

A photograph of a rectangular sign with a white border, mounted on a grey wall. The sign has a black background with white text. The text is arranged in two lines: "NO SMOKING" on the top line and "NO LOITERING" on the bottom line. The font is a bold, sans-serif typeface.

**NO SMOKING
NO LOITERING**

WORKING TOWARD **SYSTEM CHANGE**

**ASSESSING COURTENAY'S APPROACH TO
HOMELESSNESS**

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Completed by Community Leadership, Social Service Providers, and Persons with Lived
Experience of Homelessness within the **Comox Valley**

Table of Contents

Working Towards an Inclusive Future for the City of Courtenay 2

Ensuring Clarity and Equity in Bylaw No. 3121 3

Reflecting on the Current Situation of Homelessness In the Comox Valley 8

Meeting the City's Strategic Goals 10

Investing in Relationships..... 12

Compassionate Solutions for Addressing Immediate Needs of Homelessness in Courtenay: A System Change Approach 13

References: 15

Addendum 1: Proposed amendments to the Parks and Open Spaces Bylaw No. 3121..... 16

Working Towards an Inclusive Future for the City of Courtenay

The following report provides a comprehensive analysis of Courtenay's most marginalized community members, their experiences with Courtenay Bylaw enforcement and their concerns with the proposed Parks and Open Spaces Bylaw No. 3121 (City of Courtenay, 2023a).

The report evaluates the **alignment of Courtenay's Bylaw No. 3121 with human rights, Diversity, Equity, and Inclusion (DEI) practices and with the City of Courtenay's strategic commitments.** Through this examination, the report identifies areas of misalignment and proposes recommendations for improvement.

The Coalition to End Homelessness and a collective of concerned community members wish to acknowledge the positive aspects of the proposed bylaw No 3121. We recognize its commitment to ensuring public safety and cultural and environmental preservation within our community's parks and open spaces.

The objective of this report is not to negate the progressive elements of Courtenay's proposed Bylaw 3121 but to collaboratively build upon them, fostering a balanced and inclusive approach to Bylaw No. 3121. We are eager to work with the City of Courtenay to support our most underrepresented community members, specifically those experiencing homelessness.

Research incorporating insights from individuals with lived experience underscores that the challenges faced by “people experiencing homelessness are exacerbated by legislation and policies that criminalize, marginalize, and stigmatize them” (Bennett & Larkin, 2018, p. 5).

This report will also provide specific recommendations and amendments to proposed Bylaw No. 3121.

Ensuring Clarity and Equity in Bylaw No. 3121

The amendments and considerations outlined below have been developed through the collaboration of legal advocates, social service professionals, and individuals who have firsthand experience with homelessness. These revisions have been carefully prioritized to align with the City of Courtenay's strategic objectives and core values. For additional proposed changes, please refer to the attached addendum.

- 1) Indigenous Consultation:** With the Council's efforts on Reconciliation, Bylaw No. 3121 should be reviewed by local Indigenous partners.
 - We must ensure the proposed bylaw is aligned with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and honour Indigenous peoples' entitlements to adequate housing, non-discrimination, and self-determination (United Nations General Assembly, 2008).
- 2) Amendments to ensure Bylaw No. 3121 is clear** and does not lead to unintended consequences for those experiencing homelessness:
 - I. Amendment recommendation to Section 5.9 (b):** "Disorderly, dangerous, or **offensive** behaviour is not allowed in parks and open spaces (City of Courtenay, 2023a):"
 - "Offensive behaviour" is too broad a term to provide any sort of objectivity. Disorderly or dangerous conduct can be objectively observed outside of a feeling or emotion. Implicit bias may lead to a disproportional impact on people experiencing homelessness.
 - II. Amendment recommendation to Section 5.9 (d):** "Camping in a park or open space, **with or without shelter**, is only permitted with a valid permit that complies with all terms and conditions of the permit:"
 - It is unclear how someone would camp without shelter. If they are referring to someone sleeping in the park, then that should be clearly defined. We recommend striking out "with or without shelter" to create a clear delineation between the definition of camping and sheltering.

