



## Staff Report for Decision

DATE OF MEETING July 8, 2019

AUTHORED BY [KARIN KRONSTAL, SOCIAL PLANNER]

SUBJECT SUPERVISED CONSUMPTION SERVICE ZONING OPTIONS

### **OVERVIEW**

#### **Purpose of Report**

To provide Council with options for changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” related to the siting of a Federally-approved Supervised Consumption Service.

#### **Recommendation**

That Council direct Staff to:

- a) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to repeal the definition of ‘Drug Addiction Treatment Facility’;
- b) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to add a definition for ‘Supervised Consumption Service’; and
- c) provide Council an update on the 2017-DEC-11 Staff report "*Response to Health, Social and Safety Issues in the Downtown*".

### **BACKGROUND**

On 2019-MAR-04, Council received a report that provided background information regarding the role of local government in the siting of a Federally-approved and Provincially-funded supervised consumption service in our community.

Health services, which includes the supervised consumption of illicit substances, are within the mandate of the Provincial Government. One of the key Provincial responses to the current overdose crisis has been the provision by local health authorities of Overdose Prevention Sites (OPS) and Supervised Consumption Services (SCS). OPSs are typically established as a temporary emergency response, while SCSs are longer-term and can be more comprehensive in the services offered. 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 need to comply with local bylaws. For Island Health or another entity to operate an 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*. The difference in the level of service provided by an OPS versus an SCS is dependent on the discretion of each local health authority to determine service levels and allocation of resources.

Nanaimo’s Medical Health Officer, Dr. Hasselback, has noted Island Health’s siting criteria for an SCS includes, but is not limited to: availability and site stability, proximity to needs and support services, separation distances, capital and operational costs, contracting requirements (purchasing), legal requirements (e.g., leases, agreements), and community interaction. Municipal zoning is not considered as part of the Federal exemption process, but like any land

use that operates under local government bylaws, appropriate zoning does determine whether a site can operate legally.

In Nanaimo's current "City of Nanaimo 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*". 'Drug Addiction Treatment Facility' is not currently a permitted use in any zone and therefore must be approved by Council through rezoning on a site-specific basis. This use was introduced into the "City of Nanaimo Zoning Bylaw 1993 No. 4000" in 2006 as part of a comprehensive rezoning of the downtown area, the intent of which was to provide Council and the public with more input on the location of higher-impact land uses.

In January 2017, Council provided support for Island Health to establish a temporary OPS on City-owned land at 437 Wesley Street and directed Staff to amend the lease for this property to allow this use. In May 2017, Island Health (via the City of Nanaimo, the property owner) brought forward a site-specific rezoning application for a permanent SCS at 437 Wesley Street. The application included a new definition, 'Supervised Consumption Service', as both Staff and Island Health agreed the current definition the services falls under does not accurately reflect the services provided at an SCS. Following a Public Hearing, that rezoning application was defeated at third reading by Council based upon concerns related to existing and long-term impacts on the surrounding community and businesses.

On 2018-JUL-09, Council referred review of Zoning Bylaw amendments related to SCS to the Community Planning and Development Committee and the Public Safety Committee for recommendations. City committees were dissolved in September 2018 before there was an opportunity to review this topic, but the issue of zoning for this use remains a concern for Island Health, the City of Nanaimo, and other stakeholders seeking to address the overdose crisis through enhanced health services for safer drug consumption.

## **DISCUSSION**

### **Federal Exemption Process**

Following the March 2019 presentation to Council, Staff continued to work with Island Health and other stakeholders to identify options for establishing siting options for SCS in Nanaimo. Through our discussions, it came to light that the Federal process for approving SCS locations had changed since the last time Council was asked to make a zoning decision on this issue.

Though the Federal application process does not consider zoning, up until May of 2017, municipal input had been a mandatory part of the application for Federal exemption under the *Respect for Communities Act* (legislation amending the *Controlled Drugs and Substances Act*, which had been brought in under the Federal Conservative Government in 2015). The Federal application had required a letter from local government outlining its opinion on the proposed activities at the site, including any concerns with respect to public health or safety, and a description by the applicant of the measures that have been taken or will be taken to address any relevant concerns. This requirement allowed municipalities such as Kamloops to provide letters of conditional approval, outlining measures the municipal government needed from the health authority to provide continued support for the SCS even after zoning was in place.

In May of 2017, shortly after the failed rezoning application for 437 Wesley Street, the *Respect for Communities Act* was amended to simplify the application process. Applicants must now meet five conditions of approval (down from 26 under the previous act), and the new application no longer requires specific input from local government. However, the application does require a consultation report that must include a description of consultation activities undertaken for the proposed site. Results from the consultation, including all feedback and comments received, must be provided as part of the application. Examples of acceptable consultation methods include open houses, online surveys, information meetings, community association meetings, flyers, and door-to-door canvassing. The applicant must also demonstrate how they will address concerns raised by the community during consultation.

