



Portside
Law LLP



Cape Breton Regulatory Modernization Pilot: By-law Modernization Initiative Action Plan for Inverness County

DATE

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SUBMITTED BY

PORTSIDE LAW LLP

Cape Breton Regulatory Modernization Pilot
By-Law Inventory Initiative: Executive Summary

Inverness

Background

In the spring of 2019, the Province of Nova Scotia, through the Office of Regulatory Affairs and Service Effectiveness, and the five municipalities on Cape Breton Island entered into a pilot partnership to improve the regulatory environment to make operation and expansion easier for Island Businesses. Regulatory reform and modernization play a key role in the province's broader economic growth strategy. Together, the parties agreed to a workplan that reflects the input provided by the business community during stakeholder engagement sessions in Port Hawkesbury, Glace Bay, Sydney, Baddeck, Inverness and Cheticamp.

One of the first initiatives the parties undertook was to produce an updated inventory of By-laws on municipal websites to alleviate confusion around compliance requirements for business. This initiative was in direct response to stakeholder input heard throughout the engagement sessions. Businesses identified that finding, learning and complying with different municipal By-laws as one of the challenges posed by operating across the Island. Upon completion of this project, that objective will be met.

Once the parties began work in this area it became readily apparent that there were substantial issues with a number of municipal By-laws in addition to their accessibility online. Portside Law LLP was engaged to review all the By-laws of the Cape Breton Regional Municipality, the Municipalities of the Counties of Richmond, Inverness and Victoria, and the Town of Port Hawkesbury, for issues of clarity, relevance and enforceability. The following is an action plan arising out of the findings made in our Final Report with respect to that work.

It is important to note that there is still much work to be done in terms of using this work to meet the objectives of the Cape Breton Regulatory Modernization Pilot. To that end, we added, for your consideration, a section where we consider areas of both similarity and difference between your municipality and your Island neighbours and partners in the pilot. There may be opportunities for further regulatory alignment if you wish to pursue them.

Summary

The following is a condensed version of the work plan set out in our Final Report, which was delivered on September 17th, 2020. The purpose of this document is to give concise actionable items for your municipality to review and consider.

In our analysis, we have identified the following By-laws that, in our opinion, require urgent attention. Included as well below is a brief explanation of our rationale for identifying these By-laws, although we would advise reviewing Appendix B to our Final Report for a more fulsome analysis when time permits:

1. Curfew By-Law – there were concerns about both the relevance and enforceability of this By-law in a modern context;
2. Capital Cost of Sewer and Water By-Law – in reviewing this By-law, it was determined that there were what appear to be two separate By-laws in the same document and there were some typographical and formatting issues which impacted the clarity of the document;
3. Heritage Property By-Law – similarly, our review indicated that there are currently two different By-laws (one passed on 1982, the other in 1983) posted to the same link on the municipality's website. We therefore suggest that review be undertaken to ensure which By-law is currently operative and repeal the predecessor;
4. Cheticamp Planning By-Law – there was some concern that the narrow focus of this By-law (it contains a singular reference to a particular person) would require review in the modern context; and
5. Port Hood Planning By-Law – there were similar concerns with this By-law as with the Cheticamp Planning By-law.

We have also identified a significant number of By-laws that would benefit from minor revisions. This would include editing for grammar, punctuation, formatting, numbering and the inclusion of certain recitals and certifications.

We recommend that, as part of the review process, Council adopt a standard format for its By-laws and maintain that format on a go-forward basis.

It is our suggestion that each of these By-laws can be addressed by way of an omnibus by-law, the contents of which we can provide in template format once it is determined how, after review and consideration, your municipality wishes to proceed.

As such, our first recommendation is that the necessary members of your municipality's government and legal advisers review both this executive summary and our Final report. You will see in Appendix B of that Report, that we have identified a number of By-laws that will require review in the medium to long- term range once the By-laws identified herein as requiring more urgent review have been reviewed by your municipality.

In undertaking the review of these By-laws, it is perhaps helpful to consider what regulatory subject matters have been covered solely by your municipality and which have been covered by a variety of other municipalities. We believe consideration of other municipalities' By-laws can help inform both current re-drafting of existing By-laws in the short term and possibly drafting of new By-laws in the longer term. Reference can be made to Appendix C of our Final Report, which provides a table of the subject matters covered within the By-laws of the various municipalities. A synopsis of this table for the purposes of your municipality is as follows:

By-Law(s) found only in Inverness: Business Tax, Curfew, Destruction of Documents, Development Officer, Liability, Mischief and/or Nuisance, Municipal Officers, Municipal Seal, Trailers and Trailer Courts

By-Law(s) found in all other municipalities except Inverness: Emergency management

By-Law(s) found in all municipalities, including Inverness: Solid waste