



THE CORPORATION OF THE CITY OF COURTENAY

INFORMATION SHEET

To: Council

File No.: 3900-01

From: Director of Corporate Services

Date: March 22, 2023

Subject: Parks Control Bylaw Modernization Project – Update









PURPOSE:

To present Council with a comprehensive overview of the Park Control Bylaw Modernization Project. The report will include information on the project schedule, stakeholder engagement activities, current state findings, priorities for amendments, and next steps.

BACKGROUND:

On June 10, 2019 Council passed a resolution directing staff to “prepare a bylaw to prohibit the smoking of tobacco and cannabis, and the use of vaping devices, in the City of Courtenay’s parks and properties”. Due to the Covid-19 pandemic and staff changes, the Bylaw did not progress to adoption. As work resumed on this important policy area, it became apparent that the current Parks Control Bylaw no longer adequately addresses the needs of the City’s growing population, evolving park use, and emerging issues related to climate change, reconciliation, and urbanization. Therefore, a larger review of the Bylaw was necessary.

The Parks Control Bylaw Modernization Project will prioritize:

-  **Clarity and Guidance:** Prioritizing clear definitions and guidelines for park use to create a safer and more enjoyable experience for park users
-  **Protection of natural and cultural areas:** Provisions protecting environmentally sensitive and culturally significant park areas
-  **Sheltering:** Considering the needs of homeless individuals who may seek shelter in parks and ensure legal compliance and equitable access for all community members
-  **Authority and accountability:** Clearly defining the authority of park management and establish decision-making accountability for transparency and efficiency
-  **Enforcement and penalties:** Clear and comprehensive language around enforcement, penalties, and offences related to park use for effective and consistent enforcement
-  **Smoking and vaping in parks:** Reinforcing existing inhalant, cannabis smoking and vaping prohibition and consider including specific provisions related to these activities
-  **Future-proofing:** Flexible language and provisions to accommodate new and emerging issues related to park use and management for a sustainable park system
-  **Legal compliance:** Ensuring the updated Bylaw aligns with legal precedents and best practices for an effective and legally defensible bylaw

Review Process

In February 2023, the City procured Cascadia Partners, a management consulting firm, to support the City in modernizing the Parks Control Bylaw (the Bylaw) and improve park and open space management. The project consists of four phases that will be completed over the next five months.

Phase 1, Information Gathering, has been completed, where Staff gathered pertinent data and information regarding the current usage of parks and open spaces and the challenges associated with the current bylaw. The team also compared Courtenay's bylaw with parks regulation bylaws in other relevant jurisdictions to gain insights into best practices and effective strategies.

Phase 2, Defining Priorities, is currently in progress, where the team is establishing the key priorities and objectives the updated Bylaw should address based on the information gathered in Phase 1 and through internal and external engagement.

In Phase 3, Options Development & Testing, the Operational Working Group¹ will formulate and experiment with different options and approaches for revising the Bylaw. The Operational Working Group will evaluate the effectiveness and impacts of these options by assessing if they achieve the priorities and objectives established in Phase 2.

Community partners will be engaged to support a thorough impact analysis of the different options and approaches for members of the public who will be most impacted by the bylaw changes, especially ~~those who~~ are experiencing homelessness or use parks for shelter.

In Phase 4, Finalize & Approve, staff will review and finalize the draft bylaw based on the findings and recommendations from the previous phases ensuring alignment with the City's strategic priorities.

The updated bylaw will incorporate stakeholder input and follow best practices in parks and open space management to ensure parks and open spaces are effectively managed and meet the growing community's needs.

