



Governance and Priorities Committee Report

For the meeting of April 2 , 2015

To: Governance and Priorities Committee **Date:** March 24, 2015
From: Robert Woodland, Director of Legislative & Regulatory Services
Subject: Use of Parks and Green Spaces for Overnight Shelter

Executive Summary

The purpose of this report is to provide Council with information on the impacts arising from people taking shelter overnight in City parks and green spaces and to obtain Council direction.

In 2009, in *Victoria (City) v. Adams* (the Adams decision) the Court of Appeal confirmed that homeless persons have a constitutional right to erect temporary shelters in a park if there are no available shelter beds. In response to this decision, the City amended the *Parks Regulation Bylaw* to provide an exception to the general prohibition on the erection of shelters or other structures in parks. Under section 16A of the *Bylaw*, homeless persons may erect, use or maintain a structure or other overhead shelter in a park between 7 p.m. (8 p.m. when Daylight Savings time is in effect) and 7 a.m. the next day if there are no available shelter spaces.

In 2014, City staff and Victoria police (VicPD) observed a noticeable increase in overnight sheltering activities¹ in parks and green spaces. These activities have had a number of impacts on City operations, park environments and the community, including:

- financial and service delivery impacts on the City and VicPD;
- risks to the health and safety of those taking shelter, other park users and City staff;
- damage to vegetation and ecosystems;
- impacts on the use and enjoyment of City parks by other users;
- impacts on neighbouring residents.

So far in 2015 City staff and VicPD are observing a similar level of sheltering activity in City parks as in 2014. The current monitoring approach is somewhat effective in encouraging compliance with the City's bylaw regulations; however, there are opportunity costs associated with this approach, including:

- diversion of about 4,000 policing hours or two full time police officers from other public safety priorities;
- reduced service levels provided to investigate other bylaw complaints;
- diversion of Parks' resources to park clean-up and restoration.

There are a number of strategies that Council may wish to consider to reduce the impacts on City parks and resources, and increase housing and support opportunities for homeless people:

1. Bylaw regulations and public information that more clearly define the appropriate locations and activities in relation to the use of parks and green spaces for shelter at night, including possibly designating a specific area or specific areas within parks as the only location(s)

¹ "Sheltering activities" is meant to include preparing a site for overnight shelter, setting up the overnight shelter, occupying the park or green space area during the time of overnight shelter, removing the overnight shelter and the deposit of any waste or garbage in a park during this activity.

- where overnight sheltering may occur with the necessary sanitation services;
2. Additional resources for compliance monitoring and enforcement;
 3. Additional resources for parks and green space clean-up and restoration;
 4. Actions in support of the City's strategic objective to *Make Victoria More Affordable*, such as increasing the stock of affordable housing units and enhancing local food security;
 5. Advocacy to senior levels of government for additional resources for emergency and supportive housing, mental health and addiction services.

Strategies 1, 2 and 3 lie within the authority of the City; however, they are not expected to provide a solution to the underlying problem that results in homeless persons taking shelter in City parks and green spaces. For example, designating specific areas where people can take shelter overnight may reduce the impacts on the overall park system; however, it is not a solution to the underlying issue of homelessness. Nonetheless, these short-term strategies may be necessary interim measures to explore while longer term solutions consistent with strategies 4 and 5 are developed and implemented.

Recommendation

That the committee consider this report and provide direction to staff regarding further reporting on the issues and options outlined in this report.

Respectfully submitted,



Robert Woodland
Director of Legislative & Regulatory Services



Julie MacDougall
Acting Director of Parks & Recreation

Inspector Scott McGregor
Victoria Police

Report reviewed and endorsed by Chief of Police:



Report accepted and recommended by the City Manager:



Date:

March 26, 2015

Purpose

The purpose of this report is to provide Council with information on the impacts arising from people taking shelter overnight in City parks and green spaces and obtain Council direction.

Background

The *Parks Regulation Bylaw* (the *Bylaw*) regulates the use of City parks. A “park” is defined in the bylaw to include a public park, playground, square, green, footpath, beach, road in a park, and other public place that is not a street and that is under the custody, care, and management of the Director responsible for parks (“the Director”). Bastion Square and Centennial Square are also designated as parks. The bylaw sets out a number of regulations, including:

- prohibited uses of parks, including the use of fire, uses that damage the park environment, erecting structures or causing a nuisance or obstruction;
- uses that require permission from the Director, including processions, races, concerts, special events, research and commercial sales; and
- uses that can be carried out only in designated locations, such as games and model aircraft flying.