To ensure the City fully understood the implications of changes to the Federal exemption process, Staff requested Island Health provide a letter that outlined the following:

- 1) How input from municipal government would be considered as part of any future application to the Federal Government for an SCS;
- 2) An outline of the process that would be followed for public engagement on a proposed site, once a specific site had been identified; and
- 3) A plan for how impacts on the adjacent area would be managed and what resources would be available to manage any impacts on the surrounding community.

On 2019-MAY-23, the City received a response from Nanaimo's Medical Health Officer (MHO), which is included as Attachment A. The letter from the MHO provides information on the level of community engagement typically expected for an application for an SCS to be deemed complete. The letter notes the application usually includes a letter from the Provincial Minister (though this is no longer a requirement), which would ideally be provided with the support of the local government. The MHO notes that through the application consultation, any concerns about site impacts would be identified and addressed proactively through site-specific discussion. The MHO did not provide specific details as to the scope or resources available for off-site impact management, noting this is an ever-evolving issue that requires a dynamic response.

#### *Zoning Bylaw 4500*

In the letter received 2019-MAY-23, the MHO requested the definition for 'Drug Addiction Treatment Facility' be removed from the Zoning Bylaw and that an SCS be considered a use under 'Medical/Dental Office', which is permitted in most commercial and mixed-use zones. The City has received input from the MHO that an SCS is an essential health service and that zoning regulations distinguishing this service from any other health service are discriminatory and stigmatizing towards drug users, who are already at risk of overdosing while using alone due to the stigma of drug dependency disorder. The MHO further notes that in a rapidly changing public health context, overly specific zoning regulations may hinder the Health Authority's ability to respond effectively.

Staff recommend repealing the definition of 'Drug Addiction Treatment Facility', as the current definition is both dated and inaccurate (e.g., includes harm-reduction activities not typically found at a rehabilitation centre). Staff further recommend adding a new definition for 'Supervised Consumption Service' and that this use be permitted on a site-specific basis through rezoning. If Council wishes, this use could also be allowed under a Temporary Use

Permit (which grants zoning permission to operate for up to three years and is renewable for another three years). The proposed Zoning Bylaw amendments are included as Attachment B.

The MHO has argued Nanaimo is unique in its requirement for rezoning to allow an SCS; this is not the case. Attachment C outlines the examples of London (ON), Red Deer (AB) and Medicine Hat (AB), where the local councils added definitions for supervised consumption service to their zoning bylaws and permitted the services on a site-specific basis through rezoning. In Abbotsford, from 2005 until 2014, the City of Abbotsford's zoning bylaw prohibited all harm reduction uses in the community, including needle exchanges (Abbotsford currently has two OPSs, but no SCS. Their senior planner confirmed that if one were to be proposed, staff would likely recommend it be considered on a site-specific basis). Even in the BC communities where SCSs have been permitted as a health service without rezoning, council support has at times been conditional on meeting certain requirements (as was the case in Kamloops; see Attachment D for sample letter).

Like Nanaimo, many communities are struggling to find the appropriate balance between the health care needs of a specific population and the impacts on the broader community. In Vernon, Interior Health recently withdrew a Request for Proposal (RFP) for an operator to open an OPS at an unspecified location in Vernon, due to concerns from the downtown business community that they had not been consulted. Interior Health is now reconsidering the terms of the RFP; specifically, whether the proposed OPS will be located at the local hospital instead of downtown.

By permitting an SCS on a site-specific basis, Council will be able to allow this use with conditions of approval attached through the rezoning process. This recommendation aims to strike a balance between acknowledging that an SCS is indeed a necessary health service, while recognizing that the municipality is accountable to the public for impacts that result from introducing a new use to a neighbourhood through regulatory changes. This principle has been established with the rezoning policies for Liquor and Cannabis Retail Stores. These are commercial uses, but the municipality has adopted policies with input from Island Health to guide where they are permitted.

Alternatively, Council may wish to permit this use by amending the definition of 'Office Medical/Dental' to include SCS activity as requested by the MHO (alternative wording for zoning revisions is in Attachment B). In this scenario, Island Health or any other applicant would be able to apply for a Federal exemption for an SCS wherever medical offices are allowed. This would apply to most commercial and mixed-use zones throughout the city. In this case, Council would not be able to attach conditions of approval, but would rely on the community consultation process outlined by the MHO (see below) to provide input as to any concerns about potential impacts on the area.

### *Community Consultation*

The 2019-MAY-23 letter from the MHO notes that for an application for an SCS to be considered complete, Health Canada requires that "*efforts [be] made to engage with the community to inform them of the proposal and ensure that the voices of community members have been heard*". There is also an expectation that steps would be taken by the applicant to mitigate concerns. The MHO mentions a number of tools that may be employed as part of community engagement (e.g., online communications and surveys, open houses, canvassing, etc.). Staff anticipate any future application for a Federal exemption for an SCS would be

accompanied by comprehensive community engagement by the applicant, with support from City Staff, regardless of which zoning option Council wishes to pursue.

