



2019-JUNE-18

By Email: c/o Kirsten.mitchell@bccdc.ca

Dr. Eleni Galanis, MD, MPH, FRCPC
Chair, Health Officers Council of BC

Dear Dr. Galanis,

Thank you for your letter dated June 11, 2019 regarding "Health Officers of BC recommends Nanaimo eliminate zoning requirements as a barrier to supervised consumption services". We would like to take this opportunity to provide clarification on some of the information contained in the letter that you may not be aware of.

The City of Nanaimo remains fully committed to supporting the efforts of the Island Health to identify a specific site/s for the provision of permanent supervised consumption services (SCS) and to establish temporary Overdose Prevention Sites (OPS) where a need has been determined. As you may already be aware, the City of Nanaimo's only existing Overdose Prevention Site (OPS) was established with the full support of the City on City land.

Your letter suggests that deaths due to overdoses in Nanaimo are linked to our zoning bylaw and the current requirement that a supervised consumption service go through a rezoning process that would allow for community input and Council approval. We would like to emphasize that under the Provincial Health Order, Island Health can open as many Overdose Prevention facilities that they believe are necessary to address the crisis. These facilities are exempt from zoning and as such the decision is Island Health's alone. To date Island Health has chosen to open only one such facility in Nanaimo.

The current OPS does not allow for inhalation of substances, and in our opinion this has created an unnecessary demand for unsanctioned facilities in the City. We would encourage Island Health to immediately establish an OPS that facilitates inhalation if they believe this is necessary to address this crisis. We understand that providing inhalation services at the existing OPS is at the sole discretion of Island Health and does not need federal approval.

The City of Nanaimo, as with other jurisdictions in BC and Canada, does have a zoning bylaw that requires rezoning in order to establish a federally sanctioned SCS. Island Health made one

application to re-zone a site that was ultimately denied by the Council of the day over concerns related to impacts on the surrounding neighbourhood.

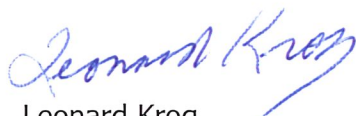
We continue to strongly encourage Island Health to identify a site and proceed with an application so that proper community consultation can occur. As an aside, the area around the existing OPS is experiencing significant social disorder that is having negative impacts on the neighbours and community. These impacts became visible to the community after the OPS opened. City Council remain sensitive to the ongoing safety and security concerns expressed by neighbouring businesses and residents, recently approving variances to allow fencing to protect adjacent properties. While it is not clear to what extent the OPS plays a role in this community impact, this issue will need to be addressed if Island Health hopes to obtain community support for additional consumption facilities. We note that even with an OPS some health authorities in BC are balancing the needs of wider community and business interests with those needing to access services. For example, Interior Health is re-evaluating an RFP for siting of a proposed OPS in downtown Vernon based on community and business concerns about impacts.

With respect to zoning and the approach in other communities, our review indicates a wide variety of approaches across the Province and the country. There are several local governments who are in the same position as Nanaimo and others whose bylaws simply do not address the use as it not allowed, or is yet to be considered in their jurisdiction. It is inaccurate to state that Nanaimo is the only municipality to require a formal process to approve an SCS, and through that, ensure that overall community safety and well-being is considered through use of its bylaws. Zoning is used as means of ensuring that the land use impacts of activities that affect community well-being, are adequately addressed. Similarly, Island Health's Chief Medical Officer for Central Vancouver Island, Dr. Hasselback supported a site specific zoning approach for cannabis retail stores and provided important guidance on drafting bylaws intended to protect wider neighbourhood and community interests around these types of activities. This process allows Island Health to respond to referrals by the City on each application to rezone to allow these types of uses on a case by case basis. Without these bylaws in place, neither Island Health nor the Community would have the ability to mitigate the potential negative impacts from this land use on the wider community.

The City's current bylaws that require a rezoning for a permanent land use such as an SCS allows each application to be considered on a case by case basis and work to ensure that any potential negative impacts to the community are adequately addressed by the applicant.

In closing, the mandate for the response to this health crisis is held by the Province and Island Health, which has the tools to address this through the immediate provision of an additional OPS or enhancing the existing one to allow inhalation if they believe there is a need. We would be pleased to meet with you, Island Health's Chief Medical Health Officer Dr. Hasselback, Director, Mental Health and Substance Use, Lisa Murphy and BC Provincial Health Officer Dr. Bonnie Henry to discuss this further if that is helpful.

