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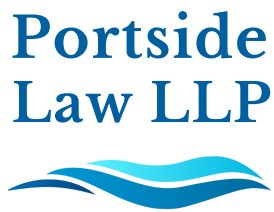
Cape Breton Regulatory Modernization Pilot: By-law Modernization Initiative Action Plan for Victoria County

DATE

September 17, 2020

SUBMITTED BY

PORTSIDE LAW LLP



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

Victoria County

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 based on 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.

Executive 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. Tax Exemption By-Law – Dingwall Water Utility – our review indicated that this By-law is obsolete as the water utilities were amalgamated in 2009;
2. Council Expenses By-Law – our review indicated that there was an ambiguity with respect to expenses when this By-law is considered in tandem with the Council Remuneration By-law. It is also our suggestion that this By-law be reviewed to ensure it is consistent with current best practices;
3. Council Remuneration By-Law – similarly, our review indicated that this By-law created ambiguity when read in tandem with the Council Expenses By-law. The enactment clause for this By-law was also absent and there was a sense that this By-law should be reviewed to ensure it is consistent with current best practices;
4. Minimum Housing Standards By-Law – our review indicated that there were a number of typographical and formatting errors which negatively impacted the clarity of this By-law. The By-law is also missing an enactment clause; and
5. Electronic Voting By-Law – our review indicated that this By-law had a very narrow scope in terms of its application, which was limited to a single election. Some consideration should be given to broadening the scope of the By-law.

We also have 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 as well as a consistent numbering system and maintain those 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 Victoria County: Council Expenses, Council Remuneration

By-Law(s) found in all other municipalities except Victoria County: Planning

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