

**REPORT TO GOVERNANCE COMMITTEE
MEETING OF WEDNESDAY, AUGUST 02, 2023**

SUBJECT **Bylaw No. 4556: Capital Regional District Public Notice Bylaw No. 1, 2023**

ISSUE SUMMARY

To consider the adoption of a public notice bylaw specifying two means of publication for statutorily required public notices.

BACKGROUND

When the *Local Government Act (LGA)* or the *Community Charter (Charter)* requires the CRD to provide advance public notice of a matter of public interest, the CRD follows the *Charter's* default procedure of publishing a notice in a newspaper for two consecutive weeks. Recent amendments to the *LGA* and *Charter* enable the CRD to adopt a public notice bylaw specifying alternative means of publishing public notice.

At its meeting of April 12, 2023, the CRD Board directed staff to report back through the Governance Committee on options for a public notice bylaw and policy.

The proposed Bylaw No. 4556, "Capital Regional District Public Notice Bylaw No. 1, 2023" (Appendix A) specifies two means of publication for statutorily required public notices:

- (a) one time in a print newspaper or print periodical distributed in the area affected by the subject matter of the notice; and
- (b) one time on the Capital Regional District website.

If adopted, the proposed Bylaw would come into effect on January 1, 2024.

ALTERNATIVES

Alternative 1

The Governance Committee recommends to the Capital Regional District Board:

- 1. That Bylaw No. 4556, "Capital Regional District Public Notice Bylaw No. 1, 2023" be introduced and read a first, second, and third time;
- 2. That Bylaw No. 4556 be adopted.

Alternative 2

The Governance Committee recommends to the Capital Regional District Board:

That staff report back through the Governance Committee on other options for a public notice bylaw and policy.

IMPLICATIONS

Implications of Alternative 1

Consideration of the principles for effective public notice

The *Public Notice Regulation (Regulation)* (Appendix B) provides that, before adopting a public

notice bylaw, the Board must consider the following principles for effective public notice: the proposed means of publication should be reliable, suitable for providing notices, and accessible (the “Principles”).

The CRD may specify any means of publication, provided that the Board considers the Principles before adopting the bylaw.

The table at Appendix C provides staff’s assessment of how the two recommended means of publication specified in Bylaw No. 4556—one time in a print newspaper or periodical and one time on the CRD website —meet the standards set by the Regulation.

Policy Implications

Staff have prepared an administrative Public Notice Policy (the “Policy”) (Appendix D) intended to ensure that community members are informed of matters of public interest and that the CRD is complying with statutory requirements for providing public notice.

The proposed Policy provides guidance on the choice of a print publication for a public notice:

- if the entire capital region is affected by the subject matter of the notice, then the notice must be published in a print newspaper with regional distribution;
- if the area affected is sub-regional or local, then the staff member can choose to publish in a print newspaper or periodical with more localized distribution (if the required timelines can be met). The reference to “periodical” in the bylaw is intended to broaden the type of publications staff can consider for public notice in remote areas, such as local community newsletters or magazines.

This Policy will require operational staff to coordinate with Corporate Communications to select the most appropriate print publication based on the subject matter of the notice, the area affected by the notice, and timing constraints.

Additionally, the Policy directs staff:

- on the procedure for collaborating on publications with Corporate Communications;
- to consider additional notices for smaller communities that use other means to spread local news, such as public notice boards, bulletin boards at community halls, etc.;
- to consider collaborating with Corporate Communications on social media posts to raise awareness of the activity, in accordance with the CRD’s social media policy; and
- to retain records pertinent to the posting of the public notice.

The Policy is being presented to the Board for information in this report to demonstrate how staff intend to implement the public notice bylaw. In accordance with the CRD Policy Management Framework, staff propose that the Policy will be an Administrative Policy, rather than a Board Policy, as it provides internal direction across departments and assists staff in operating within current legislation. Assuming the Board adopts the Public Notice Bylaw, the Policy would be finalized, adopted, and amended as needed by the Chief Administrative Officer. The Policy would be owned and monitored by Corporate Communications.

Alignment with Board Priorities

The proposed Bylaw and Policy would serve to foster greater civic participation among diverse community members (Initiative 5d). By requiring the posting of public notices online, the CRD’s public notices will reach a broader audience. Further, by maintaining the requirement to publish

printed ads, local newspaper readers will continue to be apprised of matters of public notice. This customized approach to public notice should reach more people across the region and cultivate greater transparency about the work of the CRD.

