, the Zero Carbon Step Code requirements will be voluntary. The CleanBC Roadmap to 2030 commits to requiring increasingly stringent emission requirements for new buildings in 2024 and 2027. In 2030 the BCBC will require all new buildings to be zero carbon.

Further information on the Zero Carbon Step Code is available in Information Bulletin No. B23-03.

Other Authorities for the Reduction of Greenhouse Gas Emissions

It is not the intent to restrict the ability of local authorities to establish incentives and other voluntary requirements for GHG emissions in buildings or impede other relevant authorities in other legislation, particularly, the authorities for development permit areas for the reduction of greenhouse gas emissions in ss. 491(9) of the *Local Government Act*, as well as s. 53(2)(c) of the *Community Charter* and s. 298(2)(c) of the *Local Government Act* which provide local governments with the authority to regulate with respect to the reduction of GHG emissions. It is recommended that all local governments with bylaw requirements regarding GHG emissions review any technical requirements to ensure they are in keeping with these authorities.

Technical requirements in bylaws that are outside the scope of these authorities may be affected by section 5 of the *Building Act*. Adding technical requirements to the BCBC for GHG emissions and amending the *Building Act* General Regulation to limit the extent to which these matters are 'unrestricted', may mean that local building requirements no longer have the force of law. It is recommended that legal advice be sought as necessary.

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Application to Existing Buildings

It can be difficult to determine what requirements in the BCBC should apply when an existing building is being altered. To address these challenges, the Province is supporting the National Research Council's development of a code that will address alterations to existing buildings. Anticipated for release in 2024, this code will help to provide guidance to owners, designers, local governments, and building officials.

The Energy and Zero Carbon Step Codes were developed for new buildings. Division A of the BCBC discusses alterations to existing buildings and options for applying the requirements of the BC Building Code to existing buildings.

Discretion and judgement must be exercised by designers and enforcement officials when applying the acceptable solutions in Division B to the alteration to an existing building as described in Division A. Each alteration to each existing building requires unique consideration. As outlined in Division A, it is up to the local governments that administer and enforce the BCBC to determine what is appropriate and practical on a case-by-case basis.

More Information

The Building Act and Building Act General Regulation are available online at [BC Laws](#).

Other Links

- Ministry website: <https://www2.gov.bc.ca/gov/content/industry/construction-industry/building-codes-standards>
- Free online access to the [BC Building Code](#) and the [BC Fire Code](#) is available on the BC publications [website](#).

Contact the Building and Safety Standards Branch

- **General** inquiries can be sent to building.safety@gov.bc.ca

Contact the Local Authority

- Local authority contact information is available online at <http://www.civicinfo.bc.ca/directories>.

The Building and Safety Standards Branch does not enforce compliance with the BC Code. Local authorities are authorized to enforce the BC Code through the Local Government Act and Community Charter.

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Council Report

penticton.ca

Date: October 17, 2023
To: Anthony Haddad, City Manager
From: Jordan Hallam, Planner II
Address: 460 Conklin Avenue

File No: RMS/460 Conklin Ave

Subject: Official Community Plan Amendment Application for 460 Conklin Avenue

Staff Recommendation

THAT Council, following the *Community Engagement for OCP Amendments Procedure*, direct staff to commence public engagement for a proposed Official Community Plan amendment to change the future land use designation on 460 Conklin Avenue from 'Detached Residential' to 'Ground Oriented Residential'.

Strategic Priority Objective

Livable and Accessible: Proactively plan for deliberate growth; focused on an inclusive, healthy, safe and desirable place to live.

Proposal

The City has received a proposal for a townhouse development consisting of two four-unit townhouses (8 dwelling units total) at 460 Conklin Avenue (the 'subject property'). The applicants are proposing to change the Official Community Plan (OCP) future land use designation on the site from 'Detached Residential' to 'Ground Oriented Residential'. The applicant has submitted a Letter of Intent (Attachment 'C') which further explains their proposal for the subject property.



Figure 1 – Conceptual Rendering of Proposed Development

The applicants have also submitted an application to rezone the property from R1 (Large Lot Residential) to RM2 (Low Density Multiple Housing) with site specific zoning to allow increased density, four variances related to building setbacks, projections, and lot coverage, and a Development Permit to approve the form and character of the development. The full

application package would be analyzed by staff and presented to Council following the recommended public engagement period.

The purpose of this report is to provide Council and the public with an engagement plan for the proposed OCP amendment.

Background

Site Context

The subject property is located on the south side of Conklin Avenue in a primarily residential neighbourhood (Figure 2). The property is 1032 m² in size and has a lane on the west and south sides of the property. The property currently contains a detached garage. A fire broke out on the property in June 2022, damaging the single family dwelling that was on the property which was later demolished.

