

Report to Council



Date: April 30, 2018
File: 0100-10
To: City Manager
From: R Mayne, Divisional Director Corporate and Protective Services
Subject: Good Neighbour Bylaw 11500 April 30 2018 Final.docx

Recommendation:

THAT Council receives for information, the report from the Divisional Director, Corporate & Protective Services, dated April 16, 2018 pertaining to amendments to the Good Neighbour Bylaw No 11500, and the Bylaw Notice Enforcement Bylaw No. 10475;

AND THAT Bylaw No 11546 being Amendment No. 1 to Good Neighbour Bylaw No. 11500 be amended at third reading as outlined in the report;

AND THAT Bylaw No. 11566 being Amendment No. 20 to Bylaw Notice Enforcement Bylaw No. 10475 be amended at third reading;

AND FURTHER THAT enforcement through Section 8 of Bylaw No. 8214 - A Bylaw to Regulate and Control Panhandling, not be enforced until further consultation and education can be completed.

Purpose:

For Council to consider further amendments to the Good Neighbour Bylaw and to amend the Bylaw Notice Enforcement Bylaw.

Background:

The Good Neighbour Bylaw was adopted on Nov. 6, 2017, and is intended to promote civic responsibility, enhance both residents' and visitors' quality of life, and encourage strong relationships between neighbours. It is an amalgamation of several other bylaws previously regulating areas such as property maintenance and noise, street nuisances, and construction noise. Specifically, these were:

- Anti-Litter Bylaw, No 3477
- Noise & Disturbances Control Bylaw, No 6647
- Residential Nuisance Bylaw, No 7782
- Unsightly Premises and Visual Nuisance Bylaw No 8217

On March 26, 2018, amendments were brought forward with a proposal to include panhandling in the Good Neighbour Bylaw, and rescind the Panhandling Bylaw 8214 which had been in place since 1998 and subsequently amended in 2007. The addition of busking permit guidelines was also proposed.

Council directed staff upon approval of the first three readings with the following:

- ▶ THAT Council direct staff to undertake a communications campaign to inform the public about the challenges faced on City streets and how bylaws can be used to assist with this.
- ▶ THAT Council direct staff to report back to Council identifying which sections of the Bylaw Notice Enforcement Bylaw will be subject to an education campaign prior to Bylaw Notice fines being issued.
- ▶ THAT Council direct staff to review the Busker Program with Festivals Kelowna and the Arts community and report back to Council.

The proposed amendments generated significant public feedback about the conditions under which panhandling could occur to ensure that both the panhandler and the public are protected, and about the new street entertainment guidelines.

Hearing the feedback, Sections 7 and 8, the Panhandling and Street Entertainment sections have been removed from proposed updates to the Good Neighbour Bylaw including the proposal to levy fines on donors. The existing 1998 Panhandling bylaw will remain in place.

Section 8 of the existing Panhandling Bylaw, No. 8214, will not be enforced until such time that the bylaw is reviewed further. This will only occur after an engagement and education plan has been implemented.

Panhandling:

Panhandling occurs in many communities across B.C. and Canada. Complex social concerns surrounding activities such as panhandling require coordinated community responses that address root causes: homelessness, affordable housing, addictions, mental health issues, disabilities, poverty and unemployment. Feedback and research has shown that the only real solution to these issues is housing. The City is continuing to work through the Journey Home process using a Housing First approach.

While panhandling is not illegal, panhandling to vehicles is, and panhandling activity has increased on medians at busy intersections and highway junctions. This poses a safety risk to the person panhandling and to motorists. The *BC Motor Vehicle Act* prohibits soliciting vehicles roadside, as well as soliciting in an aggressive manner. BC's *Safe Streets Act* prohibits soliciting a person in a stopped, standing or parked vehicle. Aggressive panhandling is also a violation of the *Safe Streets Act* and is described as any manner that is likely to cause a reasonable person to be concerned for their safety and security. City staff will work with the RCMP to address these concerns.

No further changes to the existing Panhandling bylaw are recommended at this time.