The Bylaw's requirement that the CRD post notices on the CRD website will ensure access to public notice for residents from the CRD's more rural areas, where newspaper circulation is less prevalent. The Policy further prompts staff to consider other means of notice, over-and-above the minimum requirements, where a local community customarily uses another forum for public information.

Financial Implications

The proposed bylaw should result in minor savings on advertising costs for the CRD, as the CRD will only be required to buy one print ad per notice rather than two.

Service Delivery Implications

The current public notice requirement of two notifications by newspaper often causes scheduling and logistical challenges. It can be challenging to track and meet the publication schedules of the various newspapers across the region while also meeting statutory deadlines. While this concern is not eliminated by the proposed Bylaw, publishing a notice in a print publication once rather than twice should ease scheduling difficulties.

The proposed Bylaw would come into effect on January 1, 2024, to allow time for staff to develop a landing page for Public Notices on the CRD website and adjust internal procedures. This approach will also allow staff to start publishing public notices to the CRD website and advertise the new feature before it becomes legally required.

Implications of Alternative 2

The Board is not required to adopt a public notice bylaw. If the Board is not satisfied with the means of publication specified in Bylaw No. 4556 or the supporting policy proposed by Alternative 1, it can choose to continue with the default method of two publications by newspaper and direct staff to report back through the Governance Committee on further options for a public notice bylaw or policy.

Staff also considered the option of developing an e-mail subscription service for public notices; however, this option would require additional website development work and would delay timelines for implementation. This is a service staff are considering offering in the future as part of a planned website redesign.

CONCLUSION

With recent legislative amendments, the Board can adopt a public notice bylaw specifying alternative means for publishing statutory public notice. Bylaw No. 4556, "Capital Regional District Public Notice Bylaw No. 1, 2023" specifies two means of publication—one time in a newspaper or print periodical and one time on the CRD website—that are reliable, suitable for providing notices, and accessible. The Public Notice Policy complements the Bylaw and will help ensure that the CRD is informing community members of matters of public interest and complying with the legislative requirements.

RECOMMENDATION

The Governance Committee recommends to the Capital Regional District Board:

1. That Bylaw No. 4556, “Capital Regional District Public Notice Bylaw No. 1, 2023” be introduced and read a first, second, and third time;
2. That Bylaw No. 4556 be adopted.

Submitted by:	Peter Nyhuus, J.D., Legal Counsel, Legal Services & Risk Management
Concurrence:	Steve Carey, B. Sc., J.D., Acting General Manager, Corporate Services
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENTS

Appendix A: Bylaw No. 4556, “Capital Regional District Public Notice Bylaw No. 1, 2023”

Appendix B: *Public Notice Regulation*, B.C. Reg. 52/2022

Appendix C: Table applying principles for effective public notice to Recommended Means of Publication

Appendix D: Draft Public Notice Policy

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4556**

A BYLAW TO PROVIDE FOR ALTERNATIVE MEANS OF PUBLISHING A PUBLIC NOTICE

WHEREAS:

- A. In accordance with section 94.2 of the *Community Charter*, the Regional Board may, by bylaw, provide for alternative means of publishing a statutorily required public notice instead of publishing the public notice in accordance with section 94.1(1)(a) and (b);
- B. The Regional Board wishes to specify two means of publication by which a notice is to be published;
- C. The Regional Board has considered the following principles for effective public notice, prescribed by the *Public Notice Regulation*, B.C. Reg. 52/2022:
 - (a) the means of publication should be reliable;
 - (b) the means of publication should be suitable for providing notices; and
 - (c) the means of publication should be accessible;
- D. The Regional Board considers the means of publication specified by this bylaw to be reliable, suitable for providing notices, and accessible.

NOW THEREFORE, the Capital Regional District Board in open meeting assembled hereby enacts as follows:

- 1. When the *Community Charter*, the *Local Government Act*, or another Act requires notice to be given or published in accordance with section 94 of the *Community Charter*, then the notice must be published by the following means of publication:
 - (a) one time in a print newspaper or print periodical distributed in the area affected by the subject matter of the notice; and
 - (b) one time on the Capital Regional District website.
- 2. In the event of conflict or inconsistency between the means of publication specified in this Bylaw and the means of publication specified in another Capital Regional District Bylaw, as they relate to the notice requirements of section 94 of the *Community Charter*, the requirements of this Bylaw shall prevail.
- 3. This bylaw comes into force on January 1, 2024.

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4. This bylaw may be cited for all purposes as “Capital Regional District Public Notice Bylaw No. 1, 2023”.