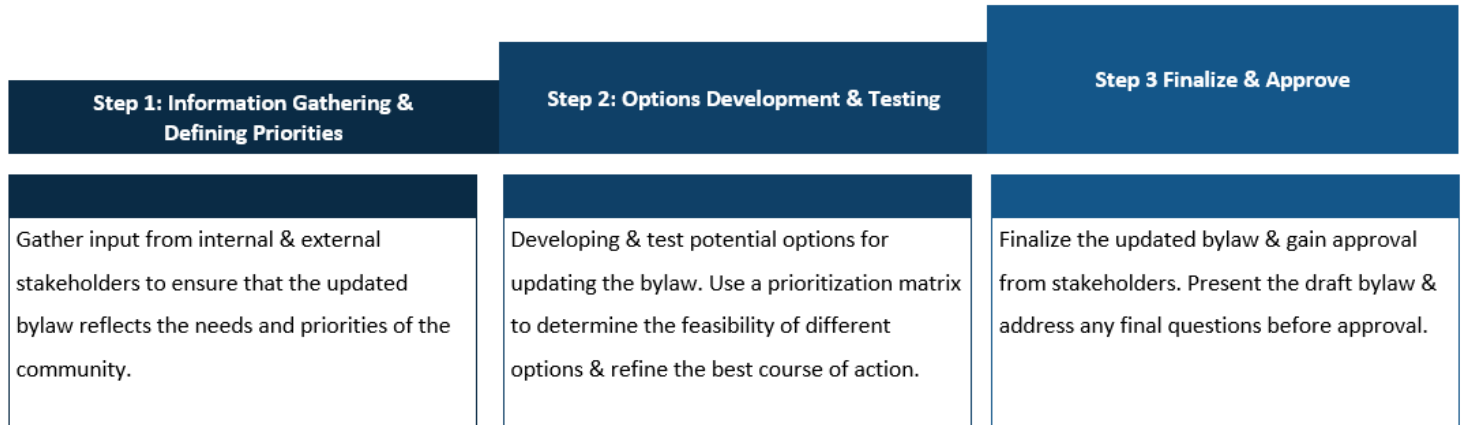
DISCUSSION

Staff have completed Phase 1 and are concluding Phase 2, including a comprehensive analysis of the Bylaw. The analysis includes stakeholder engagement, a comparison of municipal bylaws and a case-law review.

¹ The Working Group will consist of City staff and RCMP.

Stakeholder Engagement

The engagement approach for updating the Bylaw involves a three-step process to ensure that the updated Bylaw reflects the needs and priorities of the City.



In early March, staff completed the Information Gathering & Defining Priorities step by engaging with internal stakeholders through one-on-one interviews and workshops. The City Manager and relevant department directors provided insight into current and emerging demands, while a workshop with representatives from various departments helped confirm priorities for changes to the existing bylaw based on challenges, opportunities, and emerging demands identified in the interviews.

Moving forward, Staff will develop potential options for updating the Bylaw based on the priorities identified in step one. The Operational Working Group will then test options with an internal working group, external stakeholders and against a prioritization matrix to refine the best course of action. Close collaboration with internal and external stakeholders will ensure that the options align with community needs and priorities.

In the final step, staff will present the draft Bylaw to stakeholders and address any final questions or concerns. In addition, Staff will develop an implementation plan to effectively communicate and implement the updated Bylaw throughout the community.

Municipal Comparison

In addition to the engagement process, staff conducted a comprehensive municipal comparison to compare park and open space management approaches in other municipalities. Staff utilized the evaluation categories identified in the table below.

Municipal Review - Evaluation Criteria

Category	Description
Governance	The presence of clear guidelines and responsibilities for the management and oversight of parks, including decision-making processes, roles and responsibilities, and communication channels between different stakeholders.
Access and Use	Outlines measures to ensure that parks are accessible to all members of the community and outlines appropriate use of park facilities, amenities and services, such as hours of operation, permitted activities and events.
Safety & Security	Outlines measures to ensure the safety and security of park users and addresses issues such as hazardous conditions, emergency procedures, and enforcement of park rules and regulations.
Environment	Protects and enhances the natural environment within parks, including measures to address issues such as litter, pollution, and invasive species.
Amenities & Facilities	Outlines the requirements for using amenities and facilities within parks, such as playgrounds, sports fields, field houses, and picnic areas.
Animals	Addresses the presence and management of animals within parks, including regulations related to pet ownership, animal waste management, and the presence of wildlife.
Sheltering	Provide regulations for camping or overnight sheltering in parks without written approval.
Smoking/Vaping/ Inhalants	Addresses smoking and vaping within parks, including regulations related to smoking and vaping in designated areas or the prohibition of smoking and vaping altogether.
Vehicle Use	Addresses the use of vehicles within parks, including regulations related to parking and access for emergency vehicles.