Current OCP and Zoning

The OCP future land use designation on the subject property is 'Detached Residential' (Attachment 'A'). The Detached Residential designation supports lower-density areas of single detached houses and/or duplexes in primarily residential neighbourhoods. The Detached Residential designation envisions 1 or 2 units per single lot.

The current R1 (Large Lot Residential) zoning on the property permits a single detached dwelling, accessory buildings, one secondary suite, or one carriage house.

Required Applications

Several planning applications are required for this proposed development, as summarized in the table below:



Figure 2 – Property Location

Application Required	Description	Approval Authority
Official Community Plan Amendment Bylaw	To change the OCP future land use designation on the subject property from 'Detached Residential' to 'Ground Oriented Residential'.	Council
Zoning Amendment Bylaw	To change the zoning on the subject property from R1 (Large Lot Residential) to RM2 (Low Density Multiple Housing). With site specific zoning to increase the Floor Area Ratio (FAR).	Council

Application Required	Description	Approval Authority
Development Variance Permits	To allow four variances for the proposed development.	Council
Development Permit	To approve the form and character of the proposed development.	Council

Financial Implication

City staff will be leading the public engagement period. The applicant has paid the required application fees, which account for the required staff time to conduct the engagement for the proposed development.

Technical Review

This Official Community Plan amendment application was reviewed by the Technical Planning Committee, a group of internal city staff who review development applications. Staff provided high-level comments regarding servicing upgrades and future building requirements. A full technical review will be commented on through the future staff report (which will cover things like road dedication, specific changes made to the plans, etc.)

Engagement Plan

Staff will follow the *Community Engagement for OCP Amendments Procedure* to ensure adequate and meaningful consultation with the community. The community engagement will be led by City staff through October and November. Dates for open houses etc will be finalized and communicated accordingly, should Council support the engagement process.

The following list summarizes the main methods that will be used to raise awareness about this application and the opportunities for residents to provide feedback through the engagement period:

1. Project page on www.shapeyourcitypenticton.ca - central location to share information and gather feedback, including an email blast to the Shape Your City Penticton database advising of the engagement beginning,
2. Notices mailed to neighbours within a 100m buffer of the property,
3. Notice signs posted on the subject property,
4. Consult with targeted agencies and interest groups (i.e. RDOS, Local First Nations, School District #67, Ministry of Transportation, BC Transit etc.),
5. Media releases issued,
6. Newspaper advertisements, and
7. Information sessions (online and in-person) that allow for sharing of information and discussion on the proposed development.

Staff are recommending that Council give direction to carry out the proposed community engagement prior to staff presenting the complete development application package to Council for consideration and first reading of the bylaws.

Analysis

The applicant is proposing to change the OCP future land use designation on the subject property from 'Detached Residential' to 'Ground Oriented Residential'.

Detached Residential Designation

The Detached Residential land use designation is described in the OCP as lower-density areas of single detached houses and/or duplexes in primarily residential neighbourhoods. This designation supports a wide variety of residential uses, including those currently permitted under the R1 (Large Lot Residential) zone (i.e. accessory building, carriage house, major and minor home occupation, one single detached dwelling, secondary suite, and vacation rental). The 'Detached Residential' land use designation aligns with the current R1 zoning found on the subject property (Figure 3).


Land Use	Description	Building Type(s)	Uses	Height / Density	Zone(s)
	<p>Lower-density areas of single detached houses and/or duplexes in primarily residential neighbourhoods including single-detached bareland stratas</p>	<ul style="list-style-type: none"> • Single detached houses with secondary suites or carriage houses • Duplexes • Small-scale neighbourhood commercial building (e.g., corner store, coffee shop) • Manufactured homes 	<ul style="list-style-type: none"> • Residential • Limited retail/ service 	<ul style="list-style-type: none"> • 1 or 2 units per lot • Generally up to 2 ½ storeys to reflect 30' maximum in Zoning Bylaw 	<ul style="list-style-type: none"> • R1 • R2 • R3 • RD1 • RSM • C2
<p>Site-Specific Detached Residential Policy Statement: 375 Smythe Drive: a maximum of 27 detached single-family houses are permitted on this site. Houses may include secondary suites but not carriage houses.</p>					

Figure 1 – Detached Residential Future Land Use Designation

Ground Oriented Residential Use Designation

The question for the community and Council to consider is whether the 'Ground Oriented Residential' land use designation represents what the community wants to see at this location in the future. This change in land use designation would allow for the rezoning of the lands in support of a townhouse development. This designation supports medium-density buildings generally up to 3.5 storeys in height (Figure 4).