Section 14(1)(d) of the *Bylaw* prohibits a person from taking up a temporary abode overnight in a park. Section 16 of the bylaw prohibits a person from erecting a tent, building or structure without permission from the Director. Such permission is typically granted to special events held in parks where the event requires the installation of temporary staging or marquees.

In 2009, in *Victoria (City) v. Adams* (the Adams decision) the Court of Appeal confirmed that homeless persons sleeping in parks have a constitutional right to erect temporary shelters if there are no available shelter beds. In response to this decision, the City amended the *Bylaw* to provide an exception to the general prohibition on the erection of shelters or other structures in parks.

Under section 16A of the *Bylaw*, homeless persons may erect, use or maintain a structure or other overhead shelter in a park between 7 p.m. (8 p.m. when Daylight Savings time is in effect) and 7 a.m. the next day if there are no available shelter spaces. “Homeless person” is defined in the *Bylaw* as a person who has neither a fixed address nor a predictable safe residence to return to on a daily basis. Shelters are prohibited at any time in a playground, sports field, footpath, road within a park, Bastion Square, environmentally sensitive area, or an area where a permitted event or activity is occurring.

Section 16A confers a specific exemption only to homeless persons, and is not meant to authorize other persons, such as backpack travellers, to “camp” in a City park. The constitutional validity of Section 16A of the City’s *Bylaw* that regulates “sheltering activities”ⁱ was upheld in 2011 in *Johnston v. Victoria (City)*. The Court of Appeal found the restriction on the erection of daytime shelters between 7 a.m. and 7 p.m. to be a reasonable limitation on the constitutional rights of homeless persons.

The Adams decision was restricted only to parks. The Court specifically overturned the lower Court’s decision that allowed for erection of shelters on streets or other public places, including boulevards and planted areas within the road right-of-way. In 2010, the City adopted amendments to the *Streets and Traffic Bylaw* that expressly prohibit the erection of shelters on

street boulevards and medians. This amendment reinforced other bylaw regulations against obstruction of streets and sidewalks.

During the summers of 2013 and 2014, staff observed a change in the nature of sheltering activities in City parks. Many individuals remained in a particular location for a continuous period of days or weeks, erecting their shelters in the evening and dismantling them again every morning. The continual daytime presence and repetitive overnight sheltering activities in the same location impacts the use and enjoyment of the park by other residents and visitors to the City. Large volumes of chattels and garbage typically accumulate in locations where repetitive sheltering activities were occurring.

This type of sheltering activity was most prevalent during 2014 in Beacon Hill Park, Cridge Park, Topaz Park, Kings Park, Holland Point Park, Arbutus Park and Haegert Park (see Appendix A). These City parks are impacted by these types of sheltering activities as they are not designed to accommodate this kind of use.

Bylaw and Licensing Services has responsibility for monitoring compliance with the *Bylaw*, and is jointly supported by the Victoria Police Department (VicPD). Parks staff play an on-going role in identifying problematic sheltering activities due to their daily presence in City Parks. The focus is to identify the location of sheltering activities that are occurring outside of the hours specified in the *Bylaw*, contact Bylaw & Licensing Services staff, and often with the assistance of VicPD, attend the location to address the issue. To respond effectively in 2014, more resources were applied to the daily monitoring routine as noted below.

The VicPD Patrol Division assigns multiple, one or two-person patrol units to carry out 'wake-up' responsibilities daily. The Focused Enforcement Team also has approximately 10 officers performing 'wake-up' duties for the first one or two hours of their shifts. The Focused Enforcement Team also assigns one member to team up with a Bylaw Officer to attend parks outside the downtown core, including Beacon Hill Park and Topaz Park. These teams monitor parks, streets and other known sheltering areas. Patrol routes vary depending upon the areas experiencing issues, but the intention is to ensure that all sites are visited between 7 a.m. and 8 a.m. It is often necessary for Bylaw Officers to return to sites, as it may take several hours for some of the sheltering sites to be dis-assembled. During the warmer months two Bylaw Officers spend their entire shifts following up on reported locations of sheltering activities occurring contrary to the *Bylaw*.