The municipal comparison process involved comparing the City's Parks Control Bylaw with park bylaws from other municipalities in British Columbia, using a scoring system to evaluate how well each category is defined and addressed. In selecting comparable municipalities, staff prioritized cities that had recently reviewed and updated their park control bylaw, share commonalities in policy perspectives, and had similar climates and types of park usage. Based on these criteria, staff reviewed the parks control bylaws of Coquitlam, Kelowna, Nanaimo, Vancouver, Campbell River and Victoria.

The comparison analysis showed that the Parks Control Bylaw lacked clarity and comprehensiveness in all categories compared to other municipalities. However, the municipal comparison provided staff valuable insight into other jurisdictions' best practices and effective

strategies. By analyzing the strengths and weaknesses of other park bylaws, staff were able to understand better how the City's approach could be improved to enhance the overall effectiveness of the Parks Control Bylaw. Further detail on the municipal comparison can be found in Appendix A of this report.

Overall Results

The comprehensive analysis uncovered several pressing issues, which are outlined below:

- **Lack of clarity and guidance:** The Bylaw does not provide fulsome definitions, sections, or guidelines for park use, creating challenges in enforcement and potential conflicts and legal challenges.
- **Outdated:** The Bylaw has not been updated since 1997, and the City has since grown in population and is experiencing new bylaw enforcement challenges. Many existing and emerging challenges were not previously contemplated and the Bylaw does not inadequately address current needs and challenges related to park use.
- **Authority and accountability:** There is a lack of defined authority for the City Manager, directors, and bylaw officers, which could lead to confusion and conflict around park management and decision-making.
- **Limited provisions:** The Parks Control Bylaw lacks provisions for protecting natural areas, environmentally sensitive areas, and culturally important areas within the parks, which could lead to damage or loss of these areas and difficulties of enforcement in these areas.
- **Prohibition on sheltering:** The prohibition on sheltering in parks is overly restrictive, does not consider the needs of people experiencing homelessness and is inconsistent with current case law.
- **Enforcement and penalties:** The Bylaw lacks clear and comprehensive language around enforcement, penalties, and offences, making it challenging for authorities to enforce it.

If these key issues are not addressed, there could be continued confusion around park management, conflicts between user groups, difficulties enforcing the Bylaw, potential legal challenges and damage or loss of environmentally sensitive and culturally important areas within parks. To address these risks, Staff will look to repeal and replace the current bylaw with a new Parks and Open Spaces Bylaw based on the following recommended priorities:

Priority 1: Clarity and Guidance

When developing a new park bylaw, it is crucial to prioritize clear definitions, sections, and guidelines for park use. The language used in the bylaw should be easy to understand for park users, making enforcement easier and reducing the potential for conflicts and legal challenges.

In addition, the City can create a safer and more enjoyable experience for park users by clearly outlining expectations and defining what actions are permitted and prohibited.



Priority 2: Protection of Natural and Cultural Areas

A park bylaw must include provisions protecting environmentally sensitive and culturally significant park areas. Preserving these areas ensures the long-term sustainability of the park system and its preservation for future generations.



Priority 3: Sheltering

Another priority when developing a park bylaw is to consider the needs of homeless individuals who may seek shelter in parks. It is important to align the bylaw with the case law associated with sheltering in parks to ensure legal compliance and equitable access to parks for all community members. A park bylaw that recognizes and accommodates the needs of all community members provides a safe and welcoming park environment for everyone.



Priority 4: Authority and Accountability

Developing a park bylaw that clearly defines the authority of the City Manager or directors responsible for park management and decision-making is crucial. The City can reduce confusion and conflict around park management and establish decision-making accountability by doing so. This priority ensures that park management and decision-making are more transparent, efficient, and effective.



Priority 5: Enforcement and Penalties

The new park bylaw should include clear and comprehensive language around enforcement, penalties, and offences related to park use. This clarity ensures park users are held accountable for any bylaw violations, making enforcement more effective and consistent. This priority also provides that park users are aware of the consequences of their actions, creating a safer and more responsible park environment.



