



The Corporation of the District of North Cowichan

Delegation of Authority Bylaw

Bylaw 3734

A bylaw to provide for the delegation of certain powers, duties and functions, including those specifically established by an enactment, to its officers and employees

[Consolidated and printed by authority of the Corporate Officer under section 139 of the Community Charter. Current to January 21, 2020. Last amended January 20, 2020. Amendments: 3771.]

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WHEREAS Division 6 of Part 5 of the *Community Charter* empowers a municipal council, by bylaw, to delegate its powers, duties and functions, including those specifically established by an enactment, to the extent provided;

AND WHEREAS Council considers that there are a number of circumstances where delegation of certain of its powers, duties and functions would foster good government;

NOW THEREFORE, the Council of The Corporation of the District of North Cowichan enacts as follows:

Interpretation

1 (1) In this bylaw:

"Approving Officer" means the person so appointed under section 77 [*Appointment of municipal approving officers*] of the *Land Title Act*;

"Audit Committee" means the standing committee of Council established under section 170 [*Audit committee*] of the *Community Charter*;

"Chief Administrative Officer" means the municipal officer appointed under section 147 [*Chief administrative officer*] of the *Community Charter*;

"Corporate Officer" means the municipal officer appointed under section 148 [*Corporate officer*] of the *Community Charter*;

"Department Head" means the persons appointed by the Chief Administrative Officer as the Manager of Legislative Services, the Deputy Corporate Officer, the Information Management Officer, the Municipal Forester, the Senior Manager of Engineering, the Manager of Engineering Development and Capital Projects, the Assistant Manager of Operations, the Manager of Recreation, and the persons appointed by the Chief Administrative Officer as a director, senior manager, or manager who reports directly to the Chief Administrative Officer or to the General Manager, Community Services, the General Manager, Development and Engineering Services, the General Manager, Financial and Protective Services, or the General Manager, Corporate Services; [BL3771]

"Director of Engineering" means the person so appointed by the Chief Administrative Officer;

"Director of Information Technology and GIS" means the person so appointed by the Chief Administrative Officer;

"Director of Parks and Recreation" means the person so appointed by the Chief Administrative Officer;

"Director of Planning and Building" means the person so appointed by the Chief Administrative Officer;

"General Manager, Community Services" means the person so appointed by the Chief Administrative Officer;

"General Manager, Development and Engineering Services" means the person so appointed by the Chief Administrative Officer;

"General Manager, Financial and Protective Services" means the municipal officer appointed under section 149 [*Financial officer*] of the *Community Charter*;

"General Manager, Corporate Services" means the person so appointed by the Chief Administrative Officer;

"Local Assistant to the Fire Commissioner" means a person authorized to exercise the powers of a local assistant under the *Fire Services Act*;

"Manager, Fire and Bylaw Services" means the person so appointed by the Chief Administrative Officer;

"Management Staff" means the persons appointed by the Chief Administrative Officer as the Fire Chief or Deputy Fire Chief of a municipal fire hall, the Chief Building Inspector, the Technical Services Specialist, the Business Applications Coordinator, the Senior Bylaw Compliance Officer, the Senior Environmental Specialist, the Community Planning Coordinator, the Development Planning Coordinator, the Human Resources Advisor, the Health, Safety and Disability Management Advisor, the Human Resources Coordinator, the Payroll Coordinator, the Executive Assistant, the Records and Information Management Assistant, the Administrative Assistant, the Communications and Public Engagement Coordinator, the Administrative Supervisor, the Assistant Manager of Operations, a Foreperson, the Chief Treatment Plant Operator, the Facilities Supervisor, and all managers who report directly to a Department Head; [BL3771]

"Municipal Forester" means the person so appointed by the Chief Administrative Officer.

- (2) Where this bylaw delegates a power, duty or function of Council to a named position, the delegation is to the person who holds the position, and to any person who is the deputy of, or who is authorized to act for, that person.
- (3) Unless a power, duty or function of Council has been expressly delegated by this bylaw or another municipal bylaw, the powers, duties and functions of Council remain with Council.
- (4) A person to whom a power, duty or function has been delegated under this bylaw, or another bylaw, has no authority to further delegate to another person any power, duty or function that has been delegated to them by this bylaw.

Committee of the whole

- 2 Council delegates its powers to give direction to staff on matters being considered by the committee of the whole to the committee of the whole.

Municipal audit

- 3 Council delegates its powers, duties and functions under Division 2 of Part 6 of the *Community Charter* to the Audit Committee.