At locations where abandoned chattels or garbage are found, Parks or Public Works are called to provide pick-up and disposal. To ensure the safety of the Public Works or Parks staff removing these items, Bylaw Officers or VicPD remain on scene until the items are removed. The removed chattels are inspected to determine whether any items of value are present. Items of value are retained and stored so that they can be returned to their owner if claimed. City staff then remove garbage and hazardous items for appropriate disposal. A staff team's interaction at a shelter site can range in duration from a few minutes to several hours, depending on the need for clean-up services that day, staff and equipment availability and the cooperation of the people engaged.

Issues and Analysis

1. Occurrences of Sheltering Activities in City Parks

Both Parks and Bylaw & Licensing Services track sheltering activities in parks and green spaces. “Calls for service” to Bylaw Officers and Parks Division staff are created throughout the day in response to locations or activities reported by staff or members of the public. Table 1 shows that calls for service related to sheltering activities in parks and green spaces increased significantly from 2013 to 2014. Calls for service to Bylaw Officers increased 85% and calls for service to Parks Division staff increased 325%.

Table 1

Year	Reported Calls for Service Bylaw & Licensing Services	Reported Calls for Service Parks Division
2014	1040	234
2013	561	55
2012	N/A	80

VicPD began recording and analysing data respecting their calls for service and patrol reports in relation to sheltering activities in 2014. The 2014 data on “person stops” recorded by VicPD members engaged in park patrols identified over 3700 occasions when police had interactions with one or more persons engaged in sheltering activities. This number was highest in August, when 406 occasions were recorded.

In addition to park patrols, VicPD patrol units may also be dispatched in response to individual calls for service relating to sheltering and bylaw offences in parks. In 2014, at least 1,000 calls for service to VicPD were recorded for sheltering activities and other *Parks Bylaw* related issues occurring in or adjacent to City parks.

2. Factors that Lead to Sheltering Activities in City Parks

Bylaw Officers estimate that several hundred people routinely shelter in City parks and green spaces over the course of the year. The majority are doing so because they are homeless, and many have mental health and/or substance abuse issues. For many of these people, successful permanent housing opportunities must include on-going support and services. In some cases, shelters are also not an option for individuals who have behavioural issues caused by addictions or mental illness.

Currently, there is not enough supportive housing available in Victoria to meet the existing demand. In a September 2013 report on Housing and Homelessness in Greater Victoria, the Greater Victoria Coalition to End Homelessness estimated that anywhere from 250 to 719 additional supportive housing units are required in the region.

As a temporary alternative to a permanent housing solution, a variety of agencies provide emergency shelter beds for homeless people in Victoria. There are a total of 175 shelter beds currently available year round, with an additional 85 mats used as seasonal emergency shelter in the winter months. In extreme weather conditions, up to an additional 105 mats can be made available.

During the winter of 2013 and 2014, available beds and mats were at full capacity most nights

and homeless people were turned away from emergency shelters. Even if additional emergency shelter spaces were available, some individuals sheltering in parks and green spaces would still not use a shelter bed or mat. This could be because the person(s):

- has been banned from the shelter
- is unwilling to leave his or her belongings unattended while in the shelter,
- prefers sheltering in a park to sleeping in the group setting generally found in a shelter
- does not wish to be separated from their partner when sleeping)
- has a dog that is not able to stay inside the shelter.

Particular City parks and green spaces are used more frequently for sheltering activities because they are located in close proximity to social service agencies that support homeless people. For example, during 2014 individuals were routinely encountered occupying the 500 block of Ellice Street and sheltering in nearby green spaces due the close proximity to Cool Aid's Rock Bay Landing Emergency Shelter.

Not all people sheltering in City parks are homeless people. Bylaw Officers estimate that approximately 10% of individuals sheltering in parks are transient travellers from outside of the region. Because of the Adams decision and the subsequent *Bylaw* amendment, it appears that Victoria has developed a reputation among travellers as a place where itinerant "camping" is allowed in parks. This observation is consistent with anecdotal information provided by some of these travellers encountered in 2014. Steps are being taken to communicate the message that City parks are not a place for travellers to camp.

