



REQUEST FOR DECISION

MEETING DATE: February 27, 2023

TITLE: C-1239-23 - Advertising Bylaw

DIVISION: Corporate Services

SUMMARY:

Proposed C-1239-23 - Advertising Bylaw would provide for alternate methods of statutory advertising for proposed bylaws, resolutions, meetings, public hearings, and other decisions and actions that are legally required to be advertised.

The proposed bylaw was presented at the February 13, 2023 Regular Council meeting. Based on review and feedback from Council, the proposed bylaw has been amended; specifically, by indicating that City will continue to advertise in the local newspaper, as long as one is in existence.

PROPOSED MOTION:

THAT first reading be given to C-1239-23 - Advertising Bylaw.

BACKGROUND / ANALYSIS:

Current Requirements for Statutory Advertising

Section 606 of the *Municipal Government Act* (MGA) outlines the advertising requirements that municipalities are required to comply with in order to properly advertise a bylaw, resolution, meeting, or public hearing ("statutory advertising").

Section 606(2) provides that statutory advertising must be:

- a. published at least once a week for two consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw, resolution, or other thing relates, or in which the meeting or hearing is to be held;

- b. mailed or delivered to every residence in the area to which the proposed bylaw, resolution, or other thing relates, or in which the meeting or hearing is to be held; or
- c. given by a method provided for in a bylaw under MGA section 606.1. Section 606.1 pertains to an advertisement bylaw.

The City currently relies on section 606(2)(a) of the MGA for its statutory advertising. Section 606(5) indicates that the “meeting, public hearing, or other thing must be advertised under section 606(2) at least five days before the meeting, public hearing or other thing occurs”.

Legal Requirements for Passing an Advertising Bylaw

As a result of amendments to the MGA in 2017, section 606.1 was added, which permits a municipal council to pass a bylaw to provide for one or more methods for statutory advertising of proposed bylaws, resolutions, meetings, public hearings, and other things, which may include electronic means of statutory advertising. Before passing such a bylaw:

- Council must be satisfied that a method set out in the bylaw is likely to bring proposed bylaws, resolutions, meetings, public hearings, and other things advertised by that method to the attention of *substantially all* residents in the area to which the bylaw, resolution, or other thing relates or in which the meeting or hearing is to be held;
- Council must hold a public hearing;
- A notice of the proposed bylaw must be published at least once a week for two consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw relates or in which the public hearing is to be held; and
- The notice of the proposed bylaw must contain information regarding the purpose of the bylaw, a place or website where the proposed bylaw may be examined, and an outline of the procedures to be followed by anyone wishing to file a petition in respect of the proposed bylaw.

As per section 231(4), the public has an opportunity to file a petition in opposition to the proposed bylaw. The petition period is 60 days after the last date on which the proposed bylaw is advertised.

Proposed Advertising Bylaw

The proposed bylaw indicates that statutory advertising *must* be:

- posted prominently on the City’s official website; and
- posted for at least 10 days before the advertised item occurs and that the advertisement may be posted on other media, including the newspaper.

Statutory advertising will not occur on social media due to legal implications. For example, if the City posted a Notice of Public Hearing on social media, residents may be inadvertently encouraged to post comments regarding the public hearing in the social media comment section. This means that their comments would be outside the public hearing forum and therefore could not be considered by Council when weighing public hearing submissions. However, to ensure the requirement that the advertisement be prominently displayed on website is met, Communications will review the options for developing a “Notices and Advertisements” webpage that hosts all legal advertisements (e.g., public hearings, borrowing bylaws, Off-Site Levy Bylaw, Road Closure Bylaws) and will actively promote the “Notices and Advertisements” webpage on social media. Communications will develop ongoing communications to raise awareness of the location of the information on the website and why residents should be checking it.

It is important to note that although the bylaw indicates statutory advertising must be on the website and that newspaper advertisement is discretionary, it may be worth continuing to advertise in the newspaper to reach certain demographics. The key is, as per this bylaw, the statutory advertising timelines are no longer tied to newspaper advertising, but to advertising on the website.

