

DATE OF MEETING MARCH 21, 2022

AUTHORED BY KAREN ROBERTSON, DEPUTY CITY CLERK

SUBJECT PARKS, RECREATION & CULTURE BYLAW & ASSOCIATED POLICIES

OVERVIEW

Purpose of Report

To bring forward administrative amendments associated with the structure of the Parks, Recreation & Culture Bylaw as part of the Bylaw and Policy Renewal project.

Recommendations

Parks, Recreation & Culture Bylaw:

1. That "Parks, Recreation and Culture Regulation Bylaw 2022 No. 7340" (a bylaw to regulate parks, recreation & culture services and facilities within the City of Nanaimo) pass first reading.
2. That "Parks, Recreation and Culture Regulation Bylaw 2022 No. 7340" pass second reading.
3. That "Parks Recreation and Culture Regulation Bylaw 2022 No. 7340" pass third reading.

Fees and Charges Amendment Bylaw:

1. That "Fees and Charges Amendment Bylaw 2022 No. 7336.01" (a bylaw to add the existing parks, recreation & culture fees and charges to the Fees and Charges Bylaw) pass first reading.
2. That "Fees and Charges Amendment Bylaw 2022 No. 7336.01" pass second reading.
3. That "Fees and Charges Amendment Bylaw 2022 No. 7336.01" pass third reading.

Bylaw Notice Enforcement Bylaw:

1. That "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.16" (a bylaw to add the fines associated with the new Parks, Recreation & Culture Regulation Bylaw) pass first reading.
2. That "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.16" pass second reading.
3. That "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.16" pass third reading.

Guiding Principles for Parks, Recreation & Culture Fees, Charges & Rentals Council Policy

That Council endorse the Guiding Principles for Parks, Recreation and Culture Fees, Charges and Rentals Council Policy as attached to the March 21, 2022 report by the Deputy City Clerk.

BACKGROUND

Earlier in Council's term, staff advised that the last time user fees and charges associated with the Parks, Recreation and Culture Regulation Bylaw were considered was in 2013 (covering the period 2013 through 2016) and that user fees had not increased since that time. Staff conveyed that they planned to undertake a review and bring forward a report to a future Council meeting for discussion. In 2020, COVID hit, recreation facilities were closed, and the review was put on pause.

As part of the departmental business plan presentations at the 2021-NOV-03 Finance and Administration Committee meeting, staff advised that City facilities were allowed to open up (with certain restrictions) and therefore once again highlighted the financial challenges faced by the department in meeting the increased operational costs associated with running the facilities and the community's desire for more outdoor activities, waterfront activities, and neighbourhood facilities. As a result, staff communicated that they would reinstate the review and bring forward a report in 2022.

Following that meeting, staff from Parks, Recreation & Culture met with Legislative Services staff to discuss how best to bring forward proposed amendments to the Parks, Recreation and Culture Regulation Bylaw related to user fees as staff wanted to bring forward other amendments at the same time that needed addressing (i.e. propane stoves in parks, remotely piloted aircraft, etc.).

When discussing the proposed amendments, staff identified that the way the bylaw was originally structured in 2008 made it challenging to bring forward more than one amendment at a time as the bylaw contains regulatory provisions, fees and charges (which should be transferred to the comprehensive fees and charges bylaw) and Council and Administrative policies which should be stand alone policy documents. Given Council's direction to have more streamlined bylaws and policies (through the bylaw and policy renewal project) Legislative Services recommended that prior to considering any amendments, the first step should be to review the structure of the bylaw by:

- creating a new Parks, Recreation & Culture Regulation Bylaw that contains the regulatory provisions, rather than continuing to amend an older bylaw;
- parsing out the Council and Administrative policies from within the bylaw so that the policies become stand alone documents;
- transferring the fees and charges from within the existing bylaw to the comprehensive Fees and Charges Bylaw; and
- updating the Bylaw Notice Enforcement Bylaw to reflect the new Parks, Recreation, and Culture regulatory provisions.

Once the above housekeeping changes are made, the process for staff to present future amendments will be easier as well as for Council when considering them.

DISCUSSION

Parsing out the various documents from within the bylaw will assist in ensuring the documents are retained in their appropriate format (i.e. bylaw matters within a bylaw and policy matters within a policy). Another added benefit is that considering multiple amendments on the same topic will be less cumbersome. For example, Council can debate future user fee increases by looking at amendments to the Fees and Charges bylaw while also considering amendments to the Guiding Principles for Parks, Recreation and Culture Fees and Charges Council Policy.

The proposed structure changes are outlined in the marked up version of the existing consolidated bylaw (see Attachment B) and the accompanying new bylaws and policies identified in Attachment B are attached to the report as follows:

Bylaw 7340 – Parks, Recreation and Culture Regulation Bylaw

The new bylaw (see Attachment A) contains the regulatory provisions and addresses minor housekeeping amendments such as references to outdated job titles and references to the Parks, Recreation and Culture Commission (which is no longer in effect). Facilities that are now rentable have also been added.