### **Public Disorder in the Downtown**

Staff continue to work on addressing problems in the downtown core, and on 2017-DEC-11, brought forward the report for decision "*Responses to Health, Social and Safety Issues in the Downtown*", which contained a number of recommendations that have since been completed or are actively underway. Some of the recommendations have been successful in addressing public disorder, such as the Urban Clean Up initiative. At the same time, concerns about the state of the downtown, particularly in the areas adjacent to the OPS on Wesley Street, have escalated over the last two years. Staff will bring forward an update to Council on the 2017-DEC-11 Staff report in summer 2019.

### **OPTIONS**

- Option 1 – That Council direct Staff to:
  - a) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to repeal the definition of ‘Drug Addiction Treatment Facility’;
  - b) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to add a definition for ‘Supervised Consumption Service’; and
  - c) provide Council an update on the 2017-DEC-11 staff report "*Response to Health, Social and Safety Issues in the Downtown.*"
- Provides Council with a greater level of oversight and accountability as to the siting of a future Supervised Consumption Service. Permits Council to add conditions of rezoning approval. Consistent with precedent policies of requiring rezoning for Liquor Retail Stores and Cannabis Retail Stores.
- Requires that Council make a decision on a specific site location in response to a future application, rather than leaving that decision up to Island Health based on public health criteria. This gives Island Health less flexibility in siting options and could be seen as stigmatizing towards substance users.
- Option 2 – That Council direct Staff to:
  - a) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to repeal the definition of ‘Drug Addiction Treatment Facility’; and
  - b) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to revise the definition of ‘Office Medical/Dental.’
- Defining SCS as a health service is consistent with policy precedents set by other BC cities with established SCSs (Vancouver, Victoria, Kamloops, Kelowna, and Surrey). Adopting this approach could strengthen relationship with Health Authority by demonstrating trust in their siting process, and would ensure that harm reduction services would be in place indefinitely.



- The City would not have a substantive role in site selection. May create site-management issues that end up being addressed by RCMP and Bylaws.
- Option 3 – That Council provide alternative direction to Staff.

### **SUMMARY POINTS**

- British Columbia is currently experiencing an opioid overdose crisis. Harm reduction services such as Overdose Prevention Sites and Supervised Consumption Services are an important aspect of the Province’s response to the crisis.
- The difference in the levels of service provided by Overdose Prevention Sites and Supervised Consumption Services is dependent on the discretion of each local health authority to determine service levels and allocation of resources.
- Under the current Zoning Bylaw, a Supervised Consumption Service is allowed only on a site-specific basis through rezoning under the land use defined as “Drug Addiction Treatment Facility.”
- Staff recommend revisions to the Zoning Bylaw to repeal the definition of ‘Drug Addiction Treatment Facility’ and add a definition for ‘Supervised Consumption Service’ that would be permitted on a site-specific basis.
- An alternative approach would be to remove the definition of ‘Drug Addiction Treatment Facility’ and revise the definition of ‘Office Medical/Dental’ so that it includes supervised consumption activities in any zone permitting a medical office (most commercial and mixed-use zones).

### **ATTACHMENTS:**

- ATTACHMENT A: Letter dated 2019-MAY-23 from Medical Health Officer to City of Nanaimo Staff
- ATTACHMENT B: Proposed Zoning Bylaw Amendments – Supervised Consumption Services
- ATTACHMENT C: Local Government Approaches to Supervised Consumption Services
- ATTACHMENT D: City of Kamloops Opinion Letter on Supervised Consumption Services
- PowerPoint Presentation: Supervised Consumption Service Zoning Options

### **Submitted by:**

Lisa Bhopalsingh  
Manager, Community Planning

### **Concurrence by:**

Dale Lindsay  
General Manager of Development Services

# ATTACHMENT A

Letter dated 2019-MAY-23 from  
Medical Health Officer to City of Nanaimo Staff

Excellent care, for everyone,  
everywhere, every time.



May 23, 2019

Karin Krostal/Lisa Bhopalsingh  
City of Nanaimo  
Social Planner and Manager Community and Cultural Planning

Re: Nanaimo administrative request for letter outlining supervised consumption site application

Dear Karin and Lisa:

The City of Nanaimo planning department has requested additional information on the proposed zoning bylaw changes as it relates to the establishment of a supervised consumption site.

It is this office's position that the most appropriate solution is the deletion of the current definition of a "Drug Addiction Treatment Facility." We remain concerned about explicitly identifying "supervised consumption service" in the bylaw, or the use of a clinical diagnosis that may be interpreted as limiting access for certain individuals to health services.