Figure 2 - Mixed Use Future Land Use Designation

Land Use	Description	Building Type(s)	Uses	Height / Density	Zone(s)
	<p>Medium-density residential areas with multi-family developments where each unit has an exterior door and construction is primarily wood frame, or bareland stratas.</p>	<ul style="list-style-type: none"> • Duplexes with suites • Cluster housing • Fourplexes higher-density rowhouses • Townhouses and stacked townhouses • Bareland strata developments 	<ul style="list-style-type: none"> • Residential • Limited Service/ Retail 	<ul style="list-style-type: none"> • Up to 3 ½ storeys 	<ul style="list-style-type: none"> • RM2 • RM5 • C2

Initial Analysis

After initial review of the application package, staff consider that the application has merit for Council consideration given that:

1. The proposed development would provide 8 units of housing within an established residential area of Penticton, which would contribute to the housing need within the City.
2. The proposed building heights (3 storeys) are similar to those already established in this residential area.
3. The location of the development is within walking distance of various amenities and Okanagan College. The location is also in close proximity to multiple transit stops on Conklin Ave, Moosejaw St, and Duncan Ave W.
4. The initial plans show a garage for each unit providing vehicle and bicycle storage areas for residents.
5. A lane on the west and south side of the development provides access to the subject property in addition to the access from Conklin Ave.

Staff’s full analysis of the proposed development and its alignment with the OCP vision, goals, policy, and overall growth plan will be presented in future staff reports, following the engagement period.

Next Steps

Should Council support the staff recommendation to proceed to public engagement, staff would commence the engagement period. In moving to public engagement, this does not signify that Council has endorsed, supported or approved the proposed development. Rather, this indicates that Council would like to engage with residents and interest groups to see what the community’s thoughts are for the proposal. Once engagement has been completed, staff will prepare a summary of the results that will be shared with the applicant, Council and the public. Staff would also prepare subsequent reports for Council to consider formal bylaws for the OCP amendment. As part of this process, a statutory Public Hearing would be held after first reading, where residents would be able to provide further comments on the proposed development directly to Council, prior to further consideration of the bylaws by Council.


When staff present back to Council with the OCP amendment bylaw, the staff report will include a complete analysis of the application package and a summary of the community engagement results for this proposed land use change.

Attachments

- Attachment A – Official Community Plan Map
- Attachment B – Zoning Map
- Attachment C – Letter of Intent (applicant)

Respectfully submitted,

Jordan Hallam
Planner II

Director of Development Services <i>BL</i>	Director of Finance and Administration <i>AMC</i>	City Manager 
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Attachment A – Official Community Plan Map



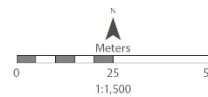
460 Conklin Ave

OCP Map



Legend

- Subject Parcel
- Detached Residential
- Ground Oriented Residential
- Institutional and Civic



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Monday, September 11, 2023 11:48:59 AM

penticton.ca

Attachment B – Zoning Map



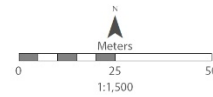
460 Conklin Ave

Zoning Map



Legend

- Subject Parcel
- R1 - Large Lot Residential
- R2 - Small Lot Residential
- RM2 - Low Density Multiple Housing
- P1 - Public Assembly
- RD2 - Duplex Housing: Lane



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Monday, September 11, 2023 11:43:58 AM



Attachment 'C'

Our File: 24522-0404400

August 27, 2023

Letter of Intent

OCP AMENDMENT, REZONING WITH SITE-SPECIFIC PROVISIONS, DEVELOPMENT VARIANCES PERMIT, AND DEVELOPMENT PERMIT APPLICATIONS

GROUND-ORIENTED 8-UNIT TOWNHOUSE DEVELOPMENT | 460 CONKLIN AVE, PENTICTON, BC

1. BACKGROUND AND INTRODUCTION

McElhanney Ltd. (McElhanney) has been retained by Azura Management (the applicant) to prepare a letter of intent to support their proposed development on the property located at 460 Conklin Ave, Penticton, legally described as LOT 13 DISTRICT LOT 1 GROUP 7 SIMILKAMEEN YALE-LYTTON.

1.1. Site Description

The subject property spans an estimated 0.255 acres. It's bordered by Conklin Ave to the north, a laneway on its west, another laneway to its south, and a neighboring single-family home to the east. Presently, only a garage occupies this site. While the immediate vicinity is predominantly made up of detached single-family homes, it's significant to highlight the existence of high-density housing developments, including apartments and townhouses, on Hastings Ave — a mere 450 meters to the south of the property.

1.2. Application Status

The Client has embarked on a simultaneous application process with the City of Penticton for the proposed development, encompassing an Official Community Plan (OCP) Amendment, Zoning Amendment, Development Variance Permit, and a Development Permit application. Following this, on July 20, 2023, the Client received a technical review letter from the City (see Attachment A). This letter, stemming from the City's Technical Planning Committee, lists specific requirements termed "Items to be Addressed." These items are crucial for moving the application forward for further review.

1.3. Purpose of the Memo

The purpose of this memo is to address the following items outlined in the City's review letter:

1.1.a. Proper letter of intent required, addressed to City Council outlining the project and the requested variances with justification. Include OCP references to policies and goals, to justify how you consider the proposal aligns with the vision of the OCP.

