Bylaw Enforcement Services

The Bylaw Enforcement Services Sheet was developed for presentation to the Okanagan Falls Incorporation Study Committee at its meeting on November 21, 2023. The sheet was prepared using information available at the time of writing. Changes will be made if new information becomes available.

Information presented on the Okanagan Falls Incorporation is based on the following assumptions:

- *That Okanagan Falls municipality would provide bylaw enforcement services in-house*
- *That Okanagan Falls would continue to contract Animal Control services through the RDOS*
- *That Okanagan Falls would provide business licencing services (including inspections)*

THE PRESENT

➢ What service is provided?

Bylaw Enforcement
Okanagan Falls is subject to established regulatory bylaws, and is part of service areas (encompassing all of Area "D") for:

- animal (dog) control
- untidy and unsightly premises
- noise control
- electoral area planning

Each of these services includes a bylaw enforcement component. Bylaw enforcement staff respond to contraventions of these bylaws and services, primarily on a complaint basis, guided by RDOS enforcement policies. While bylaw enforcement is budgeted as a separate service, it is more of a function that is funded from, and provides support to, several services.

On its website, the RDOS notes that *"the goal of any proactive Bylaw Enforcement program is not to penalize residents but rather to achieve voluntary compliance with reasonable standards through increased public education and awareness of our regulations and the rationale for them*." The website also notes that a *Bylaw Enforcement Procedures Policy* was adopted in 2018 to provide direction and consistency to staff, elected officials, and members of the public on how bylaw enforcement complaints will be processed. The RDOS policy notes that enforcement relies primarily on written citizen complaints as a means of enforcing regulatory bylaws, and that the RDOS has no duty to take enforcement action with respect to every contravention of every bylaw that may be occurring within its jurisdiction, allowing discretion based on need and urgency.

Enforcement of bylaws, policies and regulations that relate to services other than the four referenced above is generally done by RDOS staff who deliver the service, such as building inspectors for the Building Bylaw. Bylaw enforcement staff are typically only involved in these other services when fines are issued.

Animal Control
Animal control is a service that regulates the licensing and control of dogs. In addition to enforcement and education, the service includes shelter operations for impounded or dangerous dogs. Shelters are located in Penticton and Oliver. The service is provided to all electoral areas except Area "H".

Untidy and Unsightly Premises
Untidy and unsightly premises service includes regulations to address issues related to the collection of garbage, water and other materials on properties, as well as noxious weeds, graffiti and safety hazards

from natural materials. The policy for triggering bylaw enforcement for this service within Area "D" (including Okanagan Falls Incorporation Study Area) is that a property must be referenced by three unrelated complainants from within Area "D". All complaints must be in writing and filed on the appropriate form. Because of the challenges in enforcement with these issues, complainants must be willing to appear as a witness in the event the matter proceeds to enforcement through the courts.

Noise Control

Noise control regulates noises that disturb neighbours, including the operation of equipment, idling of certain vehicles and barking dogs. Noise control is provided to six of the nine electoral areas. Bylaw 1527.01 indicates that no person shall cause or permit to be caused any noise in Electoral Area "D" that disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood. The bylaw also notes exceptions, including acceptable days/times for operating equipment.

Electoral Area Planning

The majority of bylaw enforcement activity involves the enforcement of the RDOS land use regulations (zoning bylaws) related to the electoral area planning service. The scope and costs of that service are detailed in a separate *Planning & Building Services Sheet*. All land use related complaints must be in writing and signed, and while contact information for the complainant must be provided, it is kept confidential to protect the identity of the complainant. There are no criteria as to who may lodge a complaint for land use infractions.

➤ Who makes decisions?

The full RDOS Board of Directors makes decisions regarding the bylaw enforcement budget, policy and procedures, and decisions concerning legal action to be pursued. Decisions specific to electoral area planning (e.g., approval of new land use and zoning bylaws) are made by the group of directors that participate in this service. In the case of electoral area planning, all nine electoral areas participate.