- III. **Amendment recommendation to Section 5.9 (g): “Preventing or obstructing other individuals’ free use and enjoyment of parks or open spaces is not permitted unless authorized through a valid permit.”**
- It is unclear what behaviour would “prevent or obstruct” an individual’s use of parks or open spaces that are not already covered by the permissions Bylaw provisions. The bylaw already provides for situations in which a permit is necessary. There are provisions against dangerous or disorderly conduct that may obstruct someone’s use of a park or open space. There are also provisions prohibiting the building of permanent structures.
 - The unintended consequence of this provision may target a subset of the community, namely people experiencing homelessness, who may be seen as preventing or obstructing other individuals’ use and enjoyment simply by relying on that public space.
 - **Amendment recommendation:** Strike the entire provision.
- IV. **Amendment to Section 5.10 Interaction with City Employees:**
“The City is committed to providing excellent service to the public and creating positive experiences for all individuals while promoting a culture of respect and professionalism, and to ensure that this commitment is met, **the City has established provisions outlining expectations for the interaction between City employees and members of the public.**”
- It is noted that the bylaw attempts to regulate the behaviour of the public when interacting with City employees. However, it does not incorporate language which governs how city employees behave towards the public.
 - **Amendment Recommendation 1:** To incorporate language directly from the Bylaw Compliance Policy, which discusses how City employees should behave while enforcing the bylaw.
 - **Amendment Recommendation 2:** to have express language outlining trauma-informed bylaw enforcement.

- V. **Amendment to Section 5.10 (c) & (d):** “It is prohibited to **obstruct or interfere** with the duties of City employees in a park or open space).” “**Interfering with a bylaw officer in performing their duties, including issuing tickets or notices, is prohibited under this bylaw.**”
- a. These provisions are frequently applied to impede advocates and observers during decampment operations. Mere inquiry, negotiation, or advocacy, whether for oneself or others, should not be deemed as ‘obstruction’ or ‘interference.’ To uphold the principles of democracy, public engagement, and freedom of speech, it is recommended that the provision explicitly recognizes the necessity for “physical obstruction or interference.”
 - b. **Amendment recommendation 1:** It is prohibited to *physically* obstruct or *physically* interfere with City employees while carrying out their duties in parks or open spaces, or bylaw officers while performing their duties, including issuing tickets or notices.
 - c. **Amendment recommendation 2:** Strike out Section 5.10 (d) and combine it with 5.10 (c).
- VI. **Clarification to Section 7.2 (d):** “**All temporary shelters must be taken down and moved before 9:00 a.m. each day, except for those situated in a location authorized by the City Manager for daytime use.**”
- a. Are there any locations authorized by the City Manager for daytime use? If so, why are they removing folks rather than encouraging them to occupy that space?
 - b. Access to daytime shelter is a basic human right and essential for upholding human dignity. Daytime shelter plays a crucial role in creating a pathway to stability for those experiencing homelessness.
 - c. **Leniency for Health Issues to better support those experiencing homelessness requiring shelter in City Parks.** It is imperative to consider the effects on the health needs of individuals experiencing homelessness and the resulting impact on hospitals with increased visits when these needs are unmet. We recommend leniency be expressly stated in Bylaw to recognize the

health needs of those experiencing homelessness, such as allowing individuals experiencing illness and physical disabilities to shelter in place beyond the proposed time slots of 7:00 pm to 9:00 am (stated in Bylaw 3121, section 7.2 C).

- d. This addition will support our most vulnerable populations, cultivate trust between City staff and those affected by the bylaw, and reduce the impact on support services by helping unhoused individuals maintain their belongings (vs. being thrown away, adding to the cycle of poverty and waste).

VII. Amendment to Section 7.2 (f): “Temporary shelters must not be left unattended.”

- a. The Bylaw states that people can temporarily shelter in designated parks and open spaces between the hours of 7:00 pm and 9:00 am, a span of 14 hours. There are numerous reasons why an unhoused person may need to leave their temporary shelter unattended, including to get food or use the washroom. It is unreasonable to require that someone not leave their temporary shelter over the course of 14 hours. This statement does not consider the reality of those experiencing homelessness.
- b. **Amendment recommendation:** Strike the entire provision.

VIII. Amendment to Section 5.8 Substance Use: A person must not do any of the following activities in a park or open space: **b) “Consume cannabis, as defined in the Cannabis Control and Licensing Act;” c) “Smoking or vaping (including e-cigarettes).”**

- a. **Amendment recommendation:** In alignment with the CVRD Substance Use Strategy and harm reduction principles, it is imperative to reconsider the prohibition outlined in Section 5.8 regarding the consumption of cannabis and smoking or vaping in parks or open spaces.
- o The use of marijuana is frequently prescribed for pain management and to mitigate the consumption of additional substances, as detailed by the UBC Faculty of Medicine in 2020. Therefore, a prohibition will

contradict the aim of harm reduction strategies and hinder access to therapeutic options for individuals.

