



CITY COUNCIL AGENDA REPORT

**Subject: PROTECTION OF PERSONS AND PROPERTY BYLAW
REVIEW REPORT**

Recommendation(s)

That Administration draft a new Protection of Persons and Property Bylaw as outlined in Attachment 2 to the July 4, 2016 agenda report entitled "Protection of Persons and Property Bylaw Review Report" and bring it to Council for consideration by June 30, 2017.

Purpose of Report

In keeping with the intent of Council Policy C-CC-1, City Council and Administrative Policy Development, Administration has noted that the Protection of Persons and Property Bylaw has not been reviewed since 1986. As a result, Administration has completed a review, provided some recommendations and is seeking direction from Council as to the next steps desired.

Council Direction

N/A

Background and Discussion

Current Bylaw Provisions

The Protection of Persons and Property Bylaw 11/63 was originally enacted in 1963. Amendments took place in 1972 as well as 1986.

The Bylaw as it stands today regulates five main activities:

1. Prohibits offensive language in Public
2. Prohibits Loitering in Public
3. Prohibits the use of a firearm, bow and arrow, sling shot, bb gun or other similar device in public or on private property.
4. Prohibits interference with a fire hydrant or water main
5. Prohibits playing/practice of golf in any parks.

The specified penalties for these offences are either \$10 or \$25.

Review Findings

There were four key findings that came from Administration's review of this Bylaw.

1. The format, legal references, and terminology used are outdated, making it inconsistent with current Bylaws. This Bylaw was drafted in 1963 with amendments in 1972 and 1986. Legislation and Bylaw writing standards have changed since that time necessitating that the outdated provisions be remedied.
2. Some of the prohibited activities in the Bylaw are prohibited in the Criminal Code of Canada or other Municipal Bylaws. As an example, section 175 of the Criminal Code of Canada, prohibits a person from causing a disturbance in a public place by fighting, screaming, swearing or using obscene language, being drunk, or impeding others. It also prohibits loitering if it is done in a manner that obstructs others.
3. This bylaw was used very little in the past by officers. An incident search revealed that there were two complaints in 2015 related to someone using a crossbow on a target in a vacant field and one other incident where a ticket was issued to a person for shouting out offensive language in public.
4. Specified Penalties listed in the Bylaw are not believed to be a deterrent as they are extremely low at \$10 and \$25 with a maximum fine of \$50.

Administration Recommendations

It is not uncommon for Municipal legislation to mirror and complement Provincial or even Federal legislation. At times, by having a complementary provision in municipal bylaw it gives officers an option and ability to deal with an incident at a lesser level. For example, an officer may decide to issue a ticket under a bylaw for loitering in public rather than charging a person under the Criminal Code of Canada – the criminal charge leads to a more complicated prosecutions process that may not yield a satisfactory result, from a behavior modification/enforcement perspective.

With this in mind, Administration believes that there continues to be some value in having provisions and legislation related to public conduct in a Bylaw. Administration has compiled a table in Attachment 1 recommending the appropriate adjustments for this Bylaw.

Stakeholder Communications or Engagement

To date there has not been any public engagement on the Administrative review of this Bylaw. There has however been internal stakeholder engagement specifically discussions with the RCMP management, Municipal Enforcement frontline officers as well as the Community and Social Development (Formally FCSS) Director.

Because this particular Bylaw is relatively straightforward, with no large deviation from the current regulations and the recommendations are complimenting existing federal legislation, public engagement is recommended to be kept to a minimum.

The plan moving forward would be:

- Administration to draft a new Bylaw
- Present to Council for first reading with a recommendation that Administration gather feedback from the community for 30 days.
- Administration to gather and summarize feedback from the public and report to Council for information as they debate the provisions within the Bylaw.
- If a new Bylaw is passed, Administration will inform the public through the regular channels such as traditional media, social media and the corporate website.

