

DATE OF MEETING March 4, 2019

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SUBJECT **SUPERVISED CONSUMPTION SERVICE**

OVERVIEW

Purpose of Report

To provide Council with information regarding zoning bylaw regulations related to the siting of a Federally-approved Supervised Consumption Service and potential changes to "Zoning Bylaw 2011 No. 4500".

Recommendation

That the report titled "Supervised Consumption Service" dated 2019-MAR-04 be received for information.

BACKGROUND

In 2018, there were 1,489 suspected drug overdose deaths in British Columbia, a number that exceeds the fatalities associated with suicide, murder, and motor vehicle crashes combined. In Nanaimo, 34 people died in 2018 from a drug overdose. These overdose fatalities are directly related to the ingestion of opioids, a broad group of pain-relieving drugs that includes synthetic substances such as fentanyl.

One of the primary Provincial responses to this crisis is the provision by local health authorities of Overdose Prevention Sites (typically established as a temporary emergency response) and Supervised Consumption Services (which are longer-term and more comprehensive in the services they offer). This report provides information about the municipal role and considerations regarding the siting of Supervised Consumption Services in our community.

Supervised Consumption Services (SCS) and Overdose Prevention Sites (OPS) are both 'Harm Reduction'-focused health services where individuals can consume substances, typically opioid-based, under the supervision of trained staff who will intervene in the event of an overdose. However, the mandate of an OPS is limited to preventing and responding to drug overdoses. In addition to this, at an SCS, users are provided opportunities to engage in other health and social services.

Temporary OPS facilities are legally enabled by the declaration of a public health emergency by the BC Ministry of Health through Ministerial Order No. M488 in 2017, and as such, do not require municipal approvals. An SCS is a permanent facility that is approved by the Federal Government through a process that requires a formal municipal response. A federally-sanctioned SCS would qualify for funding to support a wider range of ancillary health services/supports than an OPS is able to provide. The availability of these additional services provided by an SCS allows for better health supports for individual drug users and more resources for mitigating the impacts of the opioid crisis on the wider community.

The primary public health goals of an SCS can be summarized as follows:

- (1) Reduce the fatality rate associated with opioid overdoses;
- (2) Reduce the transmission of HIV and hepatitis C among people who use drugs;
- (3) Engage people who use drugs to support access to substance use treatment and other health and social services, such as medical care or housing assistance; and
- (4) Reduce community impacts associated with opioid use, such as public use of illicit substances and improperly discarded syringes (and other drug-use equipment).

Supervised Consumption Services are one aspect of a broad overdose response strategy that includes education, treatment, rehabilitation and access to physical and mental health services.

The issue of safe injection sites has been under consideration by Nanaimo City Council since December 2016, when an unauthorized, unregulated 'pop-up' safe injection site in the parking lot at City Hall. Other groups have since set up unauthorized 'pop-up' safe injection sites around Nanaimo without the oversight or approval of Island Health staff. These unauthorized sites provide access to overdose prevention outside of the hours of operation of the current OPS (437 Wesley Street), provide peer support and may also provide for other forms of drug consumption not currently supported at an OPS/SCS site, such as inhalation of substances.

In January 2017, Council addressed the issue of 'pop-up' safe injections sites by making a decision to take no action until Island Health could establish a temporary OPS. At the same time, Council provided support for Island Health, establishing a temporary OPS in the community and subsequently supported this on City-owned land at 437 Wesley Street (see the resolutions below and Attachment A for a chronological history of Council resolutions related to safe injection sites and siting of an OPS/SCS at 437 Wesley Street).

On 2017-JAN-09, Council provided direction on the OPS:

"It was moved and seconded that Council:

2. Support, in principle, the Vancouver Island Health Authority in their establishment of temporary overdose prevention services, and direct Staff to work with the Vancouver Island Health Authority to identify a preferred location for a short term (immediate) site."

On 2017-JAN-12, a Council motion directed Staff to

"... amend the Lease Agreement (CA200265) between the City of Nanaimo and the Province ..."

to permit the use of 437 Wesley Street for the purposes of delivering an OPS.

Island Health currently operates an OPS at 437 Wesley Street. The OPS is legally enabled by the declaration of a public health emergency by the BC Ministry of Health (Ministerial Order No. M488) in 2017. Although the Wesley Street OPS was supported by the City, municipal approval was not required. As noted above, as an OPS is not approved by the Federal Government, it does not qualify for funding that would support a wider range of ancillary health services/supports that an SCS could provide.

For Island Health or another entity to operate a SCS in Nanaimo, an application must be made and approval received from the Federal Government for a site-specific exemption to Canada's *Controlled Drugs and Substances Act*. This exemption is specific to a piece of property or properties and is not applicable to a mobile service (in cities such as Kamloops where the service is located inside a mobile unit, the unit is limited to operating from two fixed, Federally-approved locations). To make a submission to the Federal Government for an SCS, a response is required from the local government in regard to the proposed service. The response can indicate the level of support for an SCS at the proposed location, or can state that the municipality will not be providing comment. This response is required irrespective of whether or not there are bylaws in place supporting an SCS at the proposed location. In the absence of a local government response, Island Health and the Provincial Government are unable to proceed with a Federal application for an SCS.

In consultation with Island Health and other stakeholders, Staff from the City of Nanaimo reviewed options for the siting and zoning of an SCS. The optimum location for an SCS or an OPS is based on many variables, including the prevalence of documented overdose fatalities. In Nanaimo, the highest concentration of documented drug overdoses is in the downtown core. This is the rationale for the current provision of an OPS at 437 Wesley Street, a supportive-housing facility in the downtown core operated by the Canadian Mental Health Association.

