
MEETING TYPE: Regular Council Meeting
MEETING DATE: Tuesday, August 16, 2022
AUTHOR: Scott Unser, Manager, Public Works
DEPARTMENT: Engineering and Environmental Services
ITEM TITLE: Risk Management Policy: Streamside Inspection and Maintenance
DESCRIPTION: To adopt a Streamside Inspection and Maintenance Policy

QUESTION

Does Council wish to establish levels of service with respect to the inspection and maintenance of Streamside areas within District boundaries, through written policy, as recommended by MIABC.

OPTIONS

- A. THAT Streamside Inspection and Maintenance Policy, 201, 2022, be adopted.
- B. THAT Streamside Inspection and Maintenance Policy, 201, 2022, not be adopted.
- C. THAT Streamside Inspection and Maintenance Policy, 201, 2022, be referred back to staff for revisions (to be cited by Council) and brought forward to a future meeting for consideration.

EXECUTIVE SUMMARY

The District of Lake Country is a member of the Municipal Insurance Association of British Columbia (MIABC). As a Risk Management tool, MIABC strongly recommends its member municipalities have Operational Risk Management Policies in place. This policy will manage safety of the public and staff, minimize adverse liabilities and negative financial effects to the municipality. Additionally, the proposed policy will provide staff with guidance by establishing levels of service.

This policy is intended to read as a standalone document and recognize that, balanced against the nature and quality of the risk involved, the District's system of inspections is reasonable in light of all circumstances, including budgetary limits, available personnel and equipment, in the criteria of wanting to meet the standard duty of care.

KEY INFORMATION

A local government policy that articulates clear service levels is a key to creating a legally defensible position. In October of 2021, the Supreme Court of Canada decision in Nelson (City) v. Marchi, 2021 SCC 41, suggests unwritten operational policy decisions may not offer municipalities immunity from liability.

BACKGROUND/HISTORY

The Municipal Insurance Association of BC (MIABC) is a member-owned and operated organization. It provides, among other services, liability coverage for its members. The Association currently insures approximately 170 Municipalities and Regional Districts in British Columbia. This represents approximately 90% of Local Governments in the Province. The District of Lake Country has been a member of MIABC since incorporation.

The overall objective of the policy review is to build a set of Risk Management Policies that provide the municipality a measure of protection, while operating in a reasonable, safe and feasible manner, within the capacity and budget of the organization.

The methodology used to develop this type of policy includes consultation with the Managers of the respective departments that are responsible for the service delivery. The consultation focuses on the process and frequency used for inspections and maintenance of the various areas of the Municipality's operations.

The development and implementation of the Streamside Inspection and Maintenance Policy is multi-faceted:

1. to minimize magnitude of risk and adverse financial effects to the District; and
2. to define the level of service the District may be authorized to enact
3. ensure public safety in areas where other government authority exceeds the District's.

During 2021 and 2022, Council has adopted the following Risk Management Policies:

- Slope Stability Management Policy 191, 2021.
- Fire Hydrant (Water Systems) Inspection and Maintenance Policy 192, 2021.
- Sidewalk Inspection and Maintenance Policy 194, 2021.
- Street Light Inspection and Maintenance Policy 197, 2022
- Pavement Marking Inspection and Maintenance Policy 198, 2022

The Streamside Inspection and Maintenance Policy attached reflects a consistent approach to meeting the overall objective.

ANALYSIS OF OPTIONS FOR CONSIDERATION

OPTION A: If Council approves the attached policy, it will reduce the District's risk and minimize the financial effects of losses to the municipality and sets a level of service and authority that provides clear direction for Staff.

OPTION B: If Council does not approve the attached policy, it may open the municipality to unwanted liability and unclear guidance for staff on legislative authority with respect to other levels of government.

OPTION C: If Council postpones the approval of the attached policy, staff will work to ensure additional information is provided and will return for Council's consideration at the next possible meeting.

Respectfully Submitted,

Scott Unser, Manager, Public Works

This report has been prepared on consultation with the following:

(author to request inclusion of initials to show concurrence)

Tanya Garost, Chief Administrative Officer	TG
Matthew Salmon, Director of Engineering and Environmental Services	MS

Attachments

A.	Draft Streamside Inspection and Maintenance Policy, 201, 2022
B.	
C.	
D.	

Streamside Inspection and Maintenance Policy 201, 2022

District of Lake Country
10150 Bottom Wood Lake Road
Lake Country, BC V4V 2M1
t: 250-766-5650 f: 250-766-0116
lakecountry.bc.ca

DATE

The following was adopted as Policy by **Resolution No. [yyyy-mm-xxx]** at the **Regular Council Meeting** held on [yyyy-mm-dd].

PURPOSE

The District of Lake Country ("District") recognizes that, balanced against the nature and quality of the risk involved, the District's system of inspections is reasonable in light of all circumstances, including budgetary limits, available personnel and equipment, in the criteria of wanting to meet the standard duty of care.

POLICY

DEFINITIONS:

District means the organization of the District of Lake Country or the area within the municipal boundaries as the context may require.

Director means the Director of Engineering and Environmental Services or designate.

Stream(s) means a stream as defined in the Water Sustainability Act S.B. C. 2014, C. 15.

The **streams** are Crown land and not the property of the District. The Crown land includes lands of various widths adjacent to the **streams** beyond private property boundaries adjacent to a **stream**. The **District** assumes no responsibility for tree and vegetation maintenance or bank stabilization within private property or Crown lands adjacent to private property next to a **stream**.

Stream Channel means a stream channel as defined in the Water Sustainability Act.

Streamside means areas:

In or about a **stream**:

- (a) Any modification to the nature of a stream, including any modification to the land, vegetation and natural environment of a stream or the flow of water in a stream, or
- (b) Any activity or construction within a stream channel that has or may have an impact on a stream or a stream channel; and
- (c) as defined and amended, as necessary, within the BC Water Sustainability Act.

1. The **Director** shall be responsible for the implementation of this policy.
2. The **Director** shall consider the health and safety of the public in implementing this policy.
3. The **District** will rely upon reports of observed defects by members of the public, from **District** Road Maintenance contractors or from **District** staff.
4. The **District** shall not introduce a policy of systematic and regular inspections of **Streams** or **Stream Channels** however, will rely on a reactive response to notifications that a hazardous condition may exist in those areas.
5. The **District** will respond to a notification that a hazardous condition may exist within three (3) working days.
6. Where private property owners or the general public have made requests to the **District** regarding tree or vegetation maintenance, bank stabilization and/or debris removal in or about a **stream**, the **District** shall direct the owner or the general public to the appropriate agencies and procedures. It is the responsibility of the owners to protect their property from flood and flood related risks.
7. Costs associated with the investigation of notifications that hazardous conditions may exist in **streams**, **stream channels** or **streamside** areas shall be within the approved annual operational budgets.
8. Records related to notifications that hazardous conditions may exist in **streams**, **stream channels** or **streamside** areas shall be kept in the **District's** current Records Management System, and in accordance with Records Management Bylaw 1135, as amended or replaced from time to time.

ADOPTED this ____ day of _____, 2022.

Mayor

Corporate Officer