
MEETING TYPE: Regular Council Meeting
MEETING DATE: Tuesday, October 04, 2022
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DEPARTMENT: Planning and Development
ITEM TITLE: Official Community Plan Policy 9.3.4.(c) – Privately Run Sewage Treatment Facilities
DESCRIPTION: To seek Council direction regarding OCP Policy 9.3.4(c).

QUESTION

Does Council confirm support for Official Community Plan (OCP) Policy 9.3.4(c), which states: “the creation of new privately run sewage treatment facilities will not be supported, even in areas where the municipal sewer system does not currently exist”?

OPTIONS

- A. THAT Council confirms support for Section 9.3.4(c) of the Official Community Plan which states, “the creation of new privately run sewage treatment facilities will not be supported, even in areas where the municipal sewer system does not currently exist”.
- B. THAT options be brought forward at a future Council meeting to amend Section 9.3.4.c. of the Official Community Plan which states, “the creation of new privately run sewage treatment facilities will not be supported, even in areas where the municipal sewer system does not currently exist”.

EXECUTIVE SUMMARY

Staff is seeking Council direction regarding Section 9.3.4(c) of the OCP, which does not allow for the creation of new privately run sewage treatment facilities within the District of Lake Country. Due to the existence of pre-zoned commercial and multiple-family properties without access to community sewer, the District is receiving pressure from developers to permit these facilities. This report discusses the purpose of the current OCP policy, discusses the potential impact of allowing privately run sewage treatment facilities and explains that an OCP amendment process is required should Council change direction from its OCP.

BACKGROUND/HISTORY

The purpose of the Official Community Plan (OCP) is to provide a statement of objectives and policies to guide planning and land use management within the boundaries of the District of Lake Country. With regards to sanitary servicing of properties, Section 9.3.4(c) of the OCP states: “*the creation of new privately run sewage treatment facilities will not be supported, even in areas where the municipal sewer system does not currently exist.*” A privately run sewage treatment facility is considered to be any system that services multiple units that is not operated by the District.

Due to the existence of pre-zoned commercial and multiple-family properties without access to community sewer, the District is receiving pressure from developers to permit privately run sewage treatment facilities. Some of these properties are outside of the Urban Containment Boundary as identified in the OCP. An example of this is the proposed Owl’s Nest strata resort at 4111 Evan’s Road.

According to Section 478(c) of the Local Government Act (LGA), “*all bylaws enacted or works undertaken by a council, board or greater board, or by the trustees of an improvement district, after the adoption of an official*

community plan... must be consistent with the relevant plan." Therefore, Council must adhere to its OCP. Should Council wish to change direction from its adopted plan, it must first amend the OCP through the public process identified in the LGA.

DISCUSSION/ANALYSIS

Purpose of OCP Policy 9.3.4(c)

The OCP identifies locations where future growth should occur and the types of growth that are most appropriate, providing guidance for the assessment and approval of new development proposals. One of the ways that the OCP controls growth is by focusing future development and land use changes to the Urban Containment Boundary (UCB), identified in Map 3 of the OCP, and the conceptual sewer boundary identified in Map 6 of the OCP.

By disallowing privately run sewage treatment facilities, Policy 9.3.4(c) further focuses development to areas serviced with community sewer, achieving the OCP goals regarding urban growth, including:

- 4.1.1 Make use of existing infrastructure to reduce environmental and financial costs of growth.
- 4.1.2 Emphasize infill and the intensification of land use in appropriate locations.
- 4.1.3 Pursue a more compact, efficient and sustainable community.
- 4.1.4 Protect and preserve the rural character of Lake Country which exists outside the UCB.
- 4.1.5 Maintain the core and nodal growth pattern in approving new development proposals.

Potential Impact of Allowing Privately Run Sewage Treatment Facilities

Should Council amend the OCP to allow privately run sewage treatment facilities (either inside and/or outside of the UCB), developments may be able to proceed in areas that are outside of the UCB or in areas within the UCB that are not currently connected to community sewer. This promotes development sprawl, which has significant environmental, economic and social consequences such as:

- higher greenhouse gas emissions due to automobile dependence required to access employment and commercial and public services;
- higher costs for the local government to provide and maintain public infrastructure and services;
- impeding the ability of the local government to extend community sewer for neighbourhood-wide solutions;
- lower community cohesiveness and access to important social, commercial, and transit services;
- increasing environmental impact and loss of environmental amenities; and,
- impact to rural character and agriculture.