1.1.b. Need a proper DP analysis with specific references to the DP guidelines found in the OCP.

1.4. Limitations

It should be noted that this exercise does not include the preparation of any technical documents, nor does it undertake any preliminary site design work. Additionally, it should be noted that amendments to Official Community Plans (OCP), Zoning Bylaws, and Development Variances are discretionary approvals – meaning that there is inherent uncertainty in these types of development applications.\

2. DEVELOPMENT PROPOSAL

The client has set forth a comprehensive plan to transform the vacant site into a contemporary townhouse residential development, consisting of two ground-oriented townhouse buildings. Each of these buildings, spread across three storeys, will house four ground-oriented residential units, bringing the total to eight townhomes.

These townhouse units have been meticulously designed to maximize both comfort and functionality. They are spacious, averaging 1,800 square feet, not including the garage area. Residents of the development will have the luxury of choosing between single or double car garages based on their preferences and needs. The interiors boast a modern layout featuring three cozy bedrooms, three well-appointed bathrooms, a spacious living room to host and entertain, a state-of-the-art kitchen to cater to culinary delights, and a versatile flex room on the ground level that can adapt to the ever-changing needs of its residents, be it an office, playroom, or a personal gym.

A thoughtfully conceived site plan ensures seamless access and movement. The garage and driveway are intelligently positioned off the west laneway to avoid any inconvenience. Meanwhile, the main entrances to the units exude an inviting charm as they face the east property line. These are further enhanced by a 1.2-metre wide pedestrian walkway that graciously connects residents to the Conklin Ave sidewalk, ensuring easy ingress and egress.

Recognizing the importance of outdoor spaces for relaxation and recreation, provisions have been made for dedicated on-site outdoor amenity zones where residents can unwind and enjoy outdoor. To accommodate visitors, the design also thoughtfully includes two guest parking spaces situated conveniently on the property's southern end, right next to the southern laneway. This entire development proposal is not just about buildings and spaces; it's about creating a cohesive, convenient, and relatively affordable housing option for City of Penticton's residents.

3. PROPOSED APPLICATIONS & RATIONALE

In order to realize the envisioned development on the subject site, amendments to the City’s Official Community Plan (OCP), Zoning Bylaw, and specific development variances are required. This section delineates the proposed applications and provides a comprehensive analytical rationale to support these applications.

3.1. OCP Land Use Amendment

The subject site is currently designated as “Detached Residential” in the City’s OCP, which supports single detached houses with secondary suites or carriage houses, duplexes, and small-scale neighbourhood commercial building. The OCP signals limited change in traditional single-family neighbourhoods, as these neighbourhoods are less suitable for infill and multifamily development.

To enable the proposed zoning and the townhouse development on the subject site, the applicant is proposing to change the land use designation to “Ground Oriented Residential”. As shown in Figure X, the ground oriented residential is envisioned for medium-density residential areas with multi-family development where each unit has an exterior door. This land use designation supports townhouses, stacked townhouses, low-rise and mid-rise apartment buildings (Figure X). The proposed townhouse development is a consistent use with the Ground Oriented Residential designation.

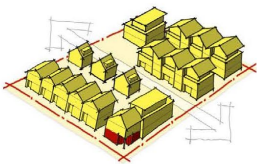
Land Use	Description	Building Type(s)	Uses	Height / Density	Zone(s)
 <p>Ground Oriented Residential</p>	<p>Medium-density residential areas with multi-family developments where each unit has an exterior door and construction is primarily wood frame, or bareland stratas.</p>	<ul style="list-style-type: none"> • Duplexes with suites • Cluster housing • Fourplexes higher-density rowhouses • Townhouses and stacked townhouses • Bareland strata developments 	<ul style="list-style-type: none"> • Residential • Limited Service/ Retail 	<ul style="list-style-type: none"> • Up to 3 ½ storeys 	<ul style="list-style-type: none"> • RM2 • RM5 • C2

Figure 1. Ground Oriented Residential, OCP

Compliance with OCP objectives and policies

The following table outlines how the proposed townhouse development conforms to the City's OCP objectives and policies.