The deletion of the current definition clause could be paralleled with a more appropriate redefinition or improved language on "Medical/Dental Office" that would reflect any community-based health service provided by any health provider, other than overnight residential or hospital-based health services. As supervised consumption is a health service, this would be adequate for defining appropriate community locations.

There has been an illusion that if "supervised consumption site" is not explicitly incorporated into the zoning bylaw, then the site could be located, approved and operated while not considering local community perspectives. This is not accurate.

The federal *Controlled Substances Act* requires that any proposed facility must follow a defined process when applying for an exemption to S56 of the act. This process includes the federally legislated requirement for community consultation under S56.1 of the act. The current supervised consumption site application requires information on the consultation process. This would include information on open houses, online communications, online surveys, websites, information meetings, community association meetings, door-to-door canvassing and flyers. Such tools have been used in the establishment of sites to date, and would be considered and expected in future

**Medical Health Officer**

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applications. Health Canada also requires a “description of measures to address concerns that were raised” and “efforts made to engage with the community to inform them of the proposal and ensure that the voices of community members have been heard.” Such requirements are a strong expectation of the level of robust community engagement required in an application process. To date Health Canada has ensured that such steps are sufficiently addressed while recognizing that any site is likely to stimulate some objections and controversy.

Health Canada, like most regulatory agencies, allows for innovation and creativity by avoiding proscriptive processes. The application process is not designed to undermine principles that are laid out as requirements in S56.1 of the *Controlled Substances Act*, one of which requires applicants to provide “expressions of community support or opposition” (S56.1 (2e)). In discussions for this opinion, Health Canada expressed that local government involvement has been provided for all current applications. No application is predetermined, and Health Canada expects detailed discussions of community engagement that have occurred and steps taken by the applicant to mitigate concerns. The location of a supervised consumption site is often associated with some controversy; however, the application would not be deemed complete if inadequate engagement had occurred. The lack of local government interaction would raise concerns that the application was incomplete.

A second level of assurance is provided as the application encourages a letter of support from the appropriate provincial minister. While this was a previous expectation, Ontario’s expressions of political non-support for this class of health services have resulted in changes to the process. That said, BC governments of different political colours have been involved in approvals for current BC supervised consumption sites, and seeking ministerial support and involvement would be considered appropriate. Currently neither the Ministry of Health nor the Ministry of Mental Health and Addictions have a required process; however, they have previously indicated that they would be unlikely to issue any support letter if local government engagement was lacking. Historically, some communities have opposed a class of health service that might result in an application receiving provincial support despite a lack of local government support. However, if a local government was not seen as implementing systematic, stigmatizing barriers to this health service, then the opinion of the local government regarding the location of a proposed supervised consumption site would be expected.

All current BC supervised consumption sites receive funding or support through Health Authorities, with all but one application having been sponsored directly by a Health Authority (the exception is the Dr. Peter Centre in Vancouver, which is the province’s “original” supervised site). Island Health has repeatedly expressed the value of partnerships – particularly, partnerships with local communities. It is improbable that Island Health, or an Island Health contracted agency, would proceed with a supervised consumption site in Nanaimo without engaging and partnering with city staff and council in the public consultation process or siting decisions. This was the case with the establishment of the Nanaimo overdose prevention site, and the first effort to develop an application for a Nanaimo supervised consumption site. At the moment, there is a limited active pursuit of exemptions under S56.1 for supervised consumption services in the province, given the relative effectiveness of overdose prevention sites. It is anticipated that the current Nanaimo overdose prevention site will remain. However, this site is only established for the duration of the



public health emergency. Given current rates of opioid use disorder in Nanaimo, longer-term planning is needed to consider appropriate overdose response services for the city.

These three levels of review – community consultation, provincial support, and partnering with city staff and council – do not exist for other health services currently listed under the definition of a Drug Addiction Treatment Facility, including the provision of harm reduction supplies, needle exchange or substance use treatment such as a “methadone clinic.” Such health services should be appropriately located in a variety of settings throughout the city and aligned with the siting of other health services. With advances in treatment and service, a broadly dispersed distribution model that provides access to care close to where individuals live or work is encouraged and preferable. It should also include access to some form of supervised safer consumption. Many social and some health services benefit from approaches to neighbourhood-area management. Community groups have repeatedly identified their concerns as being more about the impacts near a facility, rather than the services provided within a facility such as a supervised consumption site. Evaluation of Vancouver’s InSite facility demonstrated general neighbourhood-area improvements over time (reduced litter, reduced sharps). Such changes are likely accompanied by a transition period that needs active management. There are learnings to be gained from prior experiences at other sites regarding better practices, and future siting would benefit from such knowledge. The format of ongoing neighbourhood structures will be site-specific and should be integral to the consultation process in a supervised consumption site application.