The rationale for the 10-day timeline is to be able to reduce timelines for statutory advertising for things such as a public hearing while still providing a reasonable duration of time to occur for the public to be made aware of the advertisement. Also, having a timeline longer than 10 days would negatively affect the timeline of when the petition period would start for borrowing bylaws by making it longer.

Section 606(5) of the MGA still applies in the case of an Advertising Bylaw, meaning that the “meeting, public hearing, or other thing” must be advertised five days before the meeting.

Attached are examples of the difference of timelines based on newspaper advertising and timelines based on website advertising for public hearings, borrowing bylaws, and an off-site levy bylaw.

Specific to Public Hearings

In the case of public hearings for redistricting, as per s. 692(4) of the MGA and s. 21(6)(a) of the Land Use Bylaw, the City will still be required to provide “notification of a public hearing to Registered Owners of land within 30.0m of the affected area or those determined by the City to be affected”. This notification is completed by way of letter from the City to these properties.

The Land Use Bylaw will also need to be amended to delete sections requiring advertisement in the local newspaper. Leaving these sections would cause the Advertising Bylaw and Land Use Bylaw to be in conflict of one another. It is intended the readings of the Land Use Bylaw Amendment will come to Council the same time as the readings for the Advertising Bylaw.

Amendments Based on Feedback from Council During the February 13, 2023 Regular Council Meeting

Based on feedback from Council regarding adding a provision to the bylaw to make clear that the local newspaper will still be utilized for advertising as long as one is in existence, the following amendments have been made to the bylaw:

- Section 2.3 - A definition was added to make clear what constitutes an Accredited Local Newspaper.
- Section 3.2(c) - Wording was added that the City will advertise in an Accredited Local Newspaper at least once for a Statutory Advertisement, provided an Accredited Local Newspaper remains in circulation and is available for placement of advertisements. A sentence was added to make clear that if an Accredited Local Newspaper is not in circulation, then publication of an advertisement is not mandated under the bylaw *or* the Act.

Spruce Grove Examiner Circulation Numbers

Council also asked what the circulation numbers were for the Spruce Grove Examiner (the "Examiner"). Administration reached out to the Examiner, and they advised that the newspaper is delivered to approximately 10,800 residences and approximately 100 newspapers are picked up at various drop locations throughout the City.

OPTIONS / ALTERNATIVES:

The City could continue to rely on statutory advertising required under s. 606(2) of the MGA mandating use of the newspaper or mailing the advertisement to every residence in Spruce Grove.

CONSULTATION / ENGAGEMENT:

Legal counsel reviewed the proposed bylaw and confirmed that the website advertising is sufficient to meet the requirement of the MGA that the advertising method bring to the "attention of *substantially all* residents in the area to which the bylaw, resolution, or other thing relates or in which the meeting or hearing is to be held".

IMPLEMENTATION / COMMUNICATION:

The two consecutive weeks of statutory advertising in the newspaper of the 60 day petition period will occur on March 3 and March 10, 2023. The petition period starts on March 11, 2023. The public hearing and second and third reading cannot occur until the 60 days has expired. If a petition is not received, it is anticipated that second and third reading will occur at the May 23,

2023 Council meeting. The public hearing will be advertised in the newspaper preceding second and third reading.

If the bylaw is approved, the City's website will be updated and there will be communications to the public of the updated advertising processes.

IMPACTS:

Benefits of Proposed Advertising Bylaw

The benefits of the Advertising Bylaw are:

- untie statutory advertising to the local newspaper publishing dates;
- shorten timelines between initiating events (e.g., first reading), advertising, and end events (e.g., public hearing);
- provide options to use lower cost methods of statutory advertising;
- modernize the City's communications for the digital age;
- position the City to be able to still advertise under the MGA in the event the local newspaper was no longer in existence; and
- provide the ability to act more nimbly and quickly in response to time sensitive matters for which statutory advertising is required.

FINANCIAL IMPLICATIONS:

There would be a nominal cost savings if the City chose not to advertise in the newspaper.