



**VIA Email**

January 17, 2024

Dear Mayor Wells and City Councilors

**RE: Parks and Open Spaces Bylaw No. 3121**

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We are writing in solidarity to voice our opposition to the new proposed Parks and Open Spaces Bylaw No. 3121 (“the Bylaw”). We are deeply concerned about the Bylaw’s potential impact on individuals experiencing homelessness and strongly urge Mayor Wells and the City Council not to adopt it.

At the City Council meeting on January 10, 2024, the Director of Corporate Services, Kate O’Connell, stated the Bylaw is “not intended to focus on a specific population”, namely individuals experiencing homelessness. While this may be true, the unintended consequences of similar Bylaws have been disproportionately applied to and harmed people relying on public space for survival.

We believe that more consultation is necessary to ensure a balanced approach to addressing the issue of sheltering in parks. On September 27, 2023, the City of Courtenay’s representative for the Comox Valley Coalition to End Homelessness (the “Coalition”), Angela Fletcher, wrote a letter to the City Council stressing the importance of including individuals with lived experience from the beginning of the consultation process.

Statistically, Indigenous people are overrepresented in the unhoused community, causing them to frequently interact with law enforcement. It has come to our attention that key interest-holders in the Indigenous community were not part of the consultation process. We agree with the Coalition that the perspectives and insights of those with lived experience are invaluable in shaping effective solutions, and strongly urge the City Council to engage in further consultation with these impacted communities.

We also find that the Bylaw fails to expressly acknowledge the human right to shelter. Most recently, in *Bamberger v. Vancouver (Board of Parks and Recreation)*, 2022 BCSC 49, the Court acknowledged that if there are no accessible shelters available, unhoused persons may temporarily shelter in a park. For a shelter to be accessible, it must have water, shower facilities, the ability to prepare food, and meet the necessities of life. Two temporary shelters in Courtenay that have been turning people away every night. Therefore, there are no accessible shelters available in the city.



We find the Bylaw’s language ambiguous, making it susceptible to misinterpretation. For example, the definition of “camping” overlaps with the definition of “sheltering,” making the associated provisions open to misinterpretation or misapplication. Several Bylaw provisions do not reflect the lived reality of those experiencing homelessness. Consequently, we find these provisions unreasonable in the circumstances. For example, section 7.3(f) states, “[t]emporary shelters must not be left unattended.” Individuals sheltering may need to leave their temporary shelter for a variety of reasons, including accessing the washroom.

The Bylaw also fails to provide clear guidance to enforcement bodies and the public regarding their rights, responsibilities, or enforcement procedures. At the City Council meeting on January 10, 2024, Kate O’Connell relied on the Bylaw Compliance Policy to provide sufficient guidance when enforcing this Bylaw. For example, approaching situations with curiosity and a trauma-informed approach. After reviewing this policy, we disagree.

The Bylaw Compliance Policy highlights aspirational goals but fails to provide specific operational guidelines or procedures. For example, it does not provide guidance congruent with emerging case law, specific things bylaw enforcement should consider when exercising discretion, the specific consequences for non-compliance, the nature and scope of the City’s impact assessments, or what, if any, training bylaw enforcement must complete to ensure trauma-informed practice. Therefore, the Bylaw Compliance Policy provides insufficient guidance to ground this Bylaw.

We strongly ask that the City Council does not adopt the proposed Parks and Open Spaces Bylaw.

Sincerely,

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**We have read, understood, and consent to sign this letter. We ask the City Council not to adopt the proposed Parks and Open Spaces Bylaw No. 3121.**

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