Parcel tax roll review panel

- 4 Council delegates its duty under section 204 (2) [*Parcel tax roll review panel*] of the *Community Charter* to the General Manager, Financial and Protective Services.

Notices

- 5** (1) Council delegates its duty to give notice under the following sections of the *Community Charter* to the Corporate Officer:
- (a) Section 26 (1) [*Notice of proposed property disposition*];
 - (b) Section 40 (3) [*Permanent closure and removal of highway dedication*];
 - (c) Section 59 (2) [*Powers to require and prohibit*]; and
 - (d) Section 127 (1) (b) [*Notice of council meetings*].
- (2) Council delegates its duty to give notice under the following sections of the *Community Charter* to the General Manager, Financial and Protective Services:
- (a) Section 99 (3) [*Annual meeting on report*]; and
 - (b) Section 227 (1) [*Notice of permissive tax exemptions*].
- (3) Council delegates its duty to give and file notices under the following sections of the *Local Government Act* to the Director of Planning and Building:
- (a) Section 466 (1) [*Notice of public hearing*];
 - (b) Section 467 (1) [*Notice if public hearing waived*];
 - (c) Section 494 (1) [*Public notice and hearing requirements*];
 - (d) Section 499 (1) [*Notice to affected property owners and tenants*];
 - (e) Section 503 (1) and (3) [*Notice of permit on land title*]; and
 - (f) Section 594 (1) [*Notice on land titles*].

Business licenses

- 6** Council delegates its powers, duties and functions under sections 8(6), 15 and 60 of the *Community Charter* to grant, refuse, suspend, or cancel a business license to the General Manager, Financial and Protective Services.

Business licenses - reconsideration

- 7** (1) A business license applicant or holder that is subject to a decision made under the delegated authority under section 6 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.
- (2) Where a business license applicant or holder wishes to have Council reconsider a decision made under the delegated authority under section 6 of this bylaw:
- (a) The business license applicant or holder must, within 30 days of the decision having been communicated to the business license applicant or holder, make an application in writing to the Corporate Officer, which application must include the following:
 - (i) A description of the decision sought to be reconsidered by Council;
 - (ii) The date of the decision;
 - (iii) The name of the delegate who made the decision;
 - (iv) The grounds on which reconsideration is being requested; and,

- (v) A copy of any materials that the business license applicant or holder wishes Council to take into account when reconsidering the decision.
- (b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.
- (c) The Corporate Officer must:
 - (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above; and,
 - (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.
- (d) In reconsidering the decision the Council must consider all the material before it.
- (e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the business license applicant or holder. Council may then hear from staff in relation to any new information raised by the business license applicant or holder in its submissions to Council.
- (f) Council is entitled to adjourn the reconsideration of the decision; and,
- (g) After hearing from staff and the business license applicant or holder, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council.

Outdoor burning ban

- 8 Council delegates its powers under section 8(3)(g) of the *Community Charter* to ban outdoor burning in all or part of the municipality to the Local Assistant to the Fire Commissioner, subject to a fire hazard existing, the ban being for not more than 90 days, and the public promptly being notified of the ban.

Personnel administration

- 9 (1) Council delegates its powers to appoint an acting Chief Administrative Officer to temporarily act on behalf of the Chief Administrative Officer in the Chief Administrative Officer's absence to the Chief Administrative Officer.
- (2) Council delegates its powers to appoint, promote, and discipline officers (other than the Chief Administrative Officer) and employees to the Chief Administrative Officer.
- (3) Council delegates its power to approve compensation for officers (other than the Chief Administrative Officer) and employees to the Chief Administrative Officer, subject to sufficient funds having been allocated and approved by Council under the financial plan bylaw.
- (4) Council delegates its powers to terminate the employment of employees for cause to the Chief Administrative Officer.

- (5) Council delegates its powers to terminate the employment of employees without cause to the Chief Administrative Officer, subject to any severance paid to the employee being in accordance with the notice provisions of any applicable employment agreement or the common law principles applicable to payments in lieu of notice on termination of employment, and sufficient funds having been allocated and approved by Council under the financial plan bylaw.
- (6) Council delegates its powers to settle labour grievances or disputes to the Chief Administrative Officer, subject to the settlement being in accordance with common law principles and sufficient funds having been allocated and approved by Council under the financial plan bylaw to satisfy the settlement.