Given the rapid pace of change associated with this issue, organizations and governments can only realistically provide assurances for a limited number of years. The opioid crisis was not foreseen and developed in just a few years. Advances in treatment approaches to opioid use disorders were also unanticipated – and these advances have benefited hundreds in the Nanaimo area in recent years, and reduced risk and demand for certain community-based services. Cannabis legalization was likely unanticipated when the definition of a “Drug Addiction Treatment Facility” was first formulated. Future modifications to the *Controlled Substances Act* cannot be projected; however they are unlikely to result in stricter controls, as these have not been successful in reducing the social and health impacts of current illicit substances. The challenges of the concurrent housing crisis were also unanticipated, and have too frequently been misinterpreted as a direct consequence of the opioid crisis. Crafting regulatory approaches in a rapidly changing environment should embrace foresight and avoid reactivity.

I would like to take this opportunity to reiterate the recommendations of the Medical Health Officer to Nanaimo City Council, made in February 2018. While progress towards some of these recommendations may have crept forward over the past 15 months, the recommendations remain just as pertinent. They are as follows:

- Council address the obstacle to substance use treatment found in the definition of a Drug Addiction Treatment Facility of the City of Nanaimo zoning bylaw 4500.
- Council support efforts to increase housing availability and options

May 2019

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- Council revisit the recommendations of the Response to Health, Social and Safety Issues in the Downtown report to address those that would support recovery within the community
- Council endorse the Nanaimo Overdose Prevention and Management Working Group as the Community Action Team
- Council support community dialogue to promote prevention of substance use, reduce deaths, increase positive outcomes, reduce fear and stigma, and increase public safety and compassion

Yours in health,



Paul Hasselback, MD, MSc, FRCPC  
Medical Health Officer

PH/sv

cc: Nanaimo Mayor Krog and Council  
Jake Rudolph – CAO  
Dale Lindsay – Director of Community Development

## ATTACHMENT B

### PROPOSED ZONING BYLAW AMENDMENTS - SUPERVISED CONSUMPTION SERVICES

<b>Recommendation: Define Supervised Consumption Service as Site-Specific Use</b>		
<b>Current Wording in Zoning Bylaw</b>	<b>Proposed Change to Zoning Bylaw</b>	<b>Rationale</b>
<p>DRUG ADDICTION TREATMENT FACILITY - means 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.</p>	<p>To remove this definition.</p>	<p>The recommendation is to remove this definition from the Zoning Bylaw, as all of the uses it is meant to capture can be classified as Personal Care Facility, Pharmacy or Office Medical/Dental. The exception to this would be 'safe injection site', which would fall under the definition proposed for 'Supervised Consumption Service'</p>
<p>None</p>	<p>SUPERVISED CONSUMPTION SERVICE – means the supervised consumption of controlled substances as regulated under the Government of Canada's <i>Respect For Communities Act</i> and <i>Controlled Drugs and Substances Act</i>, as well as any subsequent Act or Acts, which may be enacted in substitution thereto.</p>	<p>Provincial and Federal legislation has changed regarding the status of safe injection sites and is more appropriately defined under the proposed definitions for SCS</p>

<b>Alternative Recommendation: Allow Supervised Consumption Service in Office Medical/Dental</b>		
<b>Current Wording in Zoning Bylaw</b>	<b>Proposed Change to Zoning Bylaw</b>	<b>Rationale</b>
<p>DRUG ADDICTION TREATMENT FACILITY - means 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.</p>	<p>To remove this definition.</p>	<p>Same rationale as above.</p>
<p>OFFICE MEDICAL / DENTAL - means the office, clinic or laboratory of a licensed professional in the field of medicine, including a doctor, dentist, optometrist, physiotherapist, chiropractor and medical technician.</p>	<p>OFFICE MEDICAL / DENTAL - means the office, clinic or laboratory of a health professional in the field of medicine, including a doctor, dentist, optometrist, physiotherapist, chiropractor and medical technician; and any other health professional designated under the Province of British Columbia's <i>Health Professions Act</i> or <i>Emergency Health Services Act</i>.</p>	<p>The Health Authority has advised this is a more comprehensive and technically correct approach to defining medical office services. Paramedics, who staff the existing OPS, are covered under this definition.</p>