- o Considering this, it is proposed to amend the section to allow for regulated consumption of cannabis and implement accessible, designated smoking and vaping areas within park spaces.

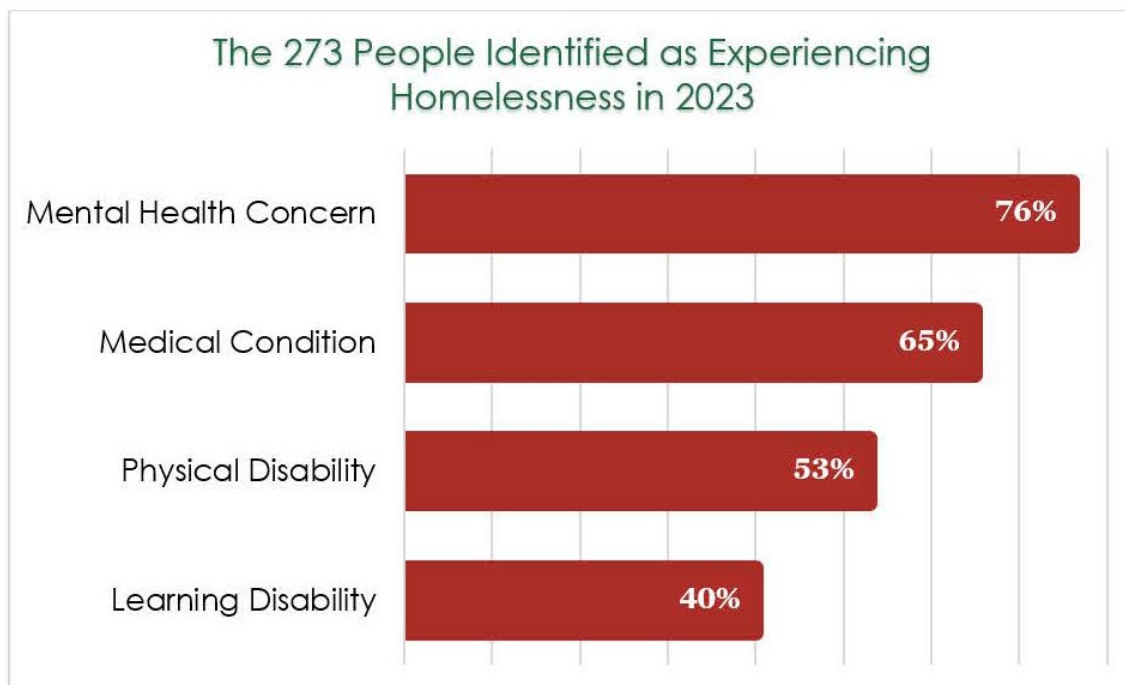
IX. Amendment to Section 10.2 Enforcement: “The Director, a bylaw enforcement officer or a peace officer may enforce this bylaw, and in doing so **may be assisted by another such officer or a City personnel** (City of Courtenay, 2023a).”

- a. Only trained officials should be enforcing the bylaw. City personnel is too broad and can include anyone employed by the city. This not only puts the public at risk but also the city personnel who are asked to operate outside their job responsibilities and without the proper training.
- b. Furthermore, it is redundant to authorize bylaw officers and peace officers to enforce the bylaw with the assistance of another bylaw officer or peace officer.
- c. **Amendment recommendation 1:** Strike out “and in doing so may be assisted by another such officer or a City personnel.” Alternatively, specify emergency personnel.
- d. **Amendment recommendation to emphasize Social Service partnership and support.** The Bylaw policy and regulation should incorporate language that promotes collaborative partnerships with social support services. Express language in Bylaw 3121 that acknowledges social support services diminishes the likelihood of conflicts but also enables individuals experiencing homelessness to receive timely information on available resources, services, and secure locations for additional support and rest.

Reflecting on the Current Situation of Homelessness in the Comox Valley

The 2023 Comox Valley Point in Time (PIT) Count has provided an annual snapshot of people experiencing homelessness during a 24-hour period (BC Housing Research Centre, 2023). The PIT's homelessness assessment demonstrates an extraordinary increase in homelessness in the Comox Valley since 2020 and a rising representation of minority groups such as Indigenous People, the LGBTQIA+ community, and persons with disabilities who are disproportionately affected by poverty and the housing crisis.