Priority 6: Addressing Smoking and Vaping in Parks

Smoking and vaping cannabis and the use of inhalants are currently illegal in municipal parks, and smoking and vaping tobacco is prohibited in many public spaces. It is important to consider the best ways to enforce these regulations within parks. The park bylaw can play a role in reinforcing the existing cannabis smoking and vaping prohibition and expand if desired by including specific provisions related to these activities, such as penalties for violations and providing public education.

Priority 7: Future-Proofing

The City should develop the park bylaw with an eye toward the future. By incorporating flexible language and provisions that can accommodate new and emerging issues related to park use and management, a bylaw can adapt and respond to the changing needs of the community and environment over time. This priority ensures that the park system remains relevant and sustainable for future generations.

Priority 8: Legal Compliance

A park bylaw should, as much as possible, reflect the authorities of the local government – which are defined by legislation and case law. Staff initiated a case-law review to ensure the updated bylaw aligns with legal precedents and best practices. The review will help identify gaps or areas of concern that the City must address to ensure the updated bylaw is legally sound and enforceable. By conducting a thorough case-law review, Staff will be able to provide a comprehensive and effective updated bylaw that meets the community's needs while also adhering to legal requirements. This review will also help Staff identify potential challenges or limitations that may arise during the implementation process. Overall, the case-law review is an essential step in the bylaw update process to ensure the updated bylaw is effective and legally defensible.

The new Parks Control Bylaw will be substantially drafted and reviewed by legal counsel.

NEXT STEPS

Developing a new park bylaw is a complex undertaking that requires a careful and thoughtful approach to ensure that it reflects the needs and values of the community while protecting the environment and cultural significance of park areas. Addressing the priorities identified will create a more effective bylaw helping the City to achieve its vision for parks and recreation, which is to support a healthy, engaged, and inclusive community with a high quality of life.

In the next phase of the Parks Control Bylaw Modernization Project, the City will develop and test different options and approaches to understand and evaluate their effectiveness in meeting the objective of access to parks for all community members. In addition, Staff will work with non-profit service providers and individuals experiencing homelessness sheltering in parks to evaluate the impact of possible options on individuals sheltering in parks. Following this assessment, Staff will draft a final report and implementation plan and present it to Council for review in early Quarter 3, 2023. Staff will then request a motion from Council to draft an updated Parks and Open Spaces Bylaw to bring forward for three readings and adoption.

FINANCIAL IMPLICATIONS:

The Park Control Bylaw Modernization Project costs were approved in the 2022 budget and have been carried forward to 2023.

Implementation costs for bylaw enforcement service levels will be presented in the final report and will include recommendations for future budget processes.

ADMINISTRATIVE IMPLICATIONS:

This work is part of the regular operations and is supported by an external consultant.

ASSET MANAGEMENT IMPLICATIONS:

Natural asset protection and preservation is contemplated in the bylaw review process.

STRATEGIC PRIORITIES REFERENCE:

We focus on organizational & governance excellence

- Support and encourage initiatives to improve efficiencies
- Communicate appropriately with our community in all decisions we made
- Responsibly provide services at levels which the people are willing to pay
- ▲ Value Community safety and support our protective services

We proactively plan & invest in our natural & built environment

- ▲ Promote social, economic & environmental sustainability solutions

We continually invest in our key relationships

- Consider effective ways to engage with and partner for the health and safety of the community
- ▲ Support improving accessibility to all City services

● **AREA OF CONTROL:** The policy, works and programming matters that fall within Council's jurisdictional authority to act

▲ **AREA OF INFLUENCE:** Matters that fall within shared or agreed jurisdiction between Council and another government or party

■ **AREA OF CONCERN:** Matters of interest that are outside Council's jurisdictional authority to act

OFFICIAL COMMUNITY PLAN REFERENCE:

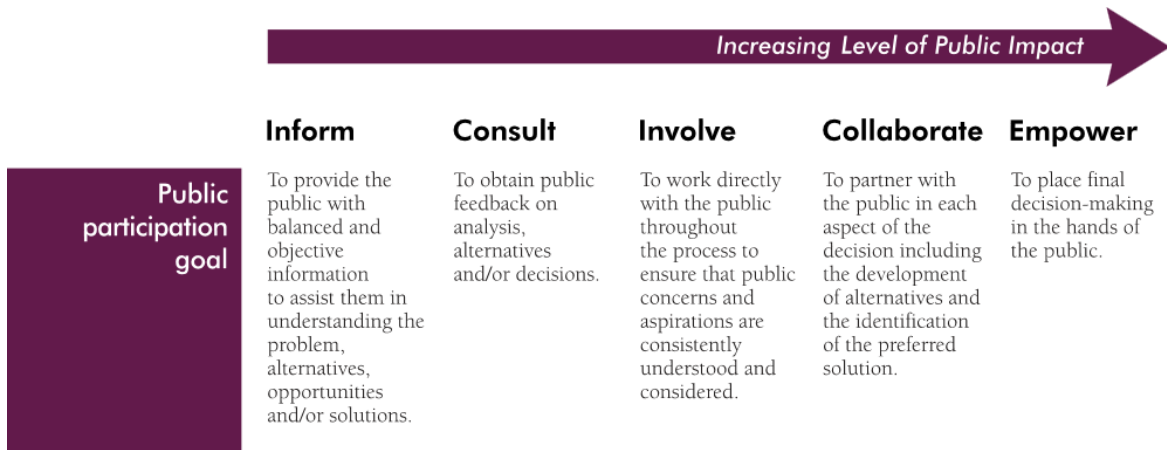
Objective #4: The parks and recreation system exemplifies leadership in reconciliation, climate action, equity, and community well-being through its services, programs and partnerships.

REGIONAL GROWTH STRATEGY REFERENCE:

Public Health and Safety: Support a high quality of life through the protection and enhancement of community health, safety, and well-being.

CITIZEN/PUBLIC ENGAGEMENT:

Staff would inform, consult, involve and collaborate with the public based on the IAP2 Spectrum of Public Participation:



Prepared by,

Kate O'Connell, M.P.P.
Director of Corporate Services

Reviewed by,

Peter deGraaf
Manager of Bylaw Services

Reviewed by,

Susie Saunders
Director of Recreation, Culture
and Community Services

Concurrence by,

Geoff Garbutt, M.PL., MCIP, RPP
City Manager (CAO)

Attachment: Appendix A: Municipal Comparison

Appendix A – Municipal Comparison

The table below compares the City's Parks Control Bylaw against the park bylaws of other municipalities in British Columbia, based on a scoring system that evaluates how well each category is defined and addressed.

The scoring system primarily utilizes three options, "Yes," "Partial," and "No", with “unknown” characterising the absence of information. A score of "Yes" indicates that the category is clearly defined and addressed, "Partial" suggests that the category is addressed but lacks clarity or comprehensiveness, and "No" means that the category is not addressed at all. This comparison will provide insight into areas where the City's bylaw could be improved and areas where the City's approach is effective.

Municipal Review - Evaluation Results

Category	Courtenay	Campbell River	Coquitlam	Kelowna	Nanaimo	Vancouver	Victoria
Governance	Partial	Yes	Yes	Yes	Yes	Yes	Yes
Access and use	No	Partial	Yes	Yes	Yes	Yes	Yes
Safety and Security	Partial	Yes	Yes	Yes	Yes	Yes	Yes
Environment	Partial	No	Yes	Partial	Yes	Yes	Yes
Amenity & Facility Use	Partial	Yes	Yes	Yes	Yes	Yes	Yes
Animals	Partial	Partial	Partial	Yes	No	Yes	Yes
Sheltering	Partial	No	Yes	Partial	Yes	Yes	Yes
Smoking/ Vaping	No	Partial	Partial	Yes	Partial	Yes	No
Vehicle use	Partial	Partial	Yes	Yes	Yes	Yes	Yes
Penalties	No	Yes	Yes	Yes	Yes	Yes	Yes
Enforcement	No	Yes	Yes	Yes	Yes	Yes	Yes

Legend

- Yes – category is clearly defined and addressed
- Partial – category is addressed but lacks clarity or comprehensiveness
- No - category is not addressed at all