Kirschner Road:

As an example, Bylaw Services has received more than 200 complaints since January 2016 related to safety issues and criminal activity in the 1900 block of Kirschner Rd. In particular, the location of the Columbia Bottle Depot at 1988 Kirschner Road and the congregation of independent bottle collectors in the 1900 block has generated numerous complaints. Complaints include defecating/urinating on private property; open liquor/drug use; drug trafficking; approaching/harassing people for bottles; medical emergencies; threats to local business staff; flagging down cars to ask for bottles/cans; and blocking sidewalks.

The City and RCMP are working with businesses in the area of Kirschner Rd to help mitigate their concerns and ensure the safety of employees and the public.

The Columbia Bottle Depot encourages its customers to direct any bottle donations on-site to the social agency Pathways Abilities Society Kelowna. Signage outside the bottle depot directs customers to donate their recyclables and Pathways volunteers are on site to sort and collect. There are similar drop-offs to Pathways at the St. Paul and Dease Road depots.

Staff has also been informed that the lease for the Columbia Bottle Depot property expires this fall and will not be renewed.

Public education:

Council directed staff to report back to Council identifying which sections of the Bylaw Notice Enforcement Bylaw will be subject to an education campaign prior to Bylaw Notice fines being issued.

Staff completed best practice research regarding bottle collection and panhandling, investigating programs like "Have a Heart, Give Smart" as seen in Seattle and Ottawa and kindness meters in several municipalities. Much of the research including from the Journey Home partner, Canadian Observatory for Homelessness, shows that these programs are not particularly effective. Until people are housed or have other supports they need, panhandling activity will continue.

After further consultation with the Journey Home consultant and based on input from the Lived Experience Circle received as part of the Journey Home process, it is recommended that public education regarding giving to panhandlers/bottle collectors or the panhandling bylaw not proceed at this time. The Journey Home team advises that the Lived Experience Circle is exploring approaches for community education around homelessness which will evolve as the Journey Home strategy comes to a close at the end of June.

Busking / Street Entertainment:

On March 26, 2018, amendments were brought forward to add busking permit guidelines into the Good Neighbour Bylaw. Busking – the act of street entertainment with intent to collect donations for the performance – is not currently regulated by City Bylaws. Busking/Street Entertainment is currently coordinated through the Kelowna Buskers Program managed by Festivals Kelowna.

After further discussion with Festivals Kelowna and public feedback, it is proposed that the suggested busking regulations not be adopted. Staff will continue to consult with Festivals Kelowna and the artistic community and conduct a review of the Buskers Program. It is expected that this review will take place during the 2018 season with a report, outlining any findings and recommendations, coming to Council early 2019. In the meantime, the 20-year-old Kelowna Buskers Program will continue to run year round from 10 a.m. to 10 p.m. seven days a week in designated "Busk Stops" located throughout the downtown core, City Park, Waterfront Park and the Cultural District. It should be noted that people playing music for their own enjoyment in public spaces is not considered busking.

Bylaw 11546 amendments being forwarded for final reading are limited to definition changes related to derelict vehicles, section numbering in the Street and Public Space section and clarification on time definitions for the construction noise section as well as authorities of Bylaw Enforcement Officers vs. Bylaw Supervisors.

Internal Circulation:

Event Development Supervisor
Social Development Manager
Bylaw Services Manager
Crime Prevention Supervisor
Communications Advisor
City Clerk
Superintendent RCMP

Legal/Statutory Authority:

Good Neighbour Bylaw 11503
Bylaw Enforcement Bylaw 10475
Panhandling Bylaw 8214

Considerations not applicable to this report:

Legal/Statutory Procedural Requirements:
Existing Policy:
Financial/Budgetary Considerations:
Personnel Implications:
External Agency/Public Comments:
Communications Comments:
Alternate Recommendation:

Submitted by:
R Mayne, Divisional Director Corporate and Protective Services

cc: Divisional Director Active Living & Culture
Divisional Director Corporate Strategic Services