Sincerely,



Leonard Krog
MAYOR

cc: Dr. Paul Hasselback, Chief Medical Officer, Central Vancouver Island, Island Health
Selina Robinson, Minister of Municipal Affairs and Housing
Adrian Dix, Minister of Health
Dr. Bonnie Henry, BC Provincial Health Officer
Judy Darcy, Minister of Mental Health and Addictions



HEALTH OFFICERS COUNCIL OF BRITISH COLUMBIA

Dr. Eleni Galanis, Chair

Phone: 604-707-2558

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June 11 2019

Mayor and Council
City of Nanaimo, BC
mayor&council@nanaimo.ca

Dear Mayor and Council,

Re: Health Officers Council of BC recommends Nanaimo eliminate zoning requirements as a barrier to supervised consumption services

In April 2019, the Health Officers Council of BC¹ formally adopted the position that monitored consumption services should be made available to people who use illegal drugs throughout BC, and that local governments should not create or maintain barriers to the establishment of such services.

There is clear scientific evidence² that monitored consumption services save lives and improve engagement in other health and social services among people who use drugs; that such services do not increase drug use, property crime, or litter; and that in order to be effective, such services must be located within close proximity to where clients already reside and use other health and social services.

These services have been recognized by the Supreme Court of Canada as necessary health services³, the BC Minister of Health instructed health authorities and their community partners to implement these services in December 2016⁴, and Health Canada has affirmed that this is legal in the context of a public health emergency⁵.

¹ The Health Officers' Council of BC was created in 1947 and currently represents over 120 public health physicians in BC. Its purpose is to advise, assist in development of, and advocate for public policies, programs and services that are directed towards improving and protecting the health of the population, and reducing health inequities. More information can be found at <https://www.healthofficerscouncil.net/>.

² BC Centre on Substance Use (2017). Supervised Consumption Services Operational Guidance, section 1.a, Background and Evidence (pp.8-10). Available at: <http://www.bccsu.ca/wp-content/uploads/2017/07/BC-SCS-Operational-Guidance.pdf>.

³ Canada (Attorney General) v. PHS Community Services Society, 2011 SCC 44, [2011] 3 S.C.R. 134. Available at: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7960/index.do>

⁴ BC Minister of Health (2016). Ministerial Order No. M488. Available at: http://www.bclaws.ca/civix/document/id/mo/mo/2016_m488.

⁵ Health Canada (2019). Supervised consumption sites explained: Overdose prevention sites. Available at: <https://www.canada.ca/en/health-canada/services/substance-use/supervised-consumption-sites/explained.html#a5>



HEALTH OFFICERS COUNCIL OF BRITISH COLUMBIA

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In the past three years, more than 100 people have died unnecessarily of an overdose in the Nanaimo area⁶. During this time, the City of Nanaimo's zoning bylaw has impeded the establishment of a supervised consumption site, which is necessary to preserve the life and health of some of the most vulnerable residents of Nanaimo. **Health Officers Council strongly recommends that the City of Nanaimo eliminate the use of zoning requirements as a barrier to health services, including supervised consumption services, for people who use drugs.**

Bylaws or other local policies which restrict access to health services unnecessarily endanger the lives of individuals living with substance use disorders, and contribute to inaccurate and stigmatizing perceptions about people who use drugs. Such bylaws are prohibited by the Public Health Bylaw Regulations of BC's Community Charter⁷, and may also be contrary to the BC Human Rights Code, which prohibits discrimination on the basis of disabilities such as substance use disorder⁸.

Health Officers Council of BC members work throughout BC. We are not aware of any other municipality in BC currently applying zoning bylaws to restrict access to health services for people with substance use disorders. We invite the City of Nanaimo to join the many communities across the country which have successfully implemented collaborative solutions for addressing the overdose crisis, and substance use more generally, which have helped make communities safer for all.

Sincerely,

Dr. Eleni Galanis, MD, MPH, FRCPC
Chair, Health Officers Council of BC

cc: ✓ Dr. Paul Hasselback, Medical Health Officer, Central Vancouver Island, Island Health
✓ Dr. Bonnie Henry, BC Provincial Health Officer
Selina Robinson, Minister of Municipal Affairs and Housing
Adrian Dix, Minister of Health
Judy Darcy, Minister of Mental Health and Addictions

⁶ BC Coroners Service (2019). Illicit Drug Overdose Deaths in BC. <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf>

⁷ BC Reg. 42/2004, available at http://www.bclaws.ca/Recon/document/ID/freeside/34_42_2004.

⁸ Government of BC (2016). Human Rights in British Columbia: Discrimination against people with physical or mental disabilities, available at <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/human-rights/human-rights-protection/disability.pdf>.