In Nanaimo's current "Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw"), the definition that most closely reflects the services offered by an SCS is that of "*Drug Addiction Treatment Facility: the use of a building to treat persons with substance use problems and includes needle exchange facilities, safe injection sites, Methadone clinics and the like.*" This use is defined in the Zoning Bylaw, but is not currently a permitted use in any zone; thus, any new Drug Addiction Treatment Facility must be approved by Council through rezoning on a site-specific basis.

The use 'Drug Addiction Treatment Facility' was introduced into the Zoning Bylaw in 2006 as part of a comprehensive rezoning of the downtown area. At that time, the City of Nanaimo separated the broad range of existing social services into two categories within its consolidated Zoning Bylaw: lower-impact "Social Service Centres" (which were allowed by right in several zones) and higher-impact "Social Service Resource Centres" (which are limited primarily to the downtown). The intent of this was to ensure that Council and the public had more input on the location of higher-impact land uses. As noted above, "Drug Addiction Treatment Facility" was also introduced into the Zoning Bylaw as a use that requires a site-specific rezoning, as it is not currently a permitted use in any zone.

In May of 2017, Island Health (via the City of Nanaimo, the property owner) brought forward a site-specific rezoning application for an SCS at 437 Wesley Street. The application included a new definition, "Supervised Consumption Service," as both Staff and Island Health agreed that the current definition it falls under does not accurately reflect the services provided at an SCS. The proposed new definition for an SCS was "*a health service provided for individuals to inject or otherwise consume illicit drugs within a controlled environment at a location specified in the terms and conditions of an exemption granted in accordance with the provisions of the Controlled Drugs and Substances Act.*"

Following a Public Hearing, the rezoning application was defeated at second reading of Council. Council at that time approved a “Broader Community Context” document that outlined a number of measures the municipality could take to address the concerns raised at the Public Hearing including:

1. Enhanced security presence – daytime and early evening patrollers;
2. Urban Clean Up program – downtown focus;
3. Additional safe needle disposal boxes; and
4. Coordination of Bylaws, RCMP, and Social Planning response over the summer months.

Zoning Considerations

Within this historical context, there are several ways to proceed on the matter of siting Supervised Consumption Services in Nanaimo. Some potential options include:

Option 1: Make no changes to the current Zoning Bylaw regulating the siting of a Supervised Consumption Service. In this scenario, Island Health would have the option of making another site-specific rezoning application for an SCS as a Drug Addiction Treatment Facility, and Council would be asked to make a decision on the site-specific rezoning and provide a response letter for the application for a Federal exemption. Under this option, Council could be presented with options to update the relevant definitions in the Zoning Bylaw (e.g. Drug Addiction Treatment Facility) to more accurately reflect SCS and OPS services. If Council did approve a site-specific rezoning, they would have the opportunity to attach conditions in a letter of support to the Federal Government. An example of a letter outlining this type of conditional support from the City of Kamloops to Interior Health is included as Attachment B.

Option 2: Provide more flexibility in siting options for provision of SCSs by considering it a part of health service provision. As an example, this could be accomplished by allowing for SCSs in any zone where a Medical/Dental Office is a permitted use. Its important to note that under the current Federal legislation, each proposed site must still follow the application process for an exemption to the Criminal Code, which the municipality would be fully engaged in. Attachment C, a summary of local government approaches to supervised consumption sites, notes that many municipalities consider an SCS to be a medical or health use under their zoning bylaws. Should Council choose to go this route, then it is recommended that a clear process for community input into the decision for siting an SCS be established.

For either of the options above, Council may develop conditions to address/mitigate potential community impacts associated with an SCS. This may include expectations around the management of the impact of an SCS on surrounding areas, enhancing the response to the issue of discarded needles, the provision of ‘chill space’ for inebriated individuals, and a more robust community advisory or input role for residents of the community. An example of this type of siting criteria from London, Ontario, is included in Attachment D.

The Health Authority’s response to the overdose crisis is affected by emerging technologies and the changing legal framework at Federal and Provincial levels. Nanaimo, like other BC municipalities and communities across Canada is having to determine how to support the provision of SCSs. In BC, Vancouver, Victoria, Kamloops, Kelowna, and Surrey have applied for and received Federal exemptions to operate SCSs. Attachments C and E provide a summary of SCS locations in BC and information on what other jurisdictions have done around zoning for this use.

Staff will be returning to Council in Spring/Summer 2019 with a proposed approach for Council to consider for addressing SCSs.

SUMMARY POINTS

- British Columbia and the City of Nanaimo are experiencing a high incidence of fatalities associated with opioid use.
- Island Health is seeking Council support for an application to implement an SCS in Nanaimo.
- Council can consider a range of options for the provision of SCSs through site-specific rezoning applications or broader changes to the Zoning Bylaw.
- Council can require conditions to ensure that the establishment of an SCS meets municipal objectives with regard to public safety and the vitality of neighbourhoods.

ATTACHMENTS

ATTACHMENT A: City of Nanaimo Council and Committee Motions re: Supervised Consumption Services and Overdose Prevention Sites
ATTACHMENT B: City of Kamloops Opinion Letter on Supervised Consumption Services
ATTACHMENT C: Local Government Approaches to Supervised Consumption Services
ATTACHMENT D: Supervised Consumption Services Siting Criteria (London, Ontario)
ATTACHMENT E: Summary of Supervised Consumption Services in BC

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