## ATTACHMENT C

### LOCAL GOVERNMENT APPROACHES TO SUPERVISED CONSUMPTION SERVICES

Municipality	Current Zoning Approach to SCS/OPS	Comments
<b>Medicine Hat</b>	<p>On 19-FEB-2019, City Council passed 2nd and 3rd reading of a bylaw to amend the City of Medicine Hat Land Use Bylaw. The amendment includes the addition of a supervised consumption site (SCS) definition: <i>“A location that is exempted by the Federal Government for medical purposes under Section 56.1 of the Controlled Drugs and Substances Act, and is intended for persons to consume a controlled substance in a supervised and controlled environment on an out-patient basis.”</i></p> <p>SCS was also added to the Mixed Use Downtown district as a Discretionary Use.</p>	<p>Including SCS as a Discretionary Use (which means it is permitted on a site-specific basis) in the MU-D district would provide the City with a degree of regulatory control and public transparency regarding the siting of SCS uses.</p> <p>In Medicine Hat, Discretionary Uses can be appealed to the Subdivision and Appeal Board by impacted property owners or the applicant.</p> <p>An application has been made to the Federal government for a SCS in Medicine Hat but is currently listed as incomplete as consultation and policies/procedures report are yet to be submitted. The Alberta Government is also reviewing funding for all SCS.</p>
<b>Surrey</b>	<p>SCS treated as a social service that falls under the “Community Service” use which is defined as: “a use by a non-profit society; (a) providing information referral, counselling, advocacy or physical or mental health services on an out-patient basis; (b) dispensing aid in the nature of food or clothing; or (c) providing drop-in or activity space; but does not include churches, residential uses and independent group homes.” This use would be most similar to Nanaimo’s “Social Service Resource Centre” use, but in their case Community Services may be permitted in any multiple residential, commercial, mixed employment or industrial zone.</p> <p>There are two sites in Surrey that provide supervised consumption services, both of which are integrated with existing health services. Enhanced opioid agonist treatment is also available at these sites for people who are ready to begin treatment for their</p>	<p>Neither SCS site in Surrey required rezoning, but their City Council and Public Safety Committee in a process that was led by Fraser Health. Those steps were:</p> <ol style="list-style-type: none"> <li>1) In-camera briefing by Fraser Health of Council/Committee on the topic;</li> <li>2) Council officially endorsed their application at a public meeting and provided a letter of support that had a conditions attached;</li> <li>3) Fraser Health conducted some online public engagement;</li> <li>4) The overall discussion focused on public safety concerns; and</li> <li>5) There has been considerable ongoing public communication about the resultant drop in overdoses, which has been</li> </ol>

Municipality	Current Zoning Approach to SCS/OPS	Comments
	addiction. Both sites provide supervised consumption of substances by injection, oral, and intra-nasal methods.	significant and has resulted in increased public support for the sites.
<b>Kelowna</b>	Supervised consumption services fall under definition of “Health services – major” which is defined as “a development used for the provision of physical or mental health services on an out-patient basis. Services may be of a preventative, diagnostic, treatment, therapeutic, rehabilitative or counseling nature. Typical uses include, but are not limited to, medical and dental offices, chiropractors, massage therapists and acupuncture clinics, health clinics, and counseling services. This use does not include the retail sale or dispensing of marihuana.”	<p>While Kelowna identifies the service as mobile, it is actually two specific properties that were identified and approved through the federal application for an exemption; the ‘mobile’ service travels between two sites on a scheduled basis.</p> <p>As the two approved locations were zoned for Health Services (one is besides the Community Dialysis Centre and the other is the parking lot behind Urban Outreach Health), there was no rezoning required as part of the process.</p>
<b>Kamloops</b>	Supervised consumption services fall under definition of “Health services,” which means “development used for the provision of physical or mental health services on an out-patient basis. Services may be of a preventative, diagnostic, treatment, therapeutic, rehabilitative, or counselling nature. Typical uses include medical and dental offices, chiropractors, massage therapists, acupuncture clinics, health clinics and counselling services.”	Supervised consumption services are offered at two sites to accommodate Kamloop’s geography; one on each side of the river (ASK Wellness and Crossroads Housing). Both of the fixed sites where the mobile unit operates were approved through federal exemption process.
<b>Victoria</b>	Supervised consumption services, when located in the downtown core, fall under definition of personal service, which is defined as “services provided to a person including but not limited to barbering, hairstyling, optometry, spa, medical and dental care, and services provided to the apparel of a customer including laundry and dry cleaning services, tailoring, and shoe, jewelry and watch repair” as defined in Zoning Bylaw 2018 (18-072), which applies only to the Downtown Core Area. Both of the approved SCS in Victoria are in the downtown (941 Pandora and 844 Johnson Street).	The City of Victoria approved a “five pillars” harm reduction policy framework in January 2011. The five pillars approach includes: prevention; harm reduction; addiction treatment and supportive recovery; adequate and affordable housing; and enforcement. This approach is intended to reduce the amount of on-the-street consumption, drug overdose deaths, and the infection rates for HIV and hepatitis, as well as increase the success rate for addictions recovery.



