

Committee Information Report

DATE OF MEETING September 6, 2018

AUTHORED BY KARIN KRONSTAL, SOCIAL PLANNER

SUBJECT SUPERVISED CONSUMPTION SERVICE ZONING REGULATIONS

OVERVIEW

Purpose of Report

To provide the Public Safety Committee with information related to the siting of a federally regulated and recognized Supervised Consumption Service.

Recommendation

That the report 'Supervised Consumption Service Zoning Regulations' dated 2018-SEP-06 be received for information.

DISCUSSION

Council, at its Regular Council Meeting of 2018-JUN-09, passed the following motion:

"That Council refer review of Zoning Bylaw Amendments related to Supervised Consumption Services to the Community Planning and Development Committee, and the Public Safety Committee, for recommendations."

Currently, there is a temporary overdose prevention service (OPS) on the ground floor of the supportive housing facility located at 437 Wesley Street, which is a City-owned property. The OPS established following a public health emergency declared by the BC Chief Medical Health Officer in April of 2016 and enabled by Ministerial Order M488, issued 2016-DEC-09. The OPS is funded by Island Health and operated by the Canadian Mental Health Association Mid-Island Branch.

This report provides information regarding the municipal role and considerations in the siting of a permanent Supervised Consumption Service (SCS). On 2017-JUN-01, Council denied an application from the City of Nanaimo to rezone 437 Wesley Street that would have allowed for a site-specific SCS to be located on that site. Island Health has indicated that the OPS will continue to operate at this location as long as the emergency order is in effect. Staff have continued to work with Island Health to identify potential amendments to the Zoning Bylaw that may facilitate a resolution to this issue.

Harm Reduction Services

OPSs and SCSs are both health services that monitor persons who are at risk of opioid overdose and provide rapid intervention as necessary. However, where an OPS provides only an immediate

emergency response, an SCS would provide more permanent and sustained harm reduction interventions. Island Health has identified three main goals of SCSs:

1. Reduce the number of drug overdoses;
2. Engage people who use drugs in health services that can enhance treatment for substance use and mental health, and potentially reduce transmission of diseases; and,
3. Reduce community impacts, such as public drug use and improperly discarded needles.

SCSs are part of a broad overdose response strategy which also includes: education, prevention, counselling, substance use treatment and supports, and access to mental health services.

Zoning Bylaw 4500

None of the land uses currently defined in the Zoning Bylaw accurately reflect the services offered by a Supervised Consumption Service. The closest zoning definition currently found in Zoning Bylaw No. 4500 is 'Drug Addiction Treatment Facility,' which is defined as "the use of a building to treat persons with substance abuse problems, and includes needle exchange facilities, safe injection sites, Methadone clinics, and the like." Under the status quo, any new 'Drug Addiction Treatment Facility' must be approved by Council through rezoning on a site-specific basis.

The definition for 'Drug Addiction Treatment Facility' was adopted in the City's Zoning Bylaw on 2005-FEB-07 (Bylaw No. 4000.365) as part of a set of general Zoning Bylaw amendments for Nanaimo's downtown that were created in response to the Nanaimo Downtown Plan. While the definition of Drug Addiction Treatment Facility was introduced within Bylaw No. 4000.365, the use was not permitted by right within any zone, a situation which continues to this day.

As part of the same bylaw, new definitions for Social Service Centre and Social Service Resource Centre were introduced into the Zoning Bylaw. Social Service Centre is an administrative use similar to an office, and is allowed in most downtown zones and Community Service zones. A Social Service Resource Centre is a more intensive use as it allows activities such as a drop-in centre and would only be allowed in the downtown through rezoning.

The siting of a Supervised Consumption Service is a business function of Island Health; however, moving forward with an application to the federal government for an exemption to the *Controlled Substances Act* requires that Island Health have a site with the appropriate zoning.

Legal Framework

Federal legislation provides for the establishment of SCSs through an exemption for medical purposes by the Minister under Section 56.1 of the *Controlled Drugs and Substances Act* (CDSA). Any application for a SCS requires a federal exemption regardless of local zoning regulations. Obtaining an exemption requires meeting the criteria outlined in S56.1 of the *Controlled Substances Act*. It should be noted that Zoning is necessary, but is not a sufficient condition of obtaining an exemption. One of the requirements for an application is that it include information related to "expressions of community support or opposition" for the specific site. The application process details further expectations regarding community engagement that includes in BC provincial Ministerial support. The Ministry has been explicit and expects local governments to be involved in SCS siting discussions.

Zoning Considerations in the Siting of a Supervised Consumption Service

In order to consider whether to allow an SCS in more zones, Staff recommend that there be a review of several aspects of the Zoning Bylaw. Specifically, Staff recommend reviewing the following:

- The definitions of 'Drug Addiction Treatment Facility,' 'Office Medical/Dental' and 'Personal Care Facility';
- Whether to add a new definition for the land use 'Supervised Consumption Service'; and,
- Whether to establish zones where an SCS is permitted (either by right or on a site-specific basis).

Staff will return to the Public Safety Committee and the Community Planning and Development Committee in October with options for amending the Zoning Bylaw to allow for this use, and will be asking the Committee for a recommendation at that time.

SUMMARY POINTS

- Under the current Zoning Bylaw, a Supervised Consumption Service is considered a 'Drug Addiction Treatment Facility' and is approved on a site-specific basis.
- Island Health's application to the federal government for an exemption to the *Controlled Substances Act* requires that a site with appropriate zoning, though this is a condition that is necessary but not sufficient for approval.
- Staff will return to the Public Safety Committee in October with options for amending the Zoning Bylaw to allow for this use, and will be asking the Committee for a recommendation at that time.

Submitted by:

Lainya Rowett
Manager, Current Planning and Subdivision

Concurrence by:

Bill Corsan
A/Director of Community Development