

DATE OF MEETING October 1, 2018

AUTHORED BY DAVID LABERGE, MANAGER OF COMMUNITY SAFETY

SUBJECT "PARKS, RECREATION AND CULTURE REGULATION AMENDMENT BYLAW 2018 NO. 7073.07" AND "BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW 2018 NO. 7159.04"

OVERVIEW

Purpose of Report

To introduce amendments to the City of Nanaimo "Parks, Recreation and Culture Regulation Bylaw 2008 No. 7073" and the "Bylaw Notice Enforcement Bylaw 2012 No. 7159" relating to taking overnight shelter in City parks, smoking regulations, use of drones and other regulatory matters.

Recommendation

That:

1. "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07" (To allow for overnight shelter in City parks, smoking regulations, use of drones and other regulatory matters) pass first reading;
2. "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07" pass second reading;
3. "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07" pass third reading;
4. "Bylaw Notice Enforcement Amendment Bylaw 2018 No. 7159.04" (To update enforcement penalty rates) pass first reading;
5. "Bylaw Notice Enforcement Amendment Bylaw 2018 No. 7159.04" pass second reading; and,
6. "Bylaw Notice Enforcement Amendment Bylaw 2018 No. 7159.04" pass third reading.

BACKGROUND

Homelessness and the use of public park space for overnight shelter is a pressing social issue in the community.

The Supreme Court of British Columbia provides an analytical framework for municipalities to enact bylaws relating to the regulation of public spaces relating to the use of overnight shelters in *Abbotsford (City) v. Shantz*, 2015 BCSC 1909. Key points in this decision include:

- Allowing homeless to set up shelters overnight while taking them down during the day reasonably balances the needs of the homeless and the rights of other residents of the City.
- A minimally impairing response is to allow overnight shelters to be erected in public spaces between 7:00 p.m. and 9:00 a.m. the following day.
- The question of which public spaces the shelters should be permitted between these times is a legislative choice. Factors which should be considered include;
 - distinguishing developed and non-developed parks and public spaces;

- taking into consideration the proximity to services for homeless individuals;
- whether areas should be designated as environmentally sensitive;
- ensuring individuals can sleep, rest, shelter, stay warm, eat, wash and attend to personal hygiene; and,
- whether such areas may be occupied on a consistent or rotating basis after consideration of each unique area.

Proposed amendments to the City's Parks, Recreation and Culture Regulation Bylaw 2008 No. 7073 are required to effectively regulate overnight shelter in parks and public spaces. Schedule 'D' identifies "Prohibited Parks and Parks Amenity Areas" where overnight shelter is not permitted. Areas not identified in Schedule D would be permissible locations for overnight shelter within City parks.

The proposed amendment seeks to reasonably balance the needs of the homeless and the rights of other residents of the City in a manner consistent to current case law.

The "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07" contains a number of other amendments, including provisions relating to the use of unmanned aerial vehicles (drones), the inclusion of vaping, marijuana and other substances in the definition of smoking, a prohibition in the use of chainsaws in parks and general updating of definitions. These amendments are recommended to address potential public safety and health matters not previously contained in the bylaw.

OPTIONS

1. That:
 1. "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07" (To allow for overnight shelf in City parks, smoking regulations, use of drones and other regulatory matters) pass first reading;
 2. "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07" pass second reading;
 3. "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07" pass third reading;
 4. "Bylaw Notice Enforcement Amendment Bylaw 2018 No. 7159.04" (To enable ticketing enforcement and dispute adjudication of the City's Parks, Recreation and Culture Regulation Amendment Bylaw 2018) pass first reading;
 5. "Bylaw Notice Enforcement Amendment Bylaw 2018 No. 7159.04" pass second reading; and,
 6. "Bylaw Notice Enforcement Amendment Bylaw 2018 No. 7159.04" pass third reading.

2. That Council provide alternative direction to Staff.

SUMMARY POINTS

- Proposed amendments to the City's "Parks, Recreation and Culture Regulation Bylaw 2008 No. 7073" provide legal authority to prohibit sheltering in developed park spaces.
- Homeless individuals without access to public shelters can take overnight shelter in public parks/areas not designated in Schedule D between 7 pm & 9 am.
- Temporary shelters must be taken down and removed after 9 am.
- Proposed amendments are required to manage and enforce the erection of temporary overnight shelter, and are consistent with case law.
- Prohibited areas in Schedule "D" have been identified in consultation with the Director of Parks and Recreation.
- Accompanying amendments to the "Bylaw Notice Enforcement Bylaw 2012 No. 7159" enable ticketing enforcement and dispute adjudication of the City's Parks Regulation Bylaw amendments.

ATTACHMENTS

- "Bylaw Notice Enforcement Amendment Bylaw 2018 No. 7159.04"
- "Parks, Recreation and Culture Regulation Amendment Bylaw 2018 No. 7073.07"
- "Parks, Recreation and Culture Regulation Bylaw 2008 No. 7073" Consolidated Version

Submitted by:

David LaBerge
Manager of Community Safety

Concurrence by:

Karen Fry Position
Director of Public Safety