Municipality	Current Zoning Approach to SCS/OPS	Comments
<p><b>Red Deer</b></p>	<p>Though they initially had a general definition that would have encompassed SCS, Red Deer City Council approved a new, more specific definition for Supervised Consumption Services that is permitted only on a discretionary basis:</p> <p>“Supervised Consumption Services means a location where, pursuant to an exemption granted for medical purposes by the federal government, a person may consume a controlled substance that was obtained in a manner not authorized under the Controlled Drugs and Substances Act in a supervised and controlled environment.”</p>	<p>Through a series of bylaw amendments, Red Deer City Council approved two potential SCS sites: the Red Deer Regional Hospital (permanent /mobile) or Safe Harbour (mobile only).</p> <p>Before an SCS site can open, an external agency must apply for a federal exemption. They must also obtain the necessary permits and a business licence from The City of Red Deer.</p> <p>The business license is subject to several detailed requirements, which include making the operator, responsible for needle pickup within a 150-metre radius of the permanent site, and installing and maintaining a monitored, professional video camera surveillance system at the site.</p>
<p><b>London</b></p>	<p>In January 2018, Council voted to add the following a definition for SCS to the Zoning Bylaw:</p> <p>“Supervised Consumption Facility means a facility that has received an exemption from the Controlled Drugs and Substances Act, where people can bring their illicit drugs to consume in a sterile and safer environment. These sites have equipment and trained staff present to oversee a person’s drug consumption and assist in the event of an overdose or other health risk. These facilities may offer additional health and drug-related support services. These facilities are intended to provide such services on an ongoing, rather than temporary, basis.”</p>	<p>There are currently three SCS operating in London, all of which were subject to site-specific rezoning applications. The future of funding for these sites is uncertain at this time as the Ontario government has announced it is reviewing the funding of all harm reduction services, with plans to limit the total number of SCS funded in the province.</p>

# ATTACHMENT D

## City of Kamloops Opinion Letter on Supervised Consumption Services



March 7, 2017

Dr. Trevor Corneil  
VP Population Health & Chief Medical Health Officer  
Interior Health  
505 Doyle Street  
Kelowna BC V1Y 0C5

Dear Dr. Corneil:

RE: City of Kamloops Opinion - Mobile Supervised Consumption Service

Thank you for your February 2, 2017, letter requesting an opinion from Kamloops City Council regarding Interior Health's submission to Health Canada for an exemption under Section 56 of the Federal *Controlled Drugs and Substances Act* to operate a mobile supervised consumption service (SCS) in Kamloops.

On September 13, 2016, Interior Health presented to Council on the concept and steps moving forward for exploring the installation of an SCS in Kamloops. At that time, Council supported, in principle, the concept of an SCS in the community as an opportunity to address the opiate overdose crisis that was declared on April 14, 2016.

Following this initial support, the community and Interior Health have engaged in conversations regarding the injection drug problem in Kamloops, the concept of an SCS for the community, and the concerns related to the opiate overdose crisis and an SCS. As part of Interior Health's public consultation, the Community Action Team and the Social Planning Council (which comprises multiple stakeholders) supported the ongoing conversation from September 2016 to January 2017. Those stakeholders included citizens from the community, municipal staff from the Community Safety and Corporate Services Department and the Social and Community Development Section, the RCMP, Kamloops Fire Rescue, Emergency Health Services, Kamloops Regional Correctional Centre, and various not-for-profit organizations involved in direct services supporting the local street population and those facing addiction.

The concerns and dialogue expressed supported the desire for a more coordinated response to this crisis. It was also noted that, outside an SCS model, the continuum of care for those entrenched in addiction needs further definition for the whole community. Specific concerns regarding the SCS model included the need for further dialogue with the community on the model proposed (e.g. location, schedule, meeting user needs, and services available through the SCS). As a result, the City supports Interior Health's submission to Health Canada to implement a mobile SCS subject to the following conditions:



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- The SCS shall remain at the initial, pre-determined locations and shall not be relocated to alternate locations without the full support of the City.
- Interior Health shall meet at least quarterly with City's Law Enforcement and Emergency Responder officials and the City's Social and Community Development Supervisor to review the operations of the SCS and any relevant statistics.
- Interior Health shall present an overview of the successes and concerns of the SCS to the City's Coordinated Enforcement Task Force at least two times per calendar year.
- Prior to implementation of the supervised consumption services in the City, Interior Health will provide assurance to the City and the community that the supervised consumption services unit will operate in a sustainable manner and include all necessary safety precautions, such as limited vehicle idling, sustainable power sources, and adequate ventilation and emission control systems to eliminate the risk of releasing potential harmful emissions into the atmosphere.
- Interior Health will commit to expanding current prevention and treatment resources to help further reduce the number of drug users in our community.