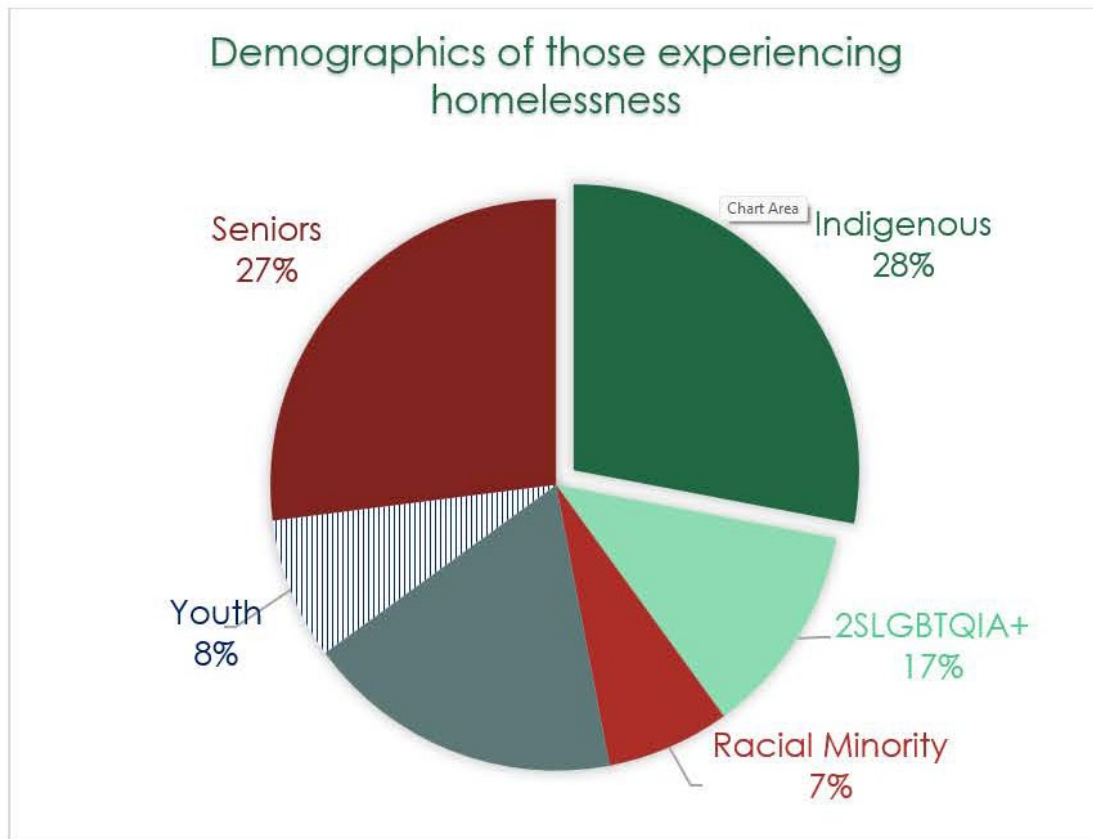
As proposed, Bylaw No. 3121 may exacerbate the already dire conditions faced by the homeless population in Courtenay, leading to mistreatment and, potentially, further loss of life. This experience is specifically impacting minority groups.



The 2023 Point-In-Time Count by BC Housing revealed that:

Indigenous individuals are disproportionately impacted, representing 28% of those experiencing homelessness in the Comox Valley.

A bylaw drafted without Indigenous consultation will contradict the City's stated dedication to reconciliation efforts and to providing a "high quality of life" "for all people" as set out in the City of Courtenay's Strategic Priorities for 2023-2026 (City of Courtenay, 2023).



(BC Housing, 2023)

"Our stuff is soaking wet and dirty. What can we do with it? It is impossible to pack it up."

– A community member experiencing homelessness

Meeting the City's Strategic Goals

The following commitment was released within the City of Courtenay's Official Community Plan in 2022:

"Courtenay will ensure equity is integrated into planning and design considerations so that everyone – including racialized newcomers, 2SLGBTQIA+, women, persons with disabilities, children, youth and elders – are equal participants in the City and city building (City of Courtenay, 2022)"

The City of Courtenay pledged to review its operations through an equity lens, ensuring fairness, justice, and social responsibility (City of Courtenay, 2023b). Unfortunately, existing bylaw practices and the proposed Bylaw No. 3121 present multiple challenges that contradict these strategic goals, creating unintended consequences for the community's most marginalized.