READ A FIRST TIME THIS _____th _____ day of _____ 20__

READ A SECOND TIME THIS _____th _____ day of _____ 20__

READ A THIRD TIME THIS _____th _____ day of _____ 20__

ADOPTED THIS _____th _____ day of _____ 20__

CHAIR

CORPORATE OFFICER

B.C. Reg. 52/2022
M55/2022

Deposited March 1, 2022

This consolidation is current to January 24, 2023.

[Link to consolidated regulation \(PDF\)](#)

Community Charter

PUBLIC NOTICE REGULATION

Definition

- 1** In this regulation, "**Act**" means the [Community Charter](#).

Principles for effective public notice

- 2** (1) Before adopting, under section 94.2 of the Act, a bylaw providing for alternative means of publishing a notice, a council must consider the following principles:
- (a) the means of publication should be reliable;
 - (b) the means of publication should be suitable for providing notices;
 - (c) the means of publication should be accessible.
- (2) Means of publication are reliable if
- (a) they provide factual information, and
 - (b) publication takes place at least once a month or, if the means of publication is a website, the website is updated at least once a month.
- (3) Means of publication are suitable for providing notices if
- (a) they allow all information in a notice to be displayed legibly,
 - (b) they allow a notice to be published by the required date, and
 - (c) they allow a person to consult a notice more than once during the period from the date of publication until the date of the matter for which notice is required.
- (4) Means of publication are accessible if
- (a) they are directed or made available to a diverse audience or readership, and
 - (b) they are easily found.

[Provisions relevant to the enactment of this regulation: *Community Charter*, S.B.C. 2003, c. 26, s. 94.2.]

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APPENDIX C: Table applying the principles for effective public notice to the Recommended Means of Publication

Principles for effective public notice set by the Regulation		Recommended Means of Publication	
		1. Newspaper / Periodical	2. CRD website
Means of publication are reliable if:	(a) they provide factual information, and (b) publication takes place at least once a month or, if the means of publication is a website, the website is updated at least once a month.	(a) The Regional District is served by numerous newspapers providing factual information. (b) The Regional District is served by newspapers that publish with regular frequency (ranging from six days a week to monthly periodicals).	(a) The CRD website provides factual information about the CRD and its activities and initiatives. (b) The CRD website is updated regularly by staff, as needed.
Means of publication are suitable for providing notices if:	(a) they allow all information in a notice to be displayed legibly, (b) they allow a notice to be published by the required date, and (c) they allow a person to consult a notice more than once during the period from the date of publication until the date of the matter for which notice is required.	(a) Newspapers allow the CRD to publish large notifications which legibly display the information. (b) Certain newspapers are published frequently enough to allow staff to publish a notice by the required date. (c) A printed newspaper ad allows a person to consult a notice more than once during the period from the date of publication until the date of the matter for which notice is required.	(a) The website allows staff to display all relevant information legibly. (b) Staff controls the CRD website and can publish notices as needed to meet the required date. (c) A person with internet access can return to the CRD website any number of times to consult the notice.
Means of publication are accessible if:	(a) they are directed or made available to a diverse audience or readership, and (b) they are easily found.	(a) While newspaper circulation is not as high as it once was, newspapers are directed at the general public and are available to a diverse audience. (b) Newspapers are easily found in most parts of the Regional District although distribution to certain remote areas is challenging.	(a) The CRD website is available for no charge to any person with an internet connection. (b) The CRD website is easily found by searching in a search engine. The website will have a landing page for Public Notices on the CRD home page.



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CAPITAL REGIONAL DISTRICT CORPORATE POLICY

Policy Type	Administrative		
Section	Corporate Communications		
Title	PUBLIC NOTICE POLICY [DRAFT]		
Adopted Date	January 1, 2024	Policy Number	ADM____
Last Amended			
Policy Owner	Corporate Communications		

1. POLICY:

- 1.1 This policy will ensure that the Capital Regional District (CRD) is both informing community members of matters of public interest that may affect them and complying with statutory requirements for providing public notice.
- 1.2 This policy is supplementary to the Public Notice Bylaw and must be used by staff when the CRD is required by law to provide Statutory Public Notice.

2. PURPOSE:

- 2.1 The purpose of this policy is to provide guidance and direction to Responsible Staff tasked with publishing Statutory Public Notice regarding:
 - a. how and where Statutory Public Notices must be published;
 - b. the procedure for collaborating with Corporate Communications;
 - c. the choice of print publication;
 - d. the consideration of further publications in local communities or online; and
 - e. recordkeeping.
- 2.2 The policy is not intended to comprehensively describe all procedures Responsible Staff must take when publishing Statutory Public Notices. The *Community Charter* and *Local Government Act* contain many provisions that necessitate the publication of Statutory Public Notice, each with its own requirements for the content of notice and the procedure for publication. Responsible Staff must familiarize themselves with the public notice legislative requirements that are relevant to their Activity.

3. SCOPE:

- 3.1 This policy applies to all Responsible Staff providing services that require the publishing of Statutory Public Notice.

4. DEFINITIONS:

- 4.1 In this policy:

- a. **“Activity”** means an action the CRD is undertaking, an event, or other matter that triggers the legislative requirement to provide Statutory Public Notice (e.g., providing notice of a proposed disposition of land or improvements, pursuant to section 286 of the *Local Government Act*);
- b. **“Periodical”** means a local community newspaper or magazine that is published at regular intervals.
- c. **“Public Notice Posting Place”** has the meaning given to that term in the “Capital Regional District Board Procedures Bylaw, 2012”;
- d. **“Public Notice Bylaw”** means Bylaw No. 4556, “Capital Regional District Public Notice Bylaw No. 1, 2023”, adopted pursuant to section 94.2 of the *Community Charter*, which establishes two means of publication by which a notice is to be published;
- e. **“Responsible Staff”** means the CRD staff member performing an Activity; and
- f. **“Statutory Public Notice”** means a notice that the *Community Charter*, *Local Government Act*, or any other legislation requires to be published in accordance with section 94 of the *Community Charter*.

5. **PROCEDURE:**

General obligation of Responsible Staff

- 5.1 Responsible Staff must ensure that Statutory Public Notices are published:
 - a. by the means of publication specified in the Public Notice Bylaw, namely:
 - (i) one time in a print newspaper or print periodical distributed in the area affected by the subject matter of the notice, and
 - (ii) one time on the Capital Regional District website;
 - b. at the Public Notice Posting Place; and
 - c. in accordance with the requirements and timelines of:
 - (i) sections 94 and 94.2 of the *Community Charter*; and
 - (ii) the relevant legislation that provides the mandatory content of the notice, the timeline for publication, and any other requirements.

Responsible Staff to contact Corporate Communications

- 5.2 Corporate Communications must publish all Statutory Public Notices, in collaboration with Responsible Staff.
- 5.3 No less than two weeks before a deadline for a Statutory Public Notice, Responsible Staff must provide to Corporate Communications staff the content for, and legislative context of, the Statutory Public Notices along with the required timeline for publications

and the proposed print publication to publish the Statutory Public Notice. Corporate Communications may require Responsible Staff to fill intake forms, take additional actions, or provide other information to facilitate the publication process.

Choosing the appropriate newspaper

- 5.4 When choosing the appropriate newspaper to publish a Statutory Public Notice, Responsible Staff, in collaboration with Corporate Communications, must consider the following guidelines:
- a. if the entire capital region is affected by the subject matter of the notice, then Responsible Staff must publish the notice in a print newspaper with regional distribution; and
 - b. if the area affected by the subject matter of the notice is sub-regional or local, then Responsible Staff must publish the notice either in a print newspaper with regional distribution or in a print newspaper or print Periodical with more localized distribution if that local publication's distribution schedule allows for statutory timelines to be met.
- 5.5 For certainty, section 5.4 does not require Responsible Staff to publish a Statutory Public Notice in multiple print publications.

Additional notices

- 5.6 In addition to publishing Statutory Public Notices, if residents of a local community customarily use other physical locations for the purpose of raising public awareness of local matters (e.g., public notice boards, bulletin boards at community halls or fire halls, community flyers, etc.), Responsible Staff may consider whether additional notices or information about an Activity should be distributed to those places.

Social media

- 5.7 In addition to publishing Statutory Public Notices, where a sub-regional or local community is most effectively reached through social media or online platforms, Responsible Staff may consult with Corporate Communications staff on whether to also share notice, or information, about the Activity by those means. The decision to post on social media platforms is subject to the discretion of Corporate Communications staff and Content Leads in accordance with the Social Media Policy.

Recordkeeping

- 5.8 Responsible Staff must retain a record of the publication of each Statutory Public Notice, such as a scanned copy of a newspaper clipping, a screenshot of the public notice on the CRD website, or a picture of the posting at the Public Notice Posting Place.

6. AMENDMENT(S):

Adoption Date	Description:
January 1, 2024	Initial adoption date.

7. REVIEW(S):

Review Date	Description:
Three years from adoption	

8. RELATED POLICY, PROCEDURE OR GUIDELINE:

ADM19, Social Media Policy

DRAFT