3. Impacts of Sheltering Activities on City Parks

a) Impact on City operations in 2014

The opportunity costs associated with compliance monitoring, clean-up and restoration work flowing from sheltering activities is borne by VicPD, Bylaw & Licensing Services and Parks in terms of core services that could not be provided to other priorities. For example, the allocation of Parks Maintenance Workers to clean-up sheltering locations impacted their ability to perform other required maintenance work. As a result, there was an increase in complaints related to empty dog waste bag dispensers, washroom cleanliness and inadequate garbage collection in 2014. Staff are concerned that the continued allocation of resources to clean-up sheltering sites will impact the start of the mowing season and other maintenance in Spring 2015.

VicPD reports that absent available shelter beds to accommodate the number of people requiring shelter, police members routinely direct homeless people to parks where overnight sheltering activities are permitted. This practice reduces the numbers of persons who might otherwise take shelter on private property, or on streets, sidewalks and boulevards. While this practice reduces the impact on the downtown and other commercial areas it has an operational impact on VicPD resources the following day. Currently, VicPD routinely schedules up to ten additional officers within the Focused Enforcement Unit to supplement the patrol shifts for the single purpose of conducting "wake-ups" after 7:00 a.m. This practice diverts police resources from attending other areas of the City, delays call response times, and delays investigations of criminal complaints.

Bylaw and Licensing Services indicates that the investigation and resolution of public complaints of City bylaw violations was significantly delayed during 2014 because of the deployment of resources for park patrols. While initial follow-up on complaints alleging significant public

health or safety concerns usually occurred within three working days, follow-up on complaints of a routine nature (e.g., noise, nuisances, unsightly properties, etc.) generally took about 2 months. In 2013, routine complaints were usually responded to within about a week.

To resource the monitoring of sheltering activities in 2014, Bylaw and Licensing Services reduced routine monitoring of activities in the downtown core between May and October. In 2013, Bylaw Officers routinely monitored the downtown core area on a daily basis. In 2014, this downtown monitoring activity was reduced to two half-days each week.

b) Financial impact of sheltering activity in the parks

Cleaning up a site that has been used for repetitive sheltering activities can consume a significant amount of City resources. Garbage is the usual by-product of all sheltering activities, and the quantity of garbage and other items found at sheltering locations increases depending upon:

- the duration of continuous sheltering activity in the same location;
- the number of people at the sheltering location; and
- the individual behaviours of the people at each location.

In September 2014, a particularly problematic sheltering location was discovered in Arbutus Park hidden along the shoreline. Clean-up of this sheltering site took eight hours and involved two Bylaw Officers, eight Parks Division staff and six trucks, including one with a crane. Five one-ton truckloads of garbage were hauled away over a two-day period. City staff labour costs alone for that clean-up were about \$3,200, and additional costs were incurred for landfill tipping fees.

The restoration of disturbed paths and sites is also costly. In addition to labour costs, plant material replacement costs can range from \$16 to \$25 per square meter. Fencing, watering, mulching and weeding the restored area incurs additional costs.

VicPD estimate that their compliance monitoring role for sheltering activities costs over \$400,000 in police member labour. Bylaw and Licensing Services reports that staff labour costs allocated to compliance monitoring of sheltering activities was over \$165,000 in 2014, equivalent to about two full-time Bylaw Officers. Parks staff costs for clean-up and restoration work was approximately \$100,000 in 2014, which does not include vehicle costs or dumping fees.

c) The health and safety of other park users and City staff

The health and safety of other park users may also be at risk from sheltering activities when human waste and hazardous items such as hypodermic needles are left behind. Washroom facilities are not available on a 24-hour basis in City parks, and when washrooms are open, people who shelter in parks often choose not to use of these facilities. In Topaz Park, the presence of human waste was repeatedly documented in the leash optional area of the park.

Sheltering activities in City parks and green spaces also impact the health and safety of City staff. Booby-traps, discarded needles, human waste and unsanitary clothing and bedding have been found in parks. Staff have also experienced threats of violence and verbal abuse, and have witnessed damage to City equipment.

d) Well-being of Individuals taking shelter in parks

Sheltering activities, especially in winter, also raise concerns for the safety, health and well-being of the individuals using parks for this purpose. Bylaw Officers have encountered people suffering from hypothermia and other serious health issues. Homeless people whose health is affected by addictions or whose capacity is affected by mental illness may be particularly vulnerable living outdoors during inclement weather. The personal safety of people who shelter in parks may also be at risk, particularly where shelter sites are hidden from general public view, as no one may be aware of their presence or able to observe their condition.

