

DATE OF MEETING AUGUST 26, 2019

AUTHORED BY DAVID LABERGE, MANAGER, BYLAW SERVICES

SUBJECT NUISANCE ABATEMENT AND COST RECOVERY BYLAW

OVERVIEW

Purpose of Report

To present for Council's consideration the City of Nanaimo "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250".

Recommendation:

That:

1. "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" (To prevent, abate, and prohibit nuisances and provide for the cost recovery of abatement or nuisances) pass first reading;
2. "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" pass second reading; and
3. "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" pass third reading.

BACKGROUND

The "City of Nanaimo Nuisance Abatement and Cost Recovery Bylaw 2003 No. 5645" (the "Nuisance Abatement Bylaw") was enacted in 2003 to prevent and abate nuisances, and to provide for the recovery of the cost of nuisance abatement.

The bylaw is administered through a "Nuisance Property Committee" (the "Committee") that includes Staff representatives from police, fire and Bylaw Services; Building Inspections; social planning; and representation from the Provincial electrical safety branch and Ministry of Social Innovation.

Properties which are the source of persistent and repetitious incidents of nuisance activity are identified, typically by police, and reviewed by the Committee. Nuisances are defined in the *Community Charter* as "activities which substantially and unreasonably interfere with the use and enjoyment of public areas or land, or which causes injury to the health, comfort or convenience of an occupier of land."

The properties typically identified to the Committee are drug or party houses, and the associated nuisances are complaints of frequent foot, bicycle, and vehicle traffic at all hours of the day, yelling, fighting, vehicle noises, loud music, littering, prowling, and trespassing.

Title searches are conducted to identify the owners and mortgage holders of properties, who are contacted in writing and directed to take appropriate measures to abate nuisance activities. In most cases, the property is inspected to determine if it is conforming to municipal regulations and bylaws. City Staff will meet with owners to discuss measures that can be undertaken to

mitigate ongoing nuisances. The owners will be given reasonable opportunity to address these issues.

If complaints of nuisance activity continue to be received from the community, the matter will be reported to Council with the recommendation that the property be designated as a “nuisance property”. The Staff report will include a summary of the calls for service to the property and any supporting information, including the findings of inspections, statements of neighbours, and photographs. The owner of the property or any other person can request to appear before Council as a delegation when the matter is considered.

If Council adopts a resolution that deems the property as a nuisance, the cost of any municipal service required to mitigate any future nuisance activities is billed to the owner. Another letter is delivered to the owner and mortgage holders advising of the Council resolution.

Billing will only occur when municipal services are required to abate future nuisances. For example, if police attended the property to investigate complaints of partying and loud music, the costs of this service would be recovered. If police were contacted to investigate a break-in that occurred at the property, the costs would not be recovered, as the service was not related to a nuisance activity. If an ambulance responded to a reported overdose at the property, this would not be billed, as it is not a nuisance activity or a municipal service.

The property remains a nuisance under the Council resolution until such time as nuisance activity ceases or the property is sold.

In the majority of cases, property owners take reasonable measures to abate nuisance activities before matters are referred to Council. There is no criteria for the number of nuisance calls that are received before abatement actions are initiated. The Committee will consider the history of complaints to a property, impacts to the neighbourhood, risk to public safety, and whether owners have taken reasonable measures to abate nuisances before referring matters to Council.

Amendment Rationale

The original Nuisance Abatement Bylaw was enacted under provisions of the *Local Government Act*, which have been repealed. The City billed and recovered the costs of abating nuisances based on fees and charges prescribed in Schedule “A” to the bylaw, which reflected the hourly rates of regulatory services and equipment in 2003.

Sections 8 and 64 of the *Community Charter* provides Council with authority to create bylaws to regulate, prohibit, and impose requirements in relation to nuisances. The costs recoverable for nuisance abatement are proposed to be set at a flat fee of \$250.00 per attendance of any police or City service, or actual cost plus 10% of any contracted service, which is consistent to rates in other British Columbia communities.

OPTIONS

1. That:

1. "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" (To prevent, abate and prohibit nuisances and provide for the cost recovery of abatement or nuisances) pass first reading;
2. "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" pass second reading; and
3. "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" pass third reading.

The advantages of this option:

- The amendment to the Nuisance Abatement Bylaw will ensure the provisions remain enforceable.
- The bylaw is an important tool for the City to deal with nuisance problems.
- The amendment will also update the fee schedule to be more in keeping with current rates.

The disadvantages of this option:

- None identified.

2. That Council provide Staff with alternative direction.

SUMMARY POINTS

- The City of Nanaimo Nuisance Abatement Bylaw was enacted in 2003 to prevent and abate nuisances and recover costs for City services required to abate nuisances.
- The provisions of the *Local Government Act* used to enact the bylaw have been repealed.
- The schedule of fees for cost recovery are substantially outdated.
- The proposed City of Nanaimo "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" would replace the dated bylaw using authorities granted by the *Community Charter*.
- The proposed bylaw would set a flat fee of \$250.00 for attendance of any police or City service to abate nuisances.

ATTACHMENTS

"Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250"

Submitted by:

David LaBerge
Manager, Bylaw Services

Concurrence by:

Bill Corsan
Director, Community Development

Dale Lindsay
General Manager, Development Services