Bylaws related to dog control, noise and untidy premises are approved the entire Board. Corporate unweighted votes area used because the services in question are regulatory services. Figure 1 summarizes service governance.

Figure 1: Service Decision-making

SERVICE	DECISION-MAKERS
Animal Control	Decisions made by the entire RDOS Board (unweighted voting) because it is a regulatory service
Unsightly and Untidy Premises	Decisions made by the entire RDOS Board (unweighted voting) because it is a regulatory service
Noise Control	Decisions made by the entire RDOS Board (unweighted voting) because it is a regulatory service
Bylaw Enforcement	Decisions on budget, policy, procedures and on legal actions are made by the entire RDOS Board. Decisions on land use enforcement matters are made by EA directors.

➤ Who delivers the service?

RDOS Development Services department manages all bylaw enforcement and animal control matters. Bylaw enforcement staff include two full-time bylaw officers and one clerk. In the past, RDOS has used temporary bylaw coordinators as needed to assist with workload. The RDOS contracts animal control through Penticton Animal Control.

The RDOS uses the Town of Oliver Animal Shelter and the City of Penticton Animal Shelter to house dogs as required. The shelters and the operation of them are provided by their respective municipalities through contracts. The SPCA and other rescue agencies provide adoption services for unclaimed dogs.

➤ What is spent by the RDOS on the service?

The cost of the individual services is summarized in Figure 2. The costs reflect the individual service budgets for 2023.

Figure 2: Service Operating Costs (2023)

SERVICE	COST[1]	TAX REQ
Animal Control	$181,308	$153,265
Unsightly Premises	$73,041	$58,899
Noise Control	$28,469	$28,013
Bylaw Enforcement	$452,345	$0
Total	**$735,163**	**$240,177**

[1] *Cost and tax requisition figures are from RDOS 2023 budget for entire service area (not just OK Falls or Area D). Administration allocation is not included.*

In addition to the service budgets, the RDOS has operational reserves for various services. Figure 3 includes the reserve totals as at the end of 2022 for the services.

Figure 3: Reserve Totals (2022)

SERVICE/RESERVE	TOTAL[1]
Animal Control	$17,525
Unsightly Premises (Area D & I)	$14,044
Noise Control (Areas D, F, I)	$4,869
Bylaw Enforcement Operating	$128,490

[1] *Reserve totals are as at the end of 2022*

➤ How are the costs recovered?

As noted above, bylaw enforcement service costs are recovered internally from the individual services that the staff enforce. Allocations from the electoral area planning budget account for about 45% of the bylaw enforcement revenues. The remainder are recovered through the combination of funds allocated from unsightly premises, noise and animal control budgets, and some enforcement fees. The result is that there is no tax requisition for bylaw enforcement; instead taxpayers contribute property taxes to the other individual services that are then used to fund the bylaw enforcement staff time and expenses.

The costs of the animal control service are recovered primarily through property taxes levied on land and improvements, combined with enforcement ($6,121) and impound ($1,010) fees, and licensing revenues ($20,402). In all, property taxes account for close to 80 per cent of animal control service costs.

Costs for untidy and unsightly premises and noise control services are raised through property taxes levied on land and improvements.

➤ What is the cost to a typical residence?

In 2023, residences in the Okanagan Falls Incorporation Study area, assessed at $500,000, paid $20.40 in property taxes toward animal control, untidy premises and noise control services. Figure 4 summarizes the cost impact on a typical residence.[1]

Figure 4: Cost Impact on a Typical Residence (2023)

SERVICE	RES RATE	OWING[1]
Animal Control	0.0163	$8.14
Unsightly Premises	0.0174	$8.71
Noise Control	0.0071	$3.55
Bylaw Enforcement	n/a	n/a
	Total	**$20.40**

[1] *Impact is calculated on a home assessed at $500,000. Amount excludes 5.25% Surveyor of Taxes fee charged in unincorporated areas.*

[1] The property tax contribution that residents make to electoral area planning services (which includes some bylaw enforcement) is accounted for in the separate *Planning & Building Services Service Sheet*, and is not reiterated here, as not to double count the contribution.