Courtenay envisions itself as **"A City for All People,"** celebrating diverse identities and experiences. However, Bylaw 3121, in its current form, inadvertently impedes the inclusivity the City aspires to achieve.

"What are we supposed to do with no washroom? And where are we supposed to go when we get kicked out of a park?"

– A community member experiencing homelessness

For those experiencing homelessness, the bylaw's restrictions on public spaces create additional hurdles. This conflict with Courtenay's vision emphasizes the urgent need for further consultation and consideration for inclusive language that

"Good governance is at the very heart of the work of the City of Courtenay, ensuring public engagement, transparency, equity and inclusion, effectiveness and efficiency and accountability."

recognizes the diverse needs of our community.

Furthermore, restricting temporary shelters or housing options for unhoused individuals conflicts with Courtenay's commitment to affordable housing. Adequate housing is not only a civic duty but also a fundamental human right. Bylaw 3121, if not carefully amended, might inadvertently impede progress toward our

More than a roof over one's head, adequate housing is a fundamental human right in Canada and an important social determinant of health (City of Courtenay, 2023b)."

affordable housing goals.

In essence, the re-evaluation of Bylaw 3121 is not just a technicality; it reflects the City's values and an opportunity for systems change that better supports the most marginalized among us, particularly those experiencing homelessness. It is a call to align our bylaws with our aspirations for an inclusive, equitable, and compassionate community.

Investing in Relationships

To acknowledge the importance of reconciliation, it is essential to reflect on how Bylaw No. 3121 may affect Indigenous communities—ensuring that city regulations and policies respect and support reconciliation is not just a statement but an effort to truly consult those most affected.

“The City of Courtenay will value the contributions of all its citizens, nurturing and practicing a culture of proactive involvement in local government reconciliation and all community decisions by creating new avenues for community participation and action (OCP, 2023).”

THE IMPORTANCE OF INDIGENOUS CONSULTATION

City regulations that contribute to homelessness among Indigenous individuals contradict **the United Nations Declaration on Indigenous People (UNDRIP)** by infringing upon Indigenous peoples' rights to adequate housing, non-discrimination, and self-determination (United Nations General Assembly, 2008).

- a. **Right to Adequate Housing:** UNDRIP recognizes Indigenous peoples' right to adequate housing, which includes the right to live in safe and healthy conditions. Bylaws that exacerbate homelessness directly undermine this right.
- b. **Protection of Cultural Identity:** Homelessness can disrupt cultural connections and exacerbate social marginalization, hindering the ability of Indigenous individuals to maintain their cultural practices and connections to their communities.
- c. **Right to Non-Discrimination:** UNDRIP prohibits discrimination against Indigenous peoples, encompassing bias in housing access and public services. Bylaws disproportionately impacting Indigenous individuals, like those aggravating homelessness, may be deemed discriminatory for perpetuating inequality or exacerbating existing disparities.
- d. **Right to Self-Determination:** Bylaws that perpetuate homelessness can limit the ability of Indigenous communities to exercise self-determination by undermining their ability to address housing and social issues within their communities.

Compassionate Solutions for Addressing Immediate Needs of Homelessness in Courtenay: A System Change Approach

Working towards System Change must start with changing the policies and legislation that inadvertently criminalize and restrict the human rights and safety of people experiencing homelessness

1. **Consultation and Engagement:** “Ensure equity is integrated into planning and design considerations so that everyone – including racialized newcomers, SSLGBTQIA+, women, persons with disabilities, children, youth and elders – are equal participants in the City and city building (City of Courtenay, 2022).”
 - Engage in further consultation, particularly with vulnerable groups, to ensure their voices are heard and needs are addressed.
 - Collaborate with consultants who adopt social justice and trauma-informed approaches to foster meaningful engagement.
2. **Clarity, Accessibility, and Transparency:**
 - Prioritize inclusivity by ensuring that legal documents are accessible to all individuals.
 - Use focus groups or community feedback sessions to test the clarity of language in regulations.
 - Specify within the Bylaw policy the commitment to collaborating with community outreach programs to enhance accessibility.
3. **Work with the community to seek solutions ensuring basic Human Rights and Dignity are met:**
 - a. Access to daytime shelter is a basic human right and essential for upholding human dignity. Daytime shelter plays a crucial role in creating a pathway to stability for those experiencing homelessness.