Bylaw 7336.01 – Fees and Charges Amendment Bylaw

Through this fees and charges amendment, the fees and charges within the existing Bylaw 7073 would be removed and transferred to the comprehensive Fees and Charges Bylaw (see Attachment C). This is a housekeeping transfer only and any proposed fee increases would be dealt with separately through an amendment to the Fees and Charges Bylaw at a later date.

Bylaw 7159.16 – Bylaw Notice Enforcement Amendment Bylaw

Whenever a new regulatory bylaw is created, an amendment to the Bylaw Notice Enforcement Bylaw is also required to ensure the fine provisions reflect the new bylaw number and sections. The majority of the fines have been transferred as is, with the following exceptions as requested by the Manager of Bylaw Services:

- Section 4.1 – interfering with City Employee. Currently the fine is \$150. It is recommended that this fine be increased to \$500 to be consistent with other City bylaws.
- Section 4.3(a) – entering park during restricted hours. The fine is currently \$150. It is recommended that this fine be increased to \$500 to be consistent with other like communities. Although the City does not close many parks, much of the property damage, wire thefts, and break-ins do occur during the evening hours.
- Section 4.4 – cycle without a helmet. Currently the fine is \$150. Staff recommend that this fine in this case be lowered to \$25 to be consistent with the fines outlined in the *Motor Vehicle Act*.
- Section 4.9 – damage park property. Currently the fine is \$150. Staff recommend the fine be increased to \$500 as most property damage that occurs is greater than \$150. This increase would also make the City consistent with other like communities.
- Section 4.14, 4.15, and 4.16 – fireworks and starting fires. Currently the fines are \$150 and \$250.00. Given the extreme weather conditions in recent years and the potential dangers associated with starting fires or fireworks within City parks, staff recommend that the fine be increased to \$500.
- Section 8.1 – failure to obtain a park licence. Currently the fine is \$150. Based on past experience, the venues that people avoid licencing are typically associated with problematic events. Staff recommend increasing the fine to \$500 to encourage event holders to take out the proper permits.

Guiding Principles Council Policy – COU228

This document is a Council policy which should not be contained within the regulatory bylaw. As such, staff recommend that it be a stand alone Council policy document (see Attachment E).

Equipment Rentals and Service Levels Administrative Policy – ADM-115

This is an Administrative Policy that is administered by staff. As such, it should be a stand alone Administrative Policy that is signed off by the CAO (see Attachment F). No recommendation from Council is required.

Facility Booking Cancellation Administrative Policy – ADM-116

This too would fall in the category of an Administrative policy. Staff recommend that it be a stand alone policy that is signed off by the CAO (see Attachment G). No recommendation from Council is required.

OPTIONS

Option 1:

The proposed bylaws and policies outlined in the recommendation section of the report are housekeeping in nature to address the structure of the Parks, Recreation and Culture Regulatory function. By adopting the new bylaws and Council policy, consideration of future amendments will be more streamlined.

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Option 2:

As with option 1, staff recommend that Council support the structural changes to the Parks, Recreation and Culture Regulation Bylaw. The only changes put forward relate to a few fines associated with the Bylaw Notice Enforcement Bylaw. The rationale for the proposed fine increases or reductions are outlined in the report. Should Council wish to propose an alternate amount to those fines, Council direction would be sought.

SUMMARY POINTS

- Staff identified that the last time user fees and charges associated with the Parks, Recreation & Culture bylaw were considered was in 2013 with fees having not been increased since 2016.
- Prior to considering any fee increases, or any other regulatory amendments, the bylaw's structure needed to be addressed (as part of the bylaw and policy renewal project) by transferring the existing user fees from the regulatory bylaw to the Fees and Charges bylaw, and the Council and administrative policies transferred to stand-alone policy documents.
- Once the structure of the bylaw has been addressed, future amendments to user fees or other regulatory provisions can be considered in a more streamlined manner.

ATTACHMENTS:

AttA_B7340_Parks Recreation & Culture Regulation Bylaw _RPT_C220321
AttB_B7073cons_with markup_RPT_C220321
AttC_B7336.01_Fees and Charges Amendment_RPT_C220321
AttD_B7159.16_Bylaw Notice Enforcement Amendment_RPT_C220321
AttE_Guiding Principles Council Policy COU-22_RPT_C220321
AttF_Equipment Rentals and Service Levels Administrative Policy_ADM-114_RPT_C220321
AttG_Facility Booking Cancellation Administrative Policy ADM-116_RPT_C220321

Submitted by:

Karen Robertson, Deputy City Clerk

Concurrence by:

Lynn Wark, Director, Recreation & Culture
Dave LaBerge, Manager, Bylaw Services
Sheila Gurrie, Director of Legislative Services
Richard Harding, GM, Parks, Recreation & Culture