Table 1. OCP Amendment Rationale

No.	Rationale	Compliance with OCP Policies
1.	The property is located in an existing developed area with municipal services.	Policy 4.1.1.1
2.	The subject property is not within the OCP's Hillside DP Area, the Riparian DP Area, the Environmental DP Area. It is also not in agricultural areas. Transit stations are located within 30 metres on Conklin Ave. Nearby transit stations on Moosejaw St are within walking distances.	Policy 4.1.1.2
3.	The developer is responsible to cover development costs including any required infrastructure upgrades. The City covers the surveying and registration costs of the required 0.5 m Conklin road dedication (if required). The developer will pay DCC's at the building permit stage to help account for the increased demand on municipal infrastructure.	Policy 4.1.1.4
4.	Nearby existing multifamily developments including townhouse and apartments are located along Fairview Road and Hastings Ave. The property is located along an urban local residential road, and bus routes. The Okanagan College Penticton Campus is only three lots west from the subject site, and is approximately 8 minutes of walking distance. The commercial areas along Fairview Road and Duncan Ave W are 10 mins walking distance to the subject site. The development meets the applicable Development Permit Area Guidelines in the OCP (see Section 2.4).	Policy 4.1.3.1
5.	All 8 units are proposed to have 3-bedrooms and 2 full bathrooms. This provides an accommodation option for families, including ownerships and renters.	Policy 4.1.3.4
6.	The property is within walking distance to bus stops, shops, the King's park, the Okanagan College Penticton Campus, restaurants, and other amenities.	Policy 4.1.3.5

7.	The applicant has submitted a Development Permit application in conjunction with the OCP amendment, Rezoning, Development Variances requests for Council’s consideration. Section 2.4 show how the proposed development meets the applicable OCP design guidelines.	Policy 4.1.4.1
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3.2. Zoning Amendment – Rezoning

The subject property is zoned as “R1 – Large Lot Residential”. The purpose of the R1 zone is for single detached dwelling housing on serviced urban lots.

The current R1 zone does not allow the proposed ground-oriented townhouse use. To accommodate the development, the site needs to be rezoned to “RM2 – Low Density Multiple Housing”. The purpose of RM2 is for low density multiple housing up to three (3) storeys above grade on urban services.

The proposed RM2 zone is a supported zone in the proposed Ground Oriented Residential OCP land use designation. The proposed 8-unit, three-storey townhouse building meets the purpose and intent of the RM2 zone.

3.3. Development Statistics

Table 2 below lists the proposed development statistics with comparisons to the requirements in the RM2 zone.

Table 2. Development Statistics

	RM2 Requirements	Provided on Plans
Minimum Lot Width	18 m	17.97 m
Minimum Lot Area	540 m ²	1,015.5 m ²
Maximum Lot Coverage	40%	50% - variance requested
Maximum Density	0.8	1.27 – site specific amendment is requested
Vehicle Parking	1 parking space per dwelling unit 0.25 visitor parking spaces per dwelling unit Total: 10 parking spaces required	8 resident parking 2 visitor parking Total: 10 parking spaces provided

Bicycle Parking	Class I: 0.5 spaces per dwelling unit Class II: 0.1 spaces per dwelling unit	Class I: each unit has a garage. Section 6.4.3.5 allows unit garages to count as secure bicycle parking when each unit has access to its own garage space. Class II: 2 bicycle racks provided
Required Setbacks		
Front Yard (Conklin Rd):	3 m	2.56 m – variance requested
Side Yard (east):	3 m	3 m - balcony projection variance
Side Yard (west):	3 m	2.17 m – Variance Requested
Rear Yard (south):	6 m	6.25 m
Maximum Building Height	12 m	10.71 – 11.07 m
Amenity Space	20 m ² for each dwelling unit 25% of the required amenity space must be provided at the ground floor level	44 m ² for each dwelling unit provided 34 m ² for each dwelling unit are provided at the ground floor level

3.4. Development Variances

The OCP Section 5.1.4 states that variances to zoning standards may be considered as a component of a Development Permit Application subject to Section 490(1)(a) of the Local Government Act, provided that the resultant built form of the proposed building is consistent with the General OCP Development Permit Area Guidelines and the overall intent of the Zoning Bylaw:

The proposed townhouse development meets the overall intent of the RM2 zone. Section 2.5 outlines how the proposed development aligns with the General OCP DP Guidelines. The applicant is proposing a increased site coverage and reduced front yard setback and side yard setbacks. Each variance is proposed in response to the unique characteristics of the site and the design intent of the proposed townhouse development. Table 3 is a further breakdown of each proposed variance along with the rationale behind the variance request:

Table 3. Variances and Rationale

Proposed Variances and Rationale		
Variance #1	<i>Section 10.8.2.3</i>	<i>To increase the lot coverage from maximum required 40% to 50%.</i>
Rationale	The proposed adjustment in lot coverage ensures optimal utilization of the site to accommodate the proposed development. This increment aids in harmonizing the design, facilitating sufficient parking areas, and retaining space for landscaping and outdoor amenities.	
Variance #2	<i>Section 10.8.2.6</i>	<i>To reduce the minimum required front yard setback from 3 metres to 2.56 metres.</i>
Rationale	This minor reduction of the front yard setback will provide sufficient space for perpendicular visitor parking spaces at the back of the lot against the south property line.	
Variance #3	<i>Section 4.9.1</i>	<i>To allow balconies to project 1.53 metres from the east side of the two buildings into the east side yard.</i>
Rationale	The OCP allows development variance to accommodate desirable architectural criteria, such as balconies. The building face on the east side still meets the minimum required interior side yard setback. The proposed balcony projection adds architectural interest to the building façade and provides additional outdoor amenity space for the residents, enhancing livability. The projection does not significantly impact the adjacent properties, as it still maintains a respectful distance and ensures privacy.	
Variance #4	<i>Section 10.8.2.7</i>	<i>To reduce the minimum required interior west side yard setback from 3 metres to 2.17 metres.</i>
Rationale	The proposed minor reduction of the side yard setback from the west property line is to accommodate the unit layout design and provide sufficient spaces for the car garages, including spaces for bicycle parking. While the design harnesses space more effectively, the subject lot and the west side lane continues to offer a considerate spatial buffer to neighboring properties, ensuring their peace and privacy remain undisturbed.	