- b. Appropriate washroom facilities should be provided to those needing to shelter in parks.
 - c. Adding a monitored overnight washroom facility or additional public washroom hours will allow our most vulnerable community members to maintain proper gastrointestinal health, personal safety, and dignity with this basic human need.
4. **Support for the Unhoused:** Avoid punitive responses towards individuals experiencing homelessness and develop an equitable complaint system accessible to all.
5. **Education and Training:** Implement regular training programs for bylaw officers on harm reduction, cultural safety, and humility. Get curious about using a human rights lens in supporting the most marginalized.

"I tried to read the Bylaw, but it didn't make sense. It's confusing, and it makes it hard for me to be comfortable anywhere."

– A community member experiencing homelessness

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Addendum 1: Proposed amendments to the Parks and Open Spaces Bylaw No. 3121

Definitions:

2. In this Bylaw:

“camping” means the act of setting up tents, campers, or recreational vehicles, within a park or open space for recreational purposes ~~or taking up temporary overnight abode in a park or open space with or without shelter;~~

As the definition currently reads, there is overlap with the definition of “temporary shelter.” This creates confusion and can encourage misapplication.

Amendment recommendation: “camping” means the act of setting up tents, campers, or recreational vehicles within a park or open space for recreational purposes.

“park” means an area of land dedicated or designated and maintained by the City as a park and intended for the purpose of providing recreational, cultural, and leisure opportunities to the public, including facilities such as playgrounds, sports courts and fields, trails, picnic areas, and green spaces, and are intended for the use ~~and enjoyment of individuals and community groups;~~

We recommend more inclusive language to ensure that people experiencing homelessness are seen as community members who not only rely on public spaces and parks for their “enjoyment” but also for survival.

Amendment recommendation: “Park” means an area of land dedicated or designated and maintained by the City as a park and intended for the purpose of providing recreational, cultural, and leisure opportunities to the public, including facilities such as playgrounds, sports courts and fields, trails, picnic areas, and green spaces, and are intended for the use **all community members;**

“unhoused” means not having a fixed address or a predictable residence to return to on a daily basis.

Amendment recommendation: “unhoused” means having **no accommodation**, fixed address, or **permanent** residence to return to on a daily basis.

- 5.9 Behaviour and Conduct:** The City is dedicated to creating safe and accessible parks and open spaces for all community members to enjoy and to achieve this goal, the City aims to minimize nuisances and obstructions that may impact the use ~~and enjoyment~~ of these spaces by all community members; therefore, the following provisions aim to ensure that individuals using the City's parks and community facilities do so in a safe and respectful manner:

Again, we recommend more inclusive language to ensure that people experiencing homelessness are seen as community members who not only rely on public spaces and parks for their “enjoyment” but also for survival.

Amendment recommendation: strike out “and enjoyment.”

- 5.9 b) Disorderly, dangerous, ~~or offensive~~ behaviour is not allowed in parks and open spaces

What is “offensive behaviour?” Being offended is a subjective feeling. Disorderly or dangerous conduct can be objectively observed outside of a feeling or an emotion. To prevent the risk of unconscious bias, and the disproportionate application of this provision to people experiencing homelessness, we recommend removing the word “offensive” from the provision.

Amendment recommendation: Disorderly or dangerous behavior is not allowed in parks and open spaces.

- 5.9 d) Camping in a park or open space, ~~with or without shelter~~, is only permitted with a valid permit that complies with all terms and conditions of the permit.

It is unclear how someone would camp without shelter. If the Bylaw is referring to someone sleeping in the park, then that should be clearly defined. We recommend striking out “with or without shelter” to 1) keep the provision in line with the amended definition of “camping”, and 2) create a clear delineation between the definition of camping and sheltering.

Amendment recommendation: strike out “with or without shelter.”

5.9 (g) ~~Preventing or obstructing other individuals' free use and enjoyment of parks or open spaces is not permitted unless authorized through a valid permit.~~

The bylaw already provides for situations in which a permit is necessary. Therefore, this provision is unnecessary. There are provisions against dangerous or disorderly conduct that may obstruct someone's use of parks or open spaces and provisions against building permanent structures. Furthermore, it is unclear what behaviour would "prevent or obstruct" an individual's use of parks or open spaces that isn't already covered by the Bylaw. The unintended consequence of this provision appears to be targeting a subset of the community, namely people experiencing homelessness, who may be seen as preventing or obstructing other individuals' use and enjoyment, simply by relying on that public space.