Agreements - procurement

- 10**
- (1) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$500,000.00 to the Chief Administrative Officer.
 - (2) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$200,000.00 to the General Manager, Corporate Services, the General Manager, Financial and Protective Services, the General Manager, Community Services, the General Manager, Development and Engineering Services, the Director of Planning and Building, the Director of Engineering, the Director of Parks and Recreation, and the Director of Information Technology and GIS.
 - (3) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$75,000.00 to Department Heads.
 - (4) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$10,000.00 to Management Staff.
 - (5) For the purpose of subsections (1) to (4) above, the delegated authority to enter into an agreement is subject to the agreement not requiring the approval or consent of the electors and sufficient funds having been allocated and approved by Council under the financial plan bylaw, and, without limiting the substance of the discretion delegated therein, such discretion is subject to the delegate adhering to the procurement processes endorsed by Council from time to time.

Agreements - miscellaneous

- 11**
- (1) Council delegates the power to enter into agreements in relation to grant monies for approved projects to the General Manager, Financial and Protective Services.
 - (2) Council delegates its powers to enter into agreements for information sharing to the General Manager, Corporate Services.
 - (3) Council delegates its powers to enter into agreements for boat moorage at municipally-owned or operated wharves to the General Manager, Community Services.
 - (4) Council delegates its powers to enter into agreements for authorizing encroachments caused by road widening to the Director of Engineering.

- (5) Council delegates its powers to enter into agreements for the following purposes to the Director of Parks and Recreation:
 - (a) Facility use or rental agreements for municipal recreation facilities;
 - (b) Rental agreements for parks and municipal forest reserve lands, subject to the agreement being for a term of not more than 3 months; and
 - (c) Health promotion and rehabilitation service agreements, subject to sufficient funds having been allocated and approved by Council under the financial plan bylaw.
- (6) Council delegates its powers to amend, renew, extend or suspend agreements previously approved and authorized by Council or under a delegated authority under this bylaw to the Chief Administrative Officer.

Settlement of claims

- 12** Council delegates its powers to settle claims, whether legal proceedings have been commenced or not, to the Chief Administrative Officer, subject to the settlement being for not more than \$50,000.00 and sufficient funds having been allocated and approved by Council under the financial plan bylaw to satisfy the settlement.

Bylaw enforcement

- 13** (1) Council delegates its powers to commence and prosecute bylaw enforcement proceedings under section 274 [*Actions by municipality*] of the *Community Charter* to the General Manager, Financial and Protective Services, subject to there being urgency in the commencement of the proceedings, and the Chief Administrative Officer reporting to Council, as soon as reasonably practicable, at a regular meeting of Council as to the commencement of the proceedings, the urgency necessitating commencement of the proceedings, and the status of the proceedings.
- (2) Council delegates its duty under section 269 (1) [*Hearing of disputes*] of the *Community Charter* to refer disputed tickets to the Provincial Court for a hearing to the General Manager, Financial and Protective Services.

Land sales

- 14** Council delegates its powers to dispose of municipal land, or an interest in municipal land, to the Chief Administrative Officer, subject to Council having first passed a resolution authorizing the disposition of the land or interest in it, and the disposition being for a price that is not less than 95% of the value set by Council in its resolution authorizing the disposition of the land or interest in it.

Land purchases

- 15** Council delegates its powers to acquire land, or interests in land, to the Chief Administrative Officer, subject to the purchase being for a municipal project approved by Council and sufficient funds having been allocated and approved by Council under the financial plan bylaw.

Registration of statutory rights-of-way and covenants

- 16** Council delegates its powers to authorize the registration of statutory rights-of-way and covenants over lands that are under development to the Approving Officer. [BL3771]

Builders liens

- 17** Council delegates its powers to file and discharge notices of interest under the *Builders Lien Act* to the General Manager, Corporate Services.

Discharge of obsolete charges

- 18** Council delegates its powers to discharge obsolete charges and legal notations from the title to real property to the Approving Officer.

Encroachments within road rights of way

- 19** Council delegates its powers to authorize encroachments within road and other rights-of-way to the Chief Administrative Officer. [BL3771]