3.5. Site-specific Amendment to RM2 Zone

Section 490 (3) of the Local Government Act (LGA) does not allow a development permit to vary the use or density of the land from that permitted in the bylaw. The proposed development requires a higher density than currently allowed in the RM2 zone. Thus, a site-specific amendment will be required to accommodate the proposal.

The purpose of this site-specific amendment to RM2 zone is to change the maximum Floor Area Ratio (FAR) requirement for the specific site, allowing an increase in the maximum FAR from 0.8 to 1.27.

The following site specific provision is proposed to be added to the RM2 zone:

10.8.4.5 In the case of LOT 13 DISTRICT LOT 1 GROUP 7 SIMILKAMEEN YALE-LYTTON, located at 460 Conklin Avenue, the following regulations shall apply:

- **Maximum Floor Area Ratio (FAR): 1.27.**

Given the unique characteristics of the site, its location, and the anticipated benefits of the proposed family-oriented townhouse development, the site is well positioned to accommodate a higher density.

3.6. Development Permit

Sections 5.2 – Development Permit General Guidelines and 5.3.2-Multifamily Residential Development Permit Area in the OCP guides the development of the subject site and address built form and character and consider site planning, building architecture, landscape architecture and other special conditions. Table x below outlines how the proposed development is in compliance with the design guidelines.

No.	Rationale	Compliance with OCP DP Guidelines
Section 5.2 – General Guidelines		
1.	The proposal conducted a detailed site analysis, evaluating landscape characteristics, existing site conditions, and topography. A holistic site plan was developed, aligning with adjacent buildings and the neighborhood's context. The buildings are east-west facing and have large windows. The building design maximizes solar access for private and semi-private spaces, ensuring natural lighting for residents. The modern design enhances the natural beauty for residents and neighbors.	Designing in Context: G1 – G4

<p>2. The townhouse proposal highlights a prominent and unique street presence, complemented by an inviting sidewalk, and thoughtfully designed outdoor spaces. It seamlessly melds with the existing neighbourhood, ensuring a cohesive community feel. The building's orientation has been carefully selected to minimize any potential disturbances to neighboring properties. Prioritizing safety, the design incorporates features like expansive windows, a new paved sidewalk, and both ground-level and elevated outdoor amenities. This careful balance ensures a harmonious blend of safety, aesthetic appeal, and community interactions.</p>	<p>Framing Space: G5 – G8</p>
<p>3. The development introduces a new sidewalk within the premises, directly in front of the unit entrances, ensuring a seamless connection to neighboring public spaces. Despite the townhouse's compact footprint, it prioritizes fluid pedestrian access. The pedestrian pathway, from city sidewalks to building entrances and outdoor amenity spaces, is designed to be barrier-free, featuring consistent paving for a harmonized look. The ground-level unit entrances comply with height guidelines, fostering effortless access and integration with the broader public realm. Furthermore, the proposed 6 ft high wood panel fences along the eastern property line are intentionally designed to be low and semi-transparent, promoting both a sense of openness and clear visibility.</p>	<p>Prioritizing Pedestrians: G9 – G15</p>
<p>4. The proposal accentuates a pedestrian-centric design while ensuring efficient vehicle circulation. By allocating the rear of the site for visitor parking, it maximizes pedestrian areas elsewhere. The driveway and garage are strategically positioned adjacent to the west side laneway, ensuring they don't interfere with the main entrances. Furthermore, the design incorporates generous bike storage in the garage and integrated electric vehicle chargers, catering to diverse transportation needs.</p>	<p>Cars and Parking: G16 – G19</p>
<p>5. The design maximizes natural light with window placement, and focuses on energy efficiency. Landscaping provides summer shade, reflective roof materials reduce heat absorption, and cross-ventilation strategies ensure effective airflow.</p>	<p>Architecture/Design for Our Climate: G20</p>

