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Municipal Bylaw Court

**A Presentation by:
Miller Thomson LLP**



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Overview

- Purpose
- Provincial Authority
- Focus
- Preparation
- Appointment/Approval
- Partners
- Payment of Tickets
- Challenges
- Questions



Purpose of the Bylaw Court

- The Court provides a means to
 - enforce bylaws and
 - settle grievances between the municipality and those with a violation notice
 - provides an opportunity offenders to appeal violations
- Not a revenue generation scheme



Provincial Authority

- Bylaw Court falls under the authority of the Provincial Court of Saskatchewan
- The court is presided over by a provincially appointed Justice of the Peace
- The relevant process are governed/determined by the Provincials Court Representatives
- Issuance and enforcement of tickets is governed by *The Summary Offences Procedures Act*



Focus

- The main focus of the Bylaw Court is enforcement and compliance
- In many cases, fines remain unpaid if no enforcement mechanism
- Enforcement can be discredited if there is no ability to follow through to payment of fines
- Those in violation have the right to appeal the charge against them
- Some matters of dispute require a judicial court to ensure both sides are heard and to make a non-partisan judgment



Focus: Enforcement versus Revenue

- The focus of the Bylaw Court is **not revenue** - it is an expensive process - not a good revenue source
- Municipalities have a duty to their rate payers to:
 - Ensure peace, order, and good government
 - Develop and maintain a safe and viable community
- Enforcement of Bylaws helps meet these duties



From Idea to Application

- Over 3 years ago, the Town of Kindersley started the process of making an application to the province to establish a municipal bylaw court in West Central Saskatchewan
- Prior to submitting its application, the Province required confirmation that an intensive review of the relevant bylaws was completed to ensure everything was up to date and met all legislative requirements.
- The Town of Kindersley worked closely with Miller Thomson LLP to ensure all the bylaws were brought up to date and meets the legal requirements set out by the province
- Miller Thomson LLP has been working similarly with other municipalities



Appointment / Approval

- Application submitted in April 2017
- The province approved the request in August 2017 for the initial 15 participating communities.
- Bylaw Court now has more than 44 participating/partner communities.
- Number of partner communities far exceeded the Province and Town of Kindersley's expectations
- The Town of Kindersley has been working with Miller Thomson LLP to ensure that Bylaw Court meets the legal requirements set out by the province



What are the Costs?

- Justice of the Peace – paid for by the province
- Administration costs – paid for by the province
- Court building – paid for by the province
- Court clerks – paid for by the Town of Kindersley
- Training for court clerks – paid for by the province
- Prosecution – paid for by each municipality
 - Each municipality must pay the cost associated with prosecuting their respective tickets.



Court is now in Session

- The court currently sits the third Thursday of every month in Kindersley
- The court is public and anyone can attend, but visitors must not disrupt the court or its proceedings
- Cameras and recording devices are prohibited
- Have had 9 months, cancelled half due to no violations to prosecute



Process: From Ticket to Conviction

- Issuance of Violation, to be paid within 'x' number of days
- If paid – no further steps
- If not paid, send out notice of pending summons if not paid within 'x' number of days
- If paid – no further steps
- If not paid, send out summons setting court date
- Can still pay prior to court date. This amounts to guilty plea.
- Can attend at court and: a) plead guilty and ask for reduced fine; or b) plead not guilty and set date for trial
- Trial date is set – offender is either found guilty or not guilty



The Tickets

- The Government of Saskatchewan has pre-printed Summary Offence Tickets that can be used or you can design your own.
- Tickets must meet the requirements as set out in the *Summary Offences Procedure Act*
- NOTE: the Government issued tickets **cannot** be used for parking violations
- If the Government issued Summary Offence are used, you are responsible for keeping track of these tickets and reporting when they have been issued. If you use your own designed tickets, this step can be dispensed with.



Tickets Continued

- **Voluntary Payment**

- Tickets should include a “voluntary” payment option
- For example, impose a voluntary payment fine of \$100 for parking in a disabled zone without a proper permit. If not paid within 10 days, the fine amount is increased to \$200
- Voluntary payment allows court to grant default conviction where offender does not show up for appointed court date
- Only other option – of no voluntary payment – Arrest warrant

- **Administration Fee**

- Each municipality is able to add an administration fee to their tickets. It is our suggestion to simply increase the amount of the penalty required if the ticket is not paid within a certain amount of days
- The administration fee is then “included” within the fine and there is less paper work and “administration” involved.



Bylaw Court: Plea

- If the offender does not pay their ticket they are required to attend at Court on the date stated on the issued ticket
- On this date, they must make a plea – guilty or not guilty
- If they plead guilty, their matter is set down for trial at a future date
- If they plead not guilty, they can pay the ticket or ask the court for a reduced amount.
- If they fail to attend they risk
 - Default conviction
 - Very important to have a voluntary payment option on tickets for default conviction



Trials

- If an offender pleads Not Guilty to a ticket, his or her matter is then set down for trial.
- All relevant material for the offence must be disclosed to the offender: pictures taken of offence, warning notices, bylaw officers notes, etc.
- The bylaw officer who issued the ticket will be called as a witness on behalf of the Town. The bylaw officer will be asked to recount the events that led to the issuance of the ticket
- The bylaw officer should know the events very well in order to present as a credible witness
- There may be a number of months between when a ticket is issued and when a trial is heard. If necessary, bylaw officers can make notes for themselves when a ticket is issued. These notes may then be reviewed for trial in order to refresh the bylaw officer's memory. They can also be reviewed during the trial as long as the notes were made by the bylaw officer himself or herself at the time of issuing the ticket or shortly thereafter
- Court then makes its decision



Victim Surcharge

- As required by the province, any convictions (except parking convictions) will require a victim's surcharge fee to be added to the amount owing on the ticket
- The surcharge is a set fee depending on the amount owing on the ticket. For example, on tickets which include a fine of \$99 or less, the victim's surcharge is \$40
- The victim's surcharge amounts will be provided to the province every few months
- The victim's surcharge is used to assist victims of crime
- Any victim surcharges must be collected the municipality, accounted for and paid to the Province. Currently, this is set to be done every three months.



How will Convictions be Enforced?

- Enforcement is entirely up to the municipality to pursue
- Add amount of fine to property taxes (pursuant to the *Municipalities Act*)
- For parking tickets, Lien registered against vehicles, Seizure and sale of vehicles (pursuant to the *Summary Offences Procedure Act*)



Benefits

- Opportunity to effectively enforce bylaws
- Opportunity to collect on outstanding fines and fees
- Opportunity for regional collaboration of enforcement
- Opportunity for RCMP to be more actively engaged in municipal bylaw enforcement
- Opportunity to standardize enforcement techniques, violation notices, tickets, etc.
- Opportunity to standardize similar bylaws having been tested in court
- Opportunity for offenders to appeal a conviction



Challenges

- Municipalities:
 - Enforcement
 - Cost vs Benefit
- Provincially
 - Volume – too successful?



Questions?

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