e) Park vegetation and ecosystems

Natural areas, including valuable Garry Oak woodlands, are being damaged by sheltering activities, especially where sheltering locations are in heavily wooded areas that are hidden from public view. In 2014, Bylaw and Licensing Services reported that about 453 (approximately 20%) of the observed sheltering activities were in environmentally sensitive areas. This means that vegetation is being cut or trampled to clear, or create access to, sheltering locations. In order to safely access and clean up these sites, staff often have to perform additional clearing of vegetation, further damaging these natural areas. The removal of vegetation can cause a change in the micro-climate of an area, and create conditions for invasive plants to thrive.

Well-used paths and sites cause soil compaction, resulting in damage to root systems and poor drainage. When the ground in these areas becomes bare and exposed, non-native and invasive species choke out native plants that try to re-establish themselves in their original habitat. Sheltering activities that occur along the Dallas Road cliffs exacerbate erosion, and cause other environmental and public safety concerns.

Shrubs, hedges and lower limbs of trees have been removed by the City in an attempt to make areas more visible and less appealing to sheltering activities in parks. Staff have also erected fencing and planted specific types of plants in an attempt to discourage access to these environmentally sensitive areas. However, these efforts have had little success in discouraging people from accessing these natural areas, have impacted other park users' enjoyment of parks' natural areas and unique ecosystems, and have led to more fragmented natural areas.

f) The use and enjoyment of City parks by other users

Correspondence received from members of the public during 2014 documented the impacts that sheltering activities in parks and green spaces have on the use and enjoyment of these places by other members of the community. A common theme reported to the City was that repetitive sheltering activities in the same location affect other park users' perceptions of safety in the park.

g) Neighbouring residents

Residents living near parks and green spaces have reported that sheltering activities in parks and green spaces adjacent to their properties also have impacts, such as:

- unauthorized use of neighbours' utilities, including water and electricity
- late night noise, and
- depositing of garbage, human waste and hypodermic needles on neighbouring properties.

4. Impact on Official Community Plan Objectives for City Parks and Green Spaces

The Official Community Plan (OCP) recognizes that parks and open spaces are critical components of a complete community and serve many different uses in an urban environment. They help to improve the liveability of densely developed areas, enable active lifestyles and personal health, provide spaces for respite and contemplation, highlight historic and cultural landscapes, and provide indoor and outdoor gathering places.

Many parks and open spaces also play an important role in providing animal and plant habitat and maintaining ecosystem services. “Park” is defined in the OCP as “land managed by the City of Victoria that provides outdoor space for unstructured or structured leisure activities, recreation, ecological habitat, cultural events, or aesthetic enjoyment, not including planted areas within street rights of way.” Considering the purpose of parks outlined in the OCP, their use for sheltering activities does not support OCP objectives for parks and open spaces, and is not a valid, long-term housing option for homeless people in our community.

Options

Potential options for Council's consideration can be divided into short-term or long-term strategies. The identified short-term strategies do not provide a solution to the issues that cause people to take shelter in City parks. Rather, these strategies would improve the city's management of and response to the impacts of sheltering activities. Short-term strategies include:

1. Bylaw regulations and public information that more clearly define the appropriate locations and activities in relation to the use of parks and green spaces for shelter at night, including possibly designating a specific area or specific areas within parks as the only location(s) where overnight sheltering may occur with the necessary sanitation services;
2. Additional resources for compliance monitoring and enforcement; and
3. Additional resources for parks and green space clean-up and restoration.

With respect to the first short-term strategy, changes to the City's *Parks Bylaw* bylaws could be explored that would:

- Further limit the parks, or areas within parks where sheltering activities can occur;
- Designate a specific area or specific areas within parks as the only location(s) where sheltering activities may occur, and provide water, washrooms and sanitation services to support the site(s);
- Limit the duration of repetitive sheltering activities;
- Improve the Director of Parks and Recreation's authority to close a park or an area within a park for clean-up and restoration of the natural area;
- Further limit who is able to take shelter in parks and under what circumstances.

The second strategy is meant to identify and allocate additional financial resources necessary to continue with the current compliance monitoring program for sheltering activities in parks. The allocation of additional financial resources would also enable service levels to be restored to meet other on-going police and bylaw enforcