

# Report to Council



**Date:** October 30, 2017  
**File:** 00-500  
**To:** City Manager  
**From:** L. Kayfish, Risk Manager  
**Subject:** Good Neighbour Bylaw

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## **Recommendation:**

THAT Council receive for information, the Report from the Risk Manager dated October 23, 2017 regarding the creation of the “Good Neighbour Bylaw” No. 11500, including providing for nuisance abatement fees and consolidating existing City bylaws;

AND THAT Council gives reading consideration to Bylaw No. 11500 being the Good Neighbour Bylaw;

AND FURTHER THAT Council gives reading consideration to Bylaw No. 11503 being Amendment No. 19 to Bylaw Notice Enforcement Bylaw No. 10475.

## **Purpose:**

For council to consider the adoption of a new Good Neighbour Bylaw that is intended to update several existing bylaws under one umbrella and provide the City with a new authority to levy ‘nuisance abatement fees’ to serve as a new compliance tool when faced with properties where owners and occupants repeatedly fail to meet reasonable community standards set out in the bylaw and other legislation.

## **Background:**

Following an open workshop during the morning council meeting held on September 11, 2017 Council directed staff to bring the proposed Good Neighbour Bylaw forward to an afternoon meeting for consideration.

## **A. Good Neighbour Bylaws in B.C. and Canada**

Good Neighbour bylaws are bylaws that consolidate many different nuisance type activities into a single bylaw. They can include a wide variety of items such as street nuisances, noise regulations, property maintenance, smoke, blasting regulations, graffiti, odours, weed control, idling, fires, fireworks, firearms, health, panhandling and litter. They may also be referred to as Community Standards or Nuisance Bylaws.

Numerous municipalities across Canada and within the Province of BC have enacted Good Neighbour Bylaws. The scope and content of these bylaws is varied. In developing the draft bylaw, good neighbour (or equivalent) bylaws from Abbotsford, Armstrong, Calgary, Campbell River, Charlottetown, Clearwater, Courtenay, Edmonton, Hope, Lake Country, Lloydminster, Mission, Nakusp, Nipawin, Oliver, Osoyoos, Penticton, Red Deer, Regina, Rossland, Surrey, Vernon, West Kelowna, West Vancouver, and Williams Lake and more were examined.

The proposed City of Kelowna Good Neighbour Bylaw amalgamates and updates the following current bylaws that will be rescinded when the new bylaw is adopted:

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

## **B. Nuisance Abatement Fees**

Nuisance abatement fees are charges imposed by municipalities on property owners when there are repeat calls for service to a property over a period of time. Criteria for applying nuisance abatement fees differ between municipalities. The proposed approach for Kelowna is more than one nuisance service call within a 24-hour period or more than three nuisance service calls within a 12-month period. This is consistent with: Abbotsford, Surrey, Hope, Oliver, Penticton, Rossland, Vernon, West Kelowna and Clearwater, among others.

Nuisance abatement fees are directly associated with the real property where the nuisance is present or manifesting from, accordingly they are charged to the owner of the property and can be added to the property tax roll if not paid. This serves the purpose of putting the onus on the property owner to perform their due diligence as the party responsible for ensuring the property is managed and cared for in a reasonable manner that prevents nuisances from occurring. The fee is intended to motivate property owners that reside on site as well as landlords that may not take an active role in the day to day conditions or activities on the property they are legally responsible for as an owner.

The proposed nuisance abatement fee is \$250 per response by either the RCMP, Bylaw Services or KFD. The fee represents an estimated average full cost of response to nuisance calls by the RCMP and/or Bylaw Services and/or the fire department, including attendance, equipment, report writing, management review and other costs. The proposed fee is intended to motivate owners to work diligently to obtain compliance at the property promptly. Prior to a nuisance abatement fee being charged owners will have a minimum of 30 days to achieve compliance before the first nuisance abatement fee would be charged against the property.

### **C. Application of Nuisance Abatement Fees**

Properties causing significant ongoing nuisances can disrupt whole neighbourhoods and negatively affect the enjoyment and peace of residents in surrounding areas. Properties that may see the use of nuisance abatement fees include ongoing unsightly premises, those regularly causing disturbing levels of noise, those associated with criminal activities that cause nuisances and in instances where owners display an ongoing apathy for complying with reasonable community standards.

As with the application of all bylaws the nuisance abatement fee will be used as part of a balanced fair but firm enforcement strategy where appropriate. It may not be used in every instance where a property attracts 3 or more service calls in 12 months. Consideration will be given to the circumstances of the service calls, possible neighbourhood disputes and the extent of the noncompliant nuisances.

The nuisance abatement fee may be applied when:

- There is evidence of a pattern of nuisance behavior on the property that is called in by complainants from the community (not self-generated files from proactive inspections)
- Multiple calls for service related to nuisances at the property are logged demonstrating a pattern of non-compliance. Properties subject to the fee will, at a minimum, have at least 3 separate nuisance files documented within a 12-month period;
- Prior to charging the fee the owner of the property will be provided with written notice of the City's intent to charge nuisance abatement fees for subsequent service calls, the notice will include:
  - The particulars of nuisances associated with the property in the last 12 months;
  - Notification of the fees that could be imposed;
  - Notification that other legal remedies may be undertaken in addition to the nuisance abatement fees;
  - Provide the owner reasonable notice, as determined by the bylaw supervisor, to remedy the situation prior to the first nuisance abatement fee being applied.
- If the property remains a nuisance after the notice period has expired, then any service call for a new nuisance will be charged the appropriate fee;
- If identified as a nuisance property, that designation remains with the property for 12 months, regardless of ownership change;
- Abatement fees charged are placed on the property's taxes as taxes in arrears if not paid by December 31<sup>st</sup> of the year they are billed.

### **D. Construction Noise**

The new bylaw incorporates and updates the existing Noise & Disturbances Control Bylaw, No. 6647. Included in this section is the hours in which construction noise can occur in the City. Staff are recommending the allowed time be reduced by one hour in the evening changing the current allowed construction noise period of 7am to 10pm to a 9pm stopping time. Allowing construction to proceed until 10pm without an exemption puts Kelowna among the most relaxed municipalities in Canada with respect to construction noise. The majority of municipalities require construction noise to cease at 9pm or before with many being more restrictive.

In addition, the new bylaw will streamline the process for acquiring an exemption to construction times by removing the requirement for council approval and delegating the authority to the City Engineer. This should balance any concerns regarding the one-hour reduction.

#### **E. Highlighted Changes & Updates:**

- Noise – Reduces allowed construction noise period by 1 hour to: 7am - to 9pm (from 10pm)
- Noise – Allows Manager of Development Services or Manager of Public Works to authorize construction noise outside regularly permitted times
- Noise – Removes requirement for council to approve afterhours construction noise for longer than a 5 day duration, staff will report such instances to council for information, including restrictions and mitigations put in place
- Noise – Restricts overly loud or “explosive” noise from vehicle engines & mufflers, including boats and motorbikes
- Minimum fines for noise coming from private property will be reduced from \$500 to \$250 for the first offence and continue at \$500 for the second and subsequent offences
- Graffiti – Specifies owners of distribution & utility boxes must comply with requirements for timely removal of graffiti
- Composting / Vermin – provides for organic material be in a closed & sealed composter

#### **F. Fine Amounts & Bylaw Notice Enforcement Bylaw Updates**

Fines and penalties under this bylaw are stated as \$100 minimum and up to \$10,000 maximum. The Bylaw Notice Bylaw indicates the standard penalty that applies for a contravention under each section of the Good Neighbour Bylaw. Staff have reviewed the fine amounts associated with each of the equal or similar sections from the amalgamated bylaws that will be rescinded and well as provisions that are new to this bylaw. In some cases, fine amounts have been amended to be lower than previously for first offences. The differential fine amounts align with planned changes to internal practices, including potentially issuing more fines but for lesser amounts for some offences, and considering nuisance abatement fees will be used as a compliance tool with repeat offenders

#### **Financial/Budgetary Considerations:**

Material changes in revenue are not expected by the introduction of nuisance abatement fees, new fine types or changed amounts in the Bylaw Notice Enforcement bylaw. The financial impact of the new bylaw and fees will be reviewed in 2018 in preparation for the 2019 budget.

#### **Internal Circulation:**

Deputy City Manager  
Divisional Director, Corporate & Protective Services  
Divisional Director, Human Resources  
Development Services Director  
City Clerk  
Bylaw Services Manager  
Manager Police Services  
Superintendent RCMP

Infrastructure Operations Department Manager  
Community Communications Manager  
Financial Planning Manager  
Crime Prevention Supervisor

**Legal/Statutory Authority:**

- Anti-Litter Bylaw, No. 3477
- Noise & Disturbances Control Bylaw, No. 6647
- Residential Nuisance Bylaw, No. 7782
- Unsightly Premises and Visual Nuisance Bylaw, No. 8217
- Bylaw Notices Bylaw, No. 11350

**Considerations not applicable to this report:**

**Legal/Statutory Procedural Requirements:**

**Existing Policy:**

**Personnel Implications:**

**External Agency/Public Comments:**

**Communications Comments:**

**Alternate Recommendation:**

Submitted by:

L. Kayfish, Manager, Risk Management & Occupational Health & Safety

**Approved for inclusion:**



Divisional Director Corporate and Protective Services

cc:

Divisional Director, Community Planning & Strategic Investments

Divisional Director, Corporate Strategic Services

Development Engineering Manager

Public Works Manager

Legislative Coordinator