Temporary municipal land and street use

- 20** (1) Council delegates its powers to issue licenses of occupation for non-exclusive uses of municipal land to the Chief Administrative Officer, subject to the license being for a term of not more than 12 months.
- (2) Council delegates its powers to authorize sub-leases or sub-licenses of municipal property, and to assign municipal leases and licenses, to the Chief Administrative Officer.
- (3) Council delegates its powers to issue special event permits for temporary, non-exclusive uses of
- (a) municipal land and road (including temporary private uses or occupation of municipal streets) to the Director of Engineering, and
 - (b) municipal parks and recreational areas to the General Manager of Community Services or the Director of Parks and Recreation,
- subject to the permit being for a term not more than 72 hours. [BL3771]
- (4) Council delegates its powers to authorize the installation of additional equipment on existing telecommunications towers on municipal property to the Chief Administrative Officer.
- (5) For the purpose of subsections (1) to (4) above, the Chief Administrative Officer, General Manager of Community Services, or Director of Engineering may set conditions, including conditions relating to compensation, indemnification, insurance, security, machinery, equipment, times of use, and compliance with applicable laws and any restrictions on title to property to which the license or permit relates. [BL3771]

Municipal Forest Reserve closure

- 21** Council delegates its powers to close or restrict use of all or part of the Municipal Forest Reserve, or lands managed for forestry purposes, to the Municipal Forester, subject to the closure or restriction as to use being for not more than 30 days, the closure or restriction as to use being during active forestry operations or being necessary to protect against a danger of fire or another danger, and the public being promptly notified of the closure or restriction.

Land use approvals

- 22** (1) Council delegates its powers, duties and functions under sections 490 [*Development permits*] and 491 [*Development permits: specific authorities*] of the *Local Government Act*, to the Director of Planning and Building, subject to there being no variances of municipal bylaws involved.
- (2) Council delegates its powers under section 493(1)(a) [*Temporary use permits for designated and other areas*] of the *Local Government Act* to:
- (i) Approve temporary use permits in order to allow property owners to continue to occupy an existing dwelling while a replacement dwelling is under construction; and
 - (ii) Sign temporary use permits approved by Council, to the Director of Planning and Building.
- (3) Council delegates its powers to require security under section 502 [*Requirement for security as a condition of land use permit*] of the *Local Government Act* in respect of matters delegated under subsections (1) and (2) above to the Director of Planning and Building.

Land use approvals – reconsideration

- 23** (1) The owner of land who is subject to a decision made under the delegated authority under section 22 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.
- (2) Where the owner wishes to have Council reconsider a decision made under the delegated authority under section 22 of this bylaw:
- (a) The owner must, within 30 days of the decision having been communicated to the owner, make an application in writing to the Corporate Officer, which application must include the following:
 - (i) A description of the decision sought to be reconsidered by Council;
 - (ii) The date of the decision;
 - (iii) The name of the delegate who made the decision;
 - (iv) The grounds on which reconsideration is being requested; and,
 - (v) A copy of any materials that the owner wishes Council to take into account when reconsidering the decision.
 - (b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.
 - (c) The Corporate Officer must:
 - (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above;
 - (ii) Give notice of reconsideration of the decision in accordance with any notice requirements applicable to the original decision; and,

- (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.
- (d) In reconsidering the decision the Council must consider all the material before it.
- (e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised by the owner in its submissions to Council.
- (f) Council is entitled to adjourn the reconsideration of the decision; and,
- (g) After hearing from staff and the owner, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council.

Parcel frontage exemptions

- 24** Council delegates its powers to exempt a parcel from the minimum amount of frontage on a highway required under section 512 (2) [*Minimum parcel frontage on highway*] of the *Local Government Act* to the Approving Officer.

Strata conversions

- 25** Council delegates its powers under section 242(10)(a) [*Approval for conversion of previously occupied buildings*] of the *Strata Property Act* to approve strata conversions to the Approving Officer, subject to the conversion being in relation to a two-family residential building.

Works and services agreements

- 26** Council delegates its powers to enter into agreements for works and services under section 5 of the Works and Services Bylaw 1986, as amended or replaced from time to time, to the Director of Engineering.

Excess or extended services

- 27** Council delegates its powers, duties and functions under sections 507 [*Requirements for excess or extended services*] and 508 [*Latecomer charges and cost recovery for excess or extended services*] of the *Local Government Act* to the Director of Engineering.

Petitions for local area services

- 28** Council delegates its powers to require that petitions for local area services include information in addition to that which is required under section 212 (2) [*Petition for local area service*] of the *Community Charter* to the Director of Engineering.

Severability

- 29** If any provision of this bylaw is, for any reason, found invalid by a court of competent jurisdiction, the provision must be severed and the remainder of the bylaw left enforceable and in effect.

Repeal

30 Bylaw 3616, "Delegation of Authority Bylaw" is repealed.

Title

31 This bylaw may be cited as "Delegation of Authority Bylaw No. 3734, 2019".

Read a first, second and third time on September 18, 2019
Adopted on October 2, 2019