INCORPORATION

➤ What impact would incorporation have on these services?

If Okanagan Falls were to incorporate the new municipality would assume responsibility for enforcing its own bylaws. Enforcement levels would not necessarily change as a result of incorporation; Council would determine levels based on the needs of the community. The desire for more local control over the level of bylaw enforcement is often noted as one of the motivations for incorporation, particularly where different levels of bylaw enforcement are desired within an electoral area.

One change that would occur in the event of an incorporation is that the new municipality would have the authority to regulate businesses. Most regional districts do not have the ability to regulate businesses and do not, therefore, issue business licences. Business licences provide a source of revenue, but only as a means of supporting a service that requires monitoring and inspections, as well as the creation and enforcement of regulations. Many municipalities find that business licencing can be an effective tool to enforce regulations supported by the community.

➤ What does that mean for decision-making for these services?

The municipality would have a council comprised of either four or six councillors and one mayor. Council would make decisions on all services and the associated regulatory bylaws and could choose to create a new enforcement policy and procedure, or adopt one similar to that currently used by RDOS. How actively the municipality wanted to pursue enforcement, and at what service level, would be up to Council to determine. Local governments, including municipalities and regional districts, are not legally required to enforce their bylaws. Council would also become responsible for determining when a bylaw enforcement issue should be pursued in court.

➤ What does that mean for delivery of these services?

Just because the new municipality would have authority and responsibility for the service, does not mean it has to deliver the service using municipal staff. Bylaw enforcement could be delivered by staff, by the regional district on contract, or through a private contractor. Contracts are typically used to achieve economies of scale, or in cases where the bylaw enforcement role might not warrant a full-time staff position.

It is estimated that a new Okanagan Falls municipality would require approximately 0.5 FTE of a bylaw enforcement officer to provide a similar level of service to that which currently exists. The time and cost estimate is based on RDOS bylaw enforcement activity and research from comparable municipalities. An in-house bylaw enforcement officer would be familiar with local issues and residents, and responsive to the community and Council's needs. The position could be combined with other roles, such as business licensing. Together the two roles could result in a total 0.7 FTE.

➤ What does that mean for cost of these services?

As with the RDOS collection of bylaw enforcement services, bylaw enforcement costs are typically recovered through a combination of taxes and ticket/fine revenues. In a municipality, bylaw enforcement staff would not account for their time by specific service or bylaw. Likewise, there would be no need to "fund" one service through another; municipalities typically have one general municipal tax rate that provides for general revenues that are used to pay for the collection of services provided to residents.

Using an estimate of 0.5 FTE, supported by some expenses for education, legal costs, insurance, equipment, supplies, and travel, less the bylaw enforcement fees as revenue the bylaw enforcement service cost is estimated at just under $50,000.

Business licencing would be a new service; however, the majority of this service could be recovered through business license fees.

Figure 5 summarizes the impacts incorporation would have on the individual bylaw enforcement services. Figure 6 shows the tax impacts.

Figure 5: Cost of Municipal Services and Taxes

SERVICE	COST	TAX REQ
Bylaw Enforcement	$53,875	$48,875
Business Licensing	$20,000	$0
Total	$73,875	$48,875

Figure 6: Bylaw Enforcement Municipal Taxes

SERVICE	RES RATE	OWING[1]
Animal Control	0.0163	$8.14
Bylaw Enforcement	0.0470	$23.48
Business Licensing	0.0000	$0.00
	Total	$31.62

[1] *Impact is calculated on a home assessed at $500,000*

SUMMARY OF TAX IMPACTS

Figure 7 presents the tax impact of the two scenarios – the current situation (RDOS) and incorporation (MUNICIPAL).

Figure 7: Tax Comparison of Regional District and Incorporation Scenarios

SERVICE	RDOS[1]	MUNICIPAL[1]
Animal Control	$8.14	$8.14
Bylaw Enforcement	$12.26	$23.48
Business Licensing	n/a	$0.00
Total	**$20.40**	**$31.62**

[1] *Impact is calculated on a home assessed at $500,000*