



Report

City of Merritt
REGULAR Council Meeting
November 12, 2019

File Number: 4000

To: Scott Hildebrand, Chief Administrative Officer
From: Sean Smith, Director of Corporate Services
Date: November 4, 2019
Subject: Bylaw Notice Enforcement

RECOMMENDATION:

THAT Council direct staff to bring forward a report and draft bylaw to implement a Bylaw Notice Enforcement scheme in the City of Merritt;

AND

THAT Council direct staff to inform the Lt. Governor of the forthcoming bylaw so that regulations can be prepared, adding Merritt to the list of local governments permitted to operate the Bylaw Notice Enforcement system.

Background:

The *Community Charter* provides local governments in British Columbia with four specific ways to enforce their bylaws. Two of these are forms of court action (civil proceedings & prosecutions under the *Provincial Offence Act*), a third is currently used by Merritt (Municipal Ticket Information ("MTI")), and the fourth is Bylaw Notice Enforcement ("BNE"), which requires a Municipality to "opt-in" to the BNE system.

Staff have observed that 91 local governments (Municipalities and Regional Districts) across BC have opted in to the BNE system (just under half the local governments in the Province) and felt it was appropriate for Council to consider if this was desirable for the City of Merritt. Local governments that opt-in to the BNE system retain the ability to use Municipal Tickets instead, should that be preferable in the situation, unless Provincial or local law explicitly prescribes BNE enforcement for specific offences.

How does the BNE system work?

The primary differences between MTI and BNE systems are laid out in Table “A” below. Functionally, BNE is easier for the Municipality to administer and should lead to lower costs for the City, and for people appealing the system in good faith.

Table A: Key differences between MTI and BNE schemes.

	Municipal Ticket Information	Bylaw Notice Enforcement
Max Penalty	\$1000	\$500
Manner of service	Must be in person (to the accused, or another adult at their address)	In person, by mail, or affixed to stationary object such as a car
Contested ticket	Must be litigated through Provincial Courts to a standard ‘Beyond Reasonable Doubt’	Goes to adjudication to be decided on a standard of ‘Balance of Probabilities’
Consequence if ignored	City must take issue through courts	Penalty immediately due & payable

The Municipal Ticketing process currently used in Merritt is similar in some ways to Bylaw Notice Enforcement. They both require a bylaw to be passed listing the offences and penalties, they must both be served on the accused, and they both have statutory limitations such as how they must be served, though the requirements are significantly less onerous through the BNE regime.

Next Steps:

The City of Merritt currently has *Municipal Ticket Information Bylaw 2044, 2009* listing the Municipal Ticket offences. If Council expresses a desire to join the BNE scheme, new bylaws would need to be drafted authorizing Merritt’s membership in the scheme and announcing which of Merritt’s bylaws and penalties were within the scope of the BNE scheme.

If the BNE system is adopted, Merritt could choose to establish a “Screening Officer” position. Prior to adjudication, if a person disputed a BNE notice this officer would have the opportunity to cancel notices that were improper, or potentially enter into compliance agreements with the accused. Compliance agreements can entail an agreement for a reduction in the fine owed to the City. In contrast, adjudication simply determines the validity of the notice, and if it is determined the notice was properly issued, the imposed fine cannot be altered.

If Council requests staff to bring forward the Bylaw, staff would prepare recommendations for Council regarding the following:

- Whether it is feasible to run our own adjudication system for Merritt, or if we should request to join with an existing local scheme such as the Thompson-Nicola Regional District;
- Which bylaws should be subject to BNE enforcement;
- Whether or not a Screening Officer post should be created.

Finally, the City would need to inform the Lt. Governor of the bylaw, in order for a regulation to be made adding Merritt to the list of local governments permitted to operate the scheme.

Options / discussion

1. **THAT Council direct staff to bring forward a report and draft bylaw to implement a Bylaw Notice Enforcement scheme in the City of Merritt;**

AND

THAT Council direct staff to inform the Lt. Governor of the forthcoming bylaw so that regulations can be prepared, adding Merritt to the list of local governments permitted to operate the BNE system.

2. **THAT Council receive this report for information.**

Financial / Risk Implications:

Under section 23 of the *Bylaw Notice Enforcement Act*, a local government which opts-in to the BNE system is responsible for the administrative cost & work of the adjudication system, and may levy a fee of up to \$25 on unsuccessful applicants towards this. The adjudicator's remuneration is set out in section 10 of the *Bylaw Notice Enforcement Regulations*.

The system is intended to be more cost-effective for Cities which adopt it, recipients of tickets, and the court system, than the existing MTI system or *Offence Act* litigation.

Strategic Plan Reference:

- Protective Services – Bylaw Offence Notices: Options

Respectfully submitted,

Sean Smith
Director of Corporate Services