<p>6. The design ensures visual appeal, smooth density transitions, and prioritizes the privacy of neighboring properties.</p>	<p>Friendly Faces, Friendly Neighbours (Orientation & Massing): G21 – G26</p>
<p>7. The development emphasizes street-level engagement by offering outdoor amenity spaces for each unit and a pedestrian pathway that seamlessly connects to the city’s sidewalk. All building entrances are strategically positioned to be easily visible from the streets, complemented by windows and balconies facing west to encourage passive surveillance. The design eschews large blank walls on street-facing sides, ensuring visual interest. Fundamentally, the architecture adheres to city guidelines, masterfully blending aesthetics, functionality, and harmonious community integration.</p>	<p>Eyes on the Street: G27 – G31</p>
<p>8. The development’s landscape design priorities native drought-resistant plants. Underground irrigation system is designed and drip irrigation ensures water efficiency. Enhanced topsoil, strategic tree planting, and mulching further promote moisture conservation.</p>	<p>Design with Nature; G32 – G33</p>
<p>9. The development includes tree planting in landscaped areas and the Conklin Ave boulevards. Trees are spaced as per guideline recommendations. All trees will be irrigated, and additional trees will be planted, especially where older ones couldn’t be retained.</p>	<p>Enhance the Urban Forest: G35</p>
<p>10. The development boosts habitat for birds and pollinators through strategic plant choices. Clear boundaries are set using landscaping, structures, and material changes.</p>	<p>Functional Use of Landscapes: G36 – G40</p>
<p>11. The landscape design follows BCLNA Standards, focusing on local/native plants fit for Penticton's desert climate, avoiding invasive species and synthetic turf. The hardscaping uses durable, climate-suited local materials. The design have minimized impervious areas, adopted rainwater strategies, and avoided heat-absorbing materials to combat the heat island effect.</p>	<p>Materials Selection – Softscapes & Hardscapes: G41 – G42</p>
<p>12. Architectural lighting is used sparingly, and the design has taken measures to prevent disturbances to neighboring properties.</p>	<p>Lighting: G48 – G51</p>

<p>13. Water metres and utility units will be positioned between the two buildings, and they'll be integrated into landscaping and hidden from street view.</p>	<p>Utilities, Mechanical Services and Servicing: G54 – G57</p>
<p>14. Garbage and recycling collections will be arranged through private companies. No on-site garbage and recycling bins will be provided.</p>	<p>Waste Management: G58 – 60</p>
<p>15. The fencing along the west property line, standing at a height of 6 ft, ensures there are no obstructions to views. This fencing will be further enhanced by the addition of low-growing plants in the neighboring outdoor amenity space, elevating the area's aesthetics.</p>	<p>Fences: G61 - 63</p>

Section 5.3.2 Multifamily Residential Development Permit Area

<p>16. By incorporating ground outdoor amenity spaces that cater to the recreational needs of all age groups, the site design promotes inclusivity and holistic living. Understanding that multifamily developments house a diverse range of residents, from children to seniors, it is imperative that the design addresses the varied needs of these age brackets. For children, play areas encourage physical activity and cognitive development. For adults and seniors, recreational spaces provide opportunities for relaxation, exercise, and social engagement, thereby fostering a sense of community and ensuring well-rounded wellness for all.</p>	<p>MF1</p>
<p>17. The development thoughtfully offers potential opportunities for vegetation in its outdoor amenity spaces, offering a multitude of advantages. Green spaces, with their therapeutic qualities, act as sanctuaries that alleviate stress and elevate well-being. The design encourages both active interactions, such as gardening and walking, and passive engagements like relaxation, enriching the residents' overall living experience. Beyond well-being, the lush vegetation enhances the aesthetic charm of the space, making it both inviting and visually delightful. Prioritizing safety, the development have strategically located play areas at the building's front, distanced from the garage and driveways. This placement not only ensures children are shielded from vehicular traffic but also positions them within easy sightlines of entry points and fellow residents, fostering a vigilant and secure environment.</p>	<p>MF3</p>

18. Visitor parking is strategically located adjacent to the rear (south side) **MF4** laneway, ensuring convenient access. To soften the visual impact of this parking area, a generously landscaped space is situated directly to its south, enhancing the surroundings with greenery and aesthetic appeal.

4. CLOSING

In conclusion, McElhanney trusts that the professional options and advice presented in this letter of design rationale are sufficient for the City of Penticton staff to review the policy compliance of the proposal.

The proposed townhouse design reflects a modern architectural ethos, merging practicality with beauty and individual desires with a collective sense of belonging. Every facet of this design, from the overarching site arrangement to the nuanced intricacies of indoor spaces, is shaped by a comprehensive vision that prioritizes the wellness of its inhabitants, the integrity of the neighboring locale, and the sustainability of the community. The applicant envisions this townhouse as a nexus where community thrives and evolves.

The proposed townhouse development aligns with the OCP's community growth directions and policies, meets the intent of the RM2 zone and regulations, and conforms to the OCP Development Permit guidelines.

