

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: J. Zaffino, Chief Administrative Officer

DATE: March 20, 2025

RE: Regulating the creation of new private utilities (X2023.011-ZONE)

Administrative Recommendation:

THAT the following amendment bylaws to regulate the creation of new private utilities be read a third time:

- **Official Community Plan Amendment Bylaw No. 3045, 2025;**
 - **Zoning Amendment Bylaw No. 3046, 2025;**
 - **Subdivision Servicing and Development Bylaw No. 2900.01, 2025; and**
 - **Development Procedures Amendment Bylaw No. 2500.34, 2025.**
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Purpose:

The purpose of this report is to introduce regulations in relation to private water and sewer utilities.

Background:

At its regular meeting of March 6, 2025, the Regional District Board resolved to approve first and second reading of the amendment bylaws and scheduled a public hearing ahead of its meeting of March 20, 2025.

All comments received to date in relation to this application are included with this report.

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

Analysis:

It has been the Regional District's experience that "system owners often find that they no longer have the financial ability or technical expertise required to meet current regulations" and there have been prominent examples (e.g. Vintage Views Development Sewer System) where the Regional District has been requested to acquire these systems.

Further, it has been a long-standing policy direction of the Regional District Board that "essential services are best provided by government, where citizens can elect representatives interested in their well-being and will operate the service in the most effective and efficient manner possible."

For this reason, administration considers there to be a strong argument for the Board to regulate, going forward, in favour of publicly operated utility systems versus those operated by business or strata corporations or other private water or sewer utilities.

It is envisioned that a prohibition on new private utilities will likely create pressure on the Regional District to support and immediately acquire such infrastructure when needed for development to proceed in certain zones.

Private Utility Variances

Under the *Local Government Act*, property owners are entitled to submit development variance permit applications requesting the Board to vary (amongst other things) zoning bylaw regulations or subdivision and development regulations, and the Board is obligated to consider every such application.

Accordingly, amendments to the RDOS Development Procedures Bylaw are proposed and would require applications proposing new private utility systems to be accompanied by a report from a qualified professional engineer.

In general terms, the engineer's report must certify that the system meets or is equivalent to the standards prescribed by the RDOS Subdivision Servicing Bylaw, is in acceptable condition, and is adequate for the proposed development.

Utility Acquisition Considerations

The Board may also wish to give consideration to amending its Water and Sewer Utility Acquisition Policy to include a reference to only acquiring utilities that have been designed to applicable RDOS regulations and, where RDOS regulations are silent, to good engineering practices.

Such systems should also be expected to be financially sustainable upon completion (i.e. viable and affordable for residents to be served by the system). Administration is aware that the Columbia Shuswap and Thompson Nicola Regional Districts employ thresholds to help determine the viability of a utility (e.g. it must serve a minimum of 50 or 100 units) and a similar approach could be applied in the RDOS.

Alternatives

Representations have been received from applicants with in-stream development proposals opposing the proposed amendments.

Administration understands that these representations generally relate to perceived uncertainty associated with discretionary approvals (ie. Development Variance Permit applications) and impacts to in-stream development proposals that may occur as a result.

Should the Board wish to not proceed with the proposed bylaw amendments, administration recommends that the Board also remove policies discouraging private utility systems from its electoral area Official Community Plans.

Alternatively, the status quo is also an option, however this approach is not preferred as OCP policies discouraging private utilities will continue to have little effect without supportive regulations implemented in the Regional District's land use bylaws.

Summary

Administration maintains its position that there is a strong argument for the Board to regulate in favour of publicly operated utility systems versus those operated by business or strata corporations or other private water or sewer utilities.

Moreover, the merits of this approach warrant it being applied regionally across all Electoral Areas of the Regional District.

Financial Implications:

Financial implications have been considered and none were found.

Communication Strategy:

The proposed bylaw amendments have been notified in accordance with the requirements of the *Local Government Act* as well as the Regional District’s Development Procedures Bylaw No. 2500, 2011.

Alternatives:

1. THAT first and second reading of the Electoral Area Official Community Plan Amendment Bylaw No. 3045, 2025, the Zoning Amendment Bylaw No. 3046, 2025, the Subdivision Servicing and Development Amendment Bylaw No. 2900.01, 2025, and the Development Procedures Amendment Bylaw No. 2500.34, 2025, be rescinded and the bylaws abandoned.

AND THAT an amendment to the South Okanagan Sub-Regional Growth Strategy (RGS) Bylaw No. 2770, 2017, and Electoral Area Official Community Plan (OCP) bylaws be initiated in order to remove policy statements related to discouraging the establishment of private utilities and services.

2. Status quo.

Respectfully submitted:

Ben Kent

Ben Kent
Planner II

Endorsed By:

CG

C. Garrish
Senior Manager of Planning

Endorsed By:

A. Fillion

A. Fillion
Managing Director, Dev. & Infrastructure