As a result of the community dialogue and presentations that Interior Health has provided to the community and Council, we provide the following resolution determined at our March 14, 2017, Regular Council meeting:

[INSERT RESOLUTION]

Yours truly,

P. G. Milobar  
Mayor


JC/lm/ts

cc: National Compliance and Exemption Division  
Office of Controlled Substances  
Controlled Substances and Tobacco Directorate  
Health Environments and Consumer Safety Branch  
Health Canada



# Supervised Consumption Service Zoning Options

Presentation to Council  
2019-JUL-08



## Supervised Consumption Services

- Supervised Consumption Services (SCS) and Overdose Prevention Sites (OPS) are both ‘Harm Reduction’ 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.
- Unlike an OPS, an SCS is permanent and requires an application to the Federal Government for an exemption to the *Controlled Drugs and Substances Act*.
- The level of service between an OPS and SCS would be dependent upon the discretion of the Health Authority.

## Overdose Prevention Site



An overdose prevention site (OPS) facility is meant to address an immediate need in the community. OPS can be set up quickly under the Provincial Emergency Order because they don't require a Federal exemption and do not need to seek municipal approvals.

## Timeline



## Municipal Role in SCS Siting

### 1) Can Provide Input for Federal Exemption Application

Application for an SCS requires the applicant undertake general community consultation and include a report on activities and a plan to address any concerns; however, the application no longer requires specific input from the local government.

### 2) Land Use Zoning

Different municipalities have taken various approaches, from approving as site-specific use to including SCS as a health service. Appropriate zoning is not considered in the exemption process but is a requirement for adherence to local government bylaws.

## Current Applicable Zoning

- Under Nanaimo's current 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.





## Opinion from MHO

- On 2019-MAY-23, Staff received a letter from Nanaimo's Medical Health Officer (MHO) requesting that the definition for 'Drug Addiction Treatment Facility' be removed from the Zoning Bylaw and that an SCS be considered part of 'Medical/Dental Office,' which is permitted in most commercial and mixed-use zones.
- The municipality has received ongoing input from the MHO that an SCS is an essential health service and that zoning regulations distinguishing this service from any other health service are discriminatory and stigmatizing towards drug users.



## Municipal Responses

- There have been a range of municipal responses to zoning for harm reduction services.
- In 2014, Abbotsford repealed a nine-year zoning prohibition on all harm reduction activities, including needle exchanges (there are no plans for an SCS).
- Some communities have introduced SCS definitions into their zoning bylaws (Red Deer, London, Medicine Hat).
- All the existing SCSs in BC have been permitted as medical uses without a requirement for rezoning.



## Considerations


- An SCS is definitely a health service; but there is precedent in the Zoning Bylaw for requiring site-specific zoning for uses that have the potential for greater community impact (e.g., Cannabis Retail Store, Liquor Retail Store).
- While some SCSs may include wrap-around services, right now we have no information on what these would/could be given resource constraints.
- Once zoning is in place, under existing regulations Council would not be able to put additional conditional of approval on the operation of an SCS (e.g., site management).



## Zoning Options

### Option 1 (Recommendation):

- Continue to consider SCS a site-specific use requiring rezoning for every application for an exemption. If selected, Staff recommend repealing the definition of Drug Addiction Treatment Facility and adding a new definition for SCS.
- Council could also approve an application for an SCS under a Temporary Use Permit, which allows the use for three years and is renewable for a further three years.




## Zoning Options

**Advantages:**

- Allows Council greater control over the location of permanent health services that have the potential for significant community impact
- Permits Council to add conditions of rezoning approval

**Disadvantages:**

- Less flexibility in siting options for the SCS applicant, and potentially less ability to respond to opiate crisis
- Could be seen as stigmatizing towards substance users



## Zoning Options

**Option 2 (alternative):**

- Provide more flexibility in siting options for provision of SCSs by considering it a part of health service provision under a revised definition of Office Medical/Dental as a permitted use.
- Office Medical/Dental is a permitted use in most commercial and mixed-use zones.
- If this option is selected, the definition of Office Medical/Dental would need to be updated and the use Drug Addiction Treatment Facility would need to be removed from the Zoning Bylaw.

## Zoning Options

### Advantages:

- Would strengthen relationship with Health Authority by demonstrating trust in their siting process
- Would ensure harm reduction services will be in place indefinitely to serve vulnerable populations/reduce deaths

### Disadvantages:

- City would not have substantive role in site selection
- May create site-management issues that end up being addressed by RCMP and Bylaws (e.g., Wesley St.)

## Community Engagement

- The MHO has confirmed that for an application for an SCS to be considered complete, Health Canada required that **“efforts [be] made to engage with the community to inform them of the proposal and ensure that the voices of community members have been heard”**.
- This does not necessarily mean that community concerns would ‘veto’ a particular site, but that they must be addressed in the application.
- If Council opts for a site-specific zoning option, a public hearing would be part of the community engagement.



## Public Disorder in the Downtown

- On 2017-DEC-11, Staff brought forward a report on *"Responses to Health, Social and Safety Issues in the Downtown"*.
- This report contained a number of recommendations, a number of which have since been completed or are actively underway.
- Staff will be bringing forward an update to Council and or the Health and Housing Task Force in Summer 2019.



## Questions / Discussion