Considering the rationale mentioned above and the overall community and economic benefit that the proposed development would provide, McElhanney trusts that the City staff and Council will support the proposed OCP amendment, rezoning with site-specific provisions, Development Variances, and Development Permit applications.

Should you have questions, don't hesitate to contact the undersigned.

Sincerely,



Ruibin Li, Planner
McElhanney
rmli@mcelhanney.com
250-258-7497

The Corporation of the City of Penticton

Bylaw No. 2023-35

A Bylaw to Amend Zoning Bylaw 2023-08

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 No. 2023-08;

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. 2023-35".

2. Amendment:

2.1 Zoning Bylaw No. 2023-08 is hereby amended as follows:

Add Section 11.5.4.11: "In the case of Lot B District Lot 4 Group 7 Similkameen Division Yale (Formerly Yale-Lytton) District Plan 574, located at 461 Martin Street, a maximum of two dwelling units on the first storey shall be permitted."

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this 3 day of October, 2023
A PUBLIC HEARING was held this 17 day of October, 2023
READ A SECOND time this day of , 2023
READ A THIRD time this day of , 2023
RECEIVED the approval of the day of , 2023
Ministry of Transportation on the
ADOPTED this day of , 2023

Notice of intention to proceed with this bylaw was published on the 6th day of October, 2023 and the 11th day of October, 2023 in an online news source and the newspaper, pursuant to Section 94.2 of the Community Charter.

Approved pursuant to section 52(3)(a) of the Transportation Act
this ____ day of _____, 2023
for Minister of Transportation & Infrastructure

Julius Bloomfield, Mayor

Angie Collison, Corporate Officer



Schedule A: Zoning Amendment Bylaw 2023-35

Date:

Corporate Officer:

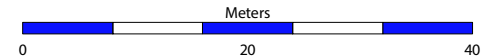


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September 26, 2023 1:31:39 PM



Coordinate System: NAD 1983 CSRS UTM Zone 11N

The Corporation of the City of Penticton

Bylaw No. 2023-36

A Bylaw to Amend Zoning Bylaw 2023-08

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 No. 2023-08;

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. 2023-36".

2. **Amendment:**

2.1 Zoning Bylaw No. 2023-08 is hereby amended as follows:

Rezone Lot 3 District Lot 115 Similkameen Division Yale District Plan 3289, located at 25 Okanagan Avenue W, from C7 (Service Commercial) to RD4 (Low Density Cluster Housing) as shown on Schedule 'A'.

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	3	day of	October, 2023
A PUBLIC HEARING was held this		day of	, 2023
READ A SECOND time this		day of	, 2023
READ A THIRD time this		day of	, 2023
ADOPTED this		day of	, 2023

Notice of intention to proceed with this bylaw was published on the 6th day of October, 2023 and the 11th day of October, 2023 in an online news source and the newspaper, pursuant to Section 94.2 of the *Community Charter*.

Julius Bloomfield, Mayor

Angie Collison, Corporate Officer



Schedule A: Zoning Amendment Bylaw 2023-36

Date:

Corporate Officer:

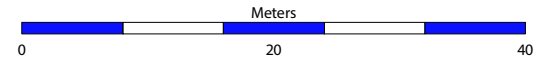


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1:600

September 26, 2023 1:26:43 PM



Coordinate System: NAD 1983 CSRS UTM Zone 11N

The Corporation of the City of Penticton

Bylaw No. 2023-37

A Bylaw to Amend Zoning Bylaw 2023-08

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 No. 2023-08;

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. 2023-37".

2. **Amendment:**

2.1 Zoning Bylaw No. 2023-08 is hereby amended as follows:

Add Section 10.4.4.2: "In the case of Lot 2 District Lot 202 Similkameen Division Yale District Plan 6240 and That Portion of Closed Road in District Lot 202 Similkameen Division Yale District Adjoining Lot 2 District Lot 202 Similkameen Division Yale District Plan 6420 As Shown on Plan B7815, located at 174 and 176 Jermyn Avenue, a major day care centre shall be permitted."

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	3	day of	October, 2023
A PUBLIC HEARING was held this		day of	, 2023
READ A SECOND time this		day of	, 2023
READ A THIRD time this		day of	, 2023
ADOPTED this		day of	, 2023

Notice of intention to proceed with this bylaw was published on the 6th day of October, 2023 and the 11th day of October, 2023 in an online news source and the newspaper, pursuant to Section 94.2 of the *Community Charter*.

Julius Bloomfield, Mayor

Angie Collison, Corporate Officer



Schedule A: Zoning Amendment Bylaw 2023-37

Date:

Corporate Officer:

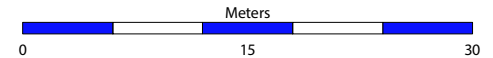


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September 26, 2023 1:29:33 PM



Coordinate System: NAD 1983 CSRS UTM Zone 11N