Amendment recommendation: Strike the entire provision.

5.10 **Interaction with City Employees:** The City is committed to providing excellent service to the public and creating positive experiences for all individuals while promoting a culture of respect and professionalism, and to ensure that this commitment is met, the City has established provisions outlining expectations for the interaction between City employees and members of the public; therefore:

The bylaw attempts to regulate the behaviour of the public when interacting with City employees, but it does not incorporate language which governs how city employees behave toward the public. We recommend incorporating explicit language directly found in the Bylaw Compliance Policy, which discusses how City employees should behave while enforcing the bylaw.

a) City employees engaged in park maintenance, ~~cleanup~~, or renovation may ask individuals within the park to relocate or leave in order to carry out their duties;

Park maintenance involves cleaning the park. Our concern with the term "cleanup" is that it is associated with decampments and sweeps. We recommend striking out "cleanup". We also acknowledge this would bring the provision in line with the language used in section 9.2 (a)(i) of the Bylaw.

Amendment recommendation: strike out “cleanup.”

c) It is prohibited to obstruct or interfere with the duties of City employees in a park or open space; and

These provisions are frequently applied to impede advocates and observers during decampment operations. Mere inquiry, negotiation, or advocacy, whether for oneself or others, should not be deemed as 'obstruction' or 'interference.' To uphold the principles of democracy, public engagement, and freedom of speech, it is recommended that the provision explicitly recognizes the necessity for “physical obstruction or interference.”

Amendment recommendation: It is prohibited to **physically** obstruct or **physically** interfere with City employees while carrying out their duties in parks or open spaces, or bylaw officers while performing their duties, including issuing tickets or notices.

~~d) Interfering with a bylaw officer in performing their duties, including issuing tickets or notices, is prohibited under this bylaw.~~

Amendment recommendation: strike then entire provision and combine with (c).

6.4 No Fouling or Polluting

a) Waste Disposal and Littering: The City is committed to maintaining clean and litter-free parks and open spaces ~~for the enjoyment of all users;~~ therefore:

Amendment recommendation: strike out “for the enjoyment of all users”

Temporary Sheltering

- 7.2 **Permitted Sheltering:** Where there is no accessible shelter accommodation available in the City, ~~unhoused persons~~ individuals who are unhoused may temporarily shelter in a park if the following conditions are met:

We would like to see explicit language recognizing the human right to shelter.

Amendment recommendation: In recognition of the human right to shelter, where there is no accessible or adequate shelter accommodation available in the City, individuals who are unhoused may temporarily shelter in a park if the following conditions are met:

- d) All temporary shelters must be taken down and moved before 9:00 a.m. each day, except for those situated in a location authorized by the City Manager for daytime use.

Are there any locations authorized by the City Manager for daytime use? If so, why are they removing folks rather than encouraging them to occupy that space?

Amendment recommendation: In the spirit of human rights and trauma-informed interactions, we would like to see express language acknowledging bylaw officers' and peace officers' using discretion to exercise leniency when disabilities impede an unhoused person's ability to take down their temporary shelter before 9:00am.

- f) ~~Temporary shelters must not be left unattended~~

The Bylaw provides that people can temporarily shelter in designated parks and open spaces between the hours of 7:00 pm and 9:00 am; a span of 14 hours. There are numerous reasons why an unhoused person may need to leave their temporary shelter unattended including to get food or use the washroom. It is unreasonable to require that someone not leave their temporary shelter over the course of 14 hours. A blanket ban is not rooted in a human rights centric approach, nor does it consider the realities of those experiencing homelessness.

Amendment recommendation: strike the entire provision

10.2 **Enforcement:** The Director, a bylaw enforcement officer or a peace officer may enforce this bylaw, ~~and in doing so may be assisted by another such officer or a City personnel and:~~

Only trained officials should be enforcing the bylaw. City personnel is too broad and can include anyone employed by the city. This not only puts the public at risk but also the city personnel who are asked to operate outside their job responsibilities and without the proper training. Furthermore, it is redundant to authorize bylaw officers and peace officers to enforce the bylaw with the assistance of another bylaw officer or peace officer.

Amendment recommendation: strike “and in doing so may be assisted by another such officer or a City personnel.” Alternatively, specify emergency personnel.