Implications of Recommendation(s)

a) Financial:

- None of significance at this time. Public engagement and information sharing can be done through existing operating budgets

b) Legal / Risk:

- Regarding the recommendations there are no legal implications of note at this time.

c) Program or Service:

- The recommendations will have a positive impact to operations to help that both RCMP and Municipal Enforcement Officers have the options and tools necessary to help keep the community safe.

d) Organizational:

- Administration does not anticipate that these recommendations will result in an increase in complaints or calls for service which would normally necessitate additional resources for enforcement.

Alternatives and Implications Considered

If Council does not wish to support the recommendation, the following alternatives could be considered:

- a) Alternative 1: Refer the matter back to Administration for further consideration, as per the general discussion held by Council, and direct that a revised report be brought back to Council at a future date.
- b) Alternative 2. Do nothing and the current Protection of Persons and Property Bylaw will remain as is. Administration will discontinue any further work on this matter.

Strategic Connections

- a) City of St. Albert Strategic Plan (Policy C-CG-02)

Pillars of Sustainability

SOCIAL – We are a friendly and inclusive community of passionate equals, where everyone feels a sense of belonging. We believe that community starts with the person next door.

Governance Strategy

Council is committed to ensuring that the City of St. Albert is a responsive, accountable government that delivers value to the community.

- b) Long Term Plans (e.g. MDP, Social Master Plan, Cultural Master Plan, etc.)
 - Policing Service Long Term Department Plan
 - Social Master Plan
- c) Corporate Objectives (See Corporate Business Plan)
 - Deliver programs and services that meet or exceed our standards
 - Ensure our customers are very satisfied
- d) Council Policies, Bylaws or Federal/Provincial statutes
 - Protection of Persons and Property Bylaw 11/63
 - Criminal Code of Canada
 - Fire Services Bylaw 21/2002
 - Water Bylaw 5/2001
 - Council Policy C-CC-1, City Council and Administrative Policy Development
- e) Other Plans or Initiatives (Business Plans, Implementation Strategies, etc.)
 - Policing Services 3 year Action Plan

Attachment(s)

1. Protection of Persons and Property Bylaw 11/63
2. Recommended Changes - Protection of Persons and Property Bylaw 11/63

| | |
|----------------------------|----------------------------------|
| Originating Department(s): | <i>Policing Services</i> |
| Author(s): | <i>Aaron Giesbrecht, Manager</i> |
| General Manager Approval: | <i>Chris Jardine, GM, CPS</i> |
| City Manager Signature: | Date: |

Previously Distributed

Amended
65/72
24/72

BY-LAW NO. 11/63

A By-law of the Town of St. Albert to provide for the Protection of Persons and Property.

1. No person shall use obscene or offensive language on a Street, Lane or other Public Place.
2. No person shall loiter on a Street or Lane or Sidewalk or other Public Place within the Town of St. Albert.
3. Any person whose conduct on or in a Street, Lane or other Public Place is unseemly, shall be guilty of an offence and liable on summary conviction to a penalty as provided elsewhere in this By-law.
4. No person shall discharge a firearm in the Town without the permission of the Mayor or the Police. For the purpose of this Section of this By-law, firearm shall include: Firearm, Airgun, Air Pistol, Air Rifle, (this shall also include an air rifle commonly known as a "B.B." gun), Bows and arrows and sling shots.
5. *Repealed*
65/72 No person shall set off or fire any fire balls, squibs, fire crackers or fireworks in the Business Section or in any Cafe, Store, Post Office, Hotel, Dance Hall or other Public Place, without the permission of the owner thereof, and in case of the Street, the Town Council, or such other person as may be delegated to give such authority to them.
6. No unauthorized person shall interfere with any fire hydrant or water main.
7. PENALTY SECTION: Any person who does an act which is contrary to this By-law is guilty of an offence whether so declared or not, and if found guilty on summary conviction, is liable to a penalty of not more than \$50.00 and costs, and in default of payment of fine and costs, to be imprisoned in the nearest Common Jail for a term not exceeding Sixty (60) days.
8. SCHEDULE "A": It is hereby provided that a person may be allowed to pay to the Secretary-Treasurer, a fixed sum of money in lieu of prosecution for a breach of the provisions of this By-law, as noted in Schedule "A", with fees set as contained therein for each infraction. Whether or not a voluntary penalty will be allowed will be left to the judgement of the Police or other Official handling the case.

SCHEDULE "A":

| | | |
|------------------|--------|----------------|
| Sections 1, 2, 3 | \$2.00 | (Two Dollars) |
| Sections 4, 5, 6 | \$5.00 | (Five Dollars) |

Read for a first time this 25th Day of March, A.D. 1963.

Read for a second time this 25th Day of March, A.D. 1963.

Read for a third and final time this 25th Day of March, A.D. 1963.

[Signature]
MAYOR

[Signature]
SECRETARY-TREASURER.

EXAMINED
7
D.P.H. & C.

- 19/86*
- | | |
|-----------------|--|
| Golf Activities | 1. That Section 4 be amended by adding the following: "4.2 Other than in an approved venue, no persons shall play or practice the game of golf or archery in any parkland within the City of St. Albert." |
| Penalty | 2. That Section 8, being the penalty section, be amended by deleting therefrom "\$2.00" and "\$5.00" substituting therefor "\$10.00" and "\$25.00", respectively. |

Recommended Changes - Protection of Person's and Property Bylaw 11/63

| Item | Concern | Recommended Action |
|---|--|--|
| Legal Format, Terminology and Definitions | Outdated and not in line with current standards | Repeal current Bylaw in its entirety and draft new one for Council debate |
| Section 1. No person shall use obscene or offensive language on a street, lane or other public place. | There is no specific qualifiers on the use of offensive language in public which in essence prohibits the activity even if no one can hear it or is disturbed by it. | Rewrite this provision but include a qualifier of "causing a disturbance" similar to that of the Criminal Code that prohibits this activity |
| Section 2. No person shall Loiter on a Street or lane or Sidewalk or other Public Place within the Town of St. Albert. | Loitering is not defined and again there are no specific qualifiers on loitering. This would in essence prohibit someone from lounging in a public park. | Rewrite this provision but include criteria similar to that of the Criminal Code that prohibits loitering when done in a such a way that obstructs others. |
| Section 3. Any person whose conduct on or in a Street, Lane, or other Public Place is unseemly shall be guilty of an offence and liable on summary conviction to a penalty as provided elsewhere in the By-law. | Unseemly is not defined leaving this provision as a completely subjective. | Remove section completely. |
| Section 4. No person shall discharge a firearm in the Town without the permission of the Mayor or Police. For the purpose of this section of this by-law, | It would be inappropriate for the Mayor to review and approve the use of a firearm in addition this provision would not allow for land developments such | Rewrite this provision to continue to prohibit the use of air powered firearms, bows and sling shots but introduce a permitting section and/or exemptions |

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|---|--|---|
| <p>firearm shall include: Firearm, Airgun, Air Pistol, Air Rifle, 9This shall also include an air rifle commonly known as a "B.B." gun), bows and arrows and sling shots.</p> | <p>as legal gun ranges.</p> | <p>related to legal land/business developments or other activities such as authorized wildlife culling.</p> |
| <p>Section 4.2 Other than in an approved venue, no person shall play or practice the game of golf or archery in any parkland within the City of St. Albert.</p> | <p>Redundant provision as it relates to the archery as it is already prohibited in section 4. Playing/Practice of golf seems more appropriate for the Parks Bylaw as it regulates a specific activity in a park.</p> | <p>Remove provision related to practicing/playing golf and add it to the Parks Bylaw.</p> |
| <p>Section 6. No unauthorized person shall interfere with any fire hydrant or water main.</p> | <p>Redundant provision as these activities are already prohibited in the Fire Services and Water Bylaw.</p> | <p>Remove section completely</p> |
| <p>Section 7, 8 and Schedule "A" (Penalty and Enforcement Sections)</p> | <p>Outdated sections.</p> | <p>Update to new standard and set fine amounts that are more appropriate.</p> |