Additionally, while privately run sewage treatment facilities are regulated by the Province, either through the Interior Health Authority or the Ministry of Environment, these facilities are still subject to failure due to age, lack of proper maintenance, and/or inappropriate placement. Historically, there has been a large number of privately run facilities that have failed in the Province of BC. Studies in other BC municipalities have indicated negative environmental impacts associated with privately run sewage treatment facilities. Failure of these systems presents a possible environmental and public health risk, and significant financial liability for owners and residents who will be responsible in the future for fixing these systems.

A recent example of such a failure is Lake Okanagan Resort in the Regional District of Central Okanagan. Despite regulation by the Province, the resort owners failed to maintain the private sewage treatment facilities, leading to multiple violations over many years, and the possible pollution of Okanagan Lake. Another local government which has had major challenges associated with privately run sewage treatment facilities is the Cowichan Valley Regional District (CVRD) on Vancouver Island. In a discussion with the CVRD, staff indicated that the regional district has had to take over 16 privately run sewage treatment facilities over the years. These facilities were all built to different standards and required retrofitting and updating. The CVRD now has a moratorium on new private systems being built and taken over by the regional district. This moratorium is now being incorporated into policy in their upcoming OCP.

Pre-Zoned Properties without Community Sewer Access

Some properties within the UCB do not have access to community sewer, even though they are within the conceptual sewer boundary of OCP Map 6. If they have pre-existing zoning that requires connection to community sewer, prior to development they are either expected to pay for the extension of the community sewer or wait until community sewer becomes available. Policy 9.3.4(c) does not allow the option of using a privately run sewage facility.

Despite the UCB and other policies regarding urban growth management, there are also properties located outside of the UCB that have pre-existing zoning that allows for commercial or multiple family residential developments. These properties, such as those zoned Tourist Commercial (C9), were typically granted this zoning to recognize existing land uses (i.e. campgrounds or private camps). However, the list of possible permitted uses in these zones also includes higher intensity uses, such as Apartment Hotels.

In all cases, if re-developed to a more intensive use or subdivided, these pre-zoned properties require connection to community sewer per Table C-1 of the Subdivision and Development Servicing Bylaw. However, as they are located outside of the UCB, the OCP does not support the extension of community sewer to these locations. Additionally, Policy 9.3.4.c. does not allow the use of privately run sewage treatment facilities. While onsite sewerage systems might be an option to allow lower intensity uses such as campgrounds or boat storage on these properties (should a variance to the SDS servicing requirements be granted by Council), they are not appropriate for higher intensity land uses such as multiple family or other mixed-use developments.

Request for Council Direction on Policy 9.3.4(c)

Given the existing applications and inquiries regarding higher intensity development under existing zoning for properties not serviced by community sewer, staff are seeking Council direction regarding Policy 9.3.4(c) Council may decide that this policy remains appropriate to achieve the servicing, growth management, and environment and sustainability goals and objectives of the OCP. In that case, no OCP amendment is required. Alternatively, staff can proceed to review the policy and return to Council with options for an Official Community Plan amendment. An OCP amendment is required should Council wish to change this OCP policy as the OCP cannot be varied, and the Subdivision and Development Servicing Bylaw cannot be varied to be inconsistent with the OCP.

APPLICABLE LEGISLATION AND POLICIES

Local Government Act

Part 14 - Planning and Land Use Management: Division 4 - Official Community Plan

Effect of official community plan

- 478 (2) All bylaws enacted or works undertaken by a council, board or greater board, or by the trustees of an improvement district, after the adoption of
- (a) an official community plan, or
 - (b) an official community plan under section 711 of the *Municipal Act*, R.S.B.C. 1979, c. 290, or an official settlement plan under section 809 of that Act, before the repeal of those sections became effective,
- must be consistent with the relevant plan.

Official Community Plan

- Section 3 - Environment and Sustainability

Goals

3.1.2 Reduce greenhouse gas emissions and dependence on fossil fuels in Lake Country.

3.1.3 Minimize the environmental impacts of new development.

Objectives

3.1.19 Manage and protect local water resources to prevent irreversible or undesirable impacts.

Policies

3.1.6 (h) Protect lake and creek water quality.

3.1.20 (c) Support the Okanagan Basin Water Board and an integrated approach to regional water resource management.

- Section 4 – Growth

- Objectives

- 4.1.7 Require that future development occurs in a manner that will not compromise the ability of future generations to meet their needs and enjoy the quality of life we experience today.

- Policies

- 4.1.8 The policies of Council are as follows:

- (a) Focus future development and land use changes to the Urban Containment Boundary.
 - (b) Discourage development projects that create further urban sprawl in the community.
 - (d) Minimize development in rural areas to maintain the rural character of Lake Country.
 - (e) Decrease impact on farmland by focusing growth away from the agricultural boundary.

- Section 9.3 - Sanitary Sewer

- Objectives

- 9.3.1 Provide sanitary sewer to underserved urban areas as identified on Map 6

- 9.3.2 Expand the District sanitary sewer system into developed and identified growth areas within the limits of the area set out in Map 6.

- 9.3.3 Ensure all properties have a safe and environmentally responsible means of disposing of liquid waste

- Policies

- 9.3.4.

- (c) The creation of new privately run sewage treatment facilities will not be supported, even in areas where the municipal sewer system does not currently exist.

- (f) Require all development on existing lots that cannot connect to the community sewer system and are located within 100m of any water body are serviced with a Type 3 on-site sewerage system.

Subdivision and Development Servicing Bylaw

Table C-1 requires all commercial zones, all Direct Control zones (except for DC10 Pixie Beach Resort) and all Public and Institutional zones (except P3 – Minor Utilities) to connect to community sewer.

IMPACT ON INFRASTRUCTURE OR MUNICIPAL SERVICES

Should Council amend the OCP to allow privately run sewage treatment facilities (either inside and/or outside of the UCB), it could compromise the ability of the District to establish Local Service Areas (LSAs) to extend community sewer for neighbourhood-wide solutions in the long-term. The Liquid Waste Management Plan Update that is underway, and close to completion, proposes utilizing an LSA process for cost recovery to provide retrofit sewers in pre-existing neighbourhoods. The LSA process involves electoral assent and allowing individual solutions could preclude desired community-based solutions from occurring. This could result in leaving strategic areas identified as high priority for community sewers in order to protect the environment and public health without a holistic solution.

Additionally, should Council amend the OCP to allow these private sewage treatment facilities, it would also potentially allow for multiple systems to be installed throughout the community, with no ability for the District to control them once they are running. The District would be relying on the Province to regulate these systems for private residents or stratas to be responsible for preventing facility failures through proper ongoing maintenance. The potential for environmental contamination of lakes and watercourses could exist throughout the District.

IMPACT ON STAFF CAPACITY AND FINANCIAL RESOURCES

The risk of future failure or problems can have significant and costly impacts on staff time and resources. Often, local governments are called on to help, if not outright resolve, infrastructure failure as citizens, and especially property owners, are faced with the negative outcomes associated with on-site disposal system problems or failures.

COMMENTS FROM EXTERNAL AGENCIES, COMMITTEES AND STAKEHOLDERS

No referrals have been sent regarding this Request for Council Decision report. Should Council direct staff to review Section 9.3.4.c. and make a recommendation regarding a possible OCP amendment, there is a statutory requirement for consultation with the public and other stakeholders.

CONSULTATION AND COMMUNICATION

Not applicable.

ANALYSIS OF OPTIONS FOR CONSIDERATION

Option A:

Should Council continue to support OCP Policy 9.3.4(c), the implications are as follows:

- The District will avoid creating additional situations where privately run sewer systems fail or are not maintained. It will also avoid further situations where the District is asked to take on failing systems.
- Development will be contained within the area identified for Sewer Service Infrastructure (Map 6), which will concentrate development within that boundary and increase the financial viability of the community sewer system.
- There will be commercial and multi-family proposals for properties outside the area identified for community sewer extension that cannot be approved by Council. This includes new strata communities in the areas around the east side of Wood Lake and around Kalamalka Lake.

Option B:

Should Council direct staff to bring options forward at a future Council meeting to amend Section 9.3.4(c) of the OCP, staff will proceed to provide a full evaluation of the options in terms of future environmental, economic, and social impact on the community. An OCP amendment process will also be required, which includes public and stakeholder consultation. This process would also need to include the Liquid Waste Management Plan Update which is founded on the OCP

Respectfully Submitted,

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This report has been prepared in collaboration with:

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Attachments

A.	OCP Map 3 - Urban Containment Boundary
B.	OCP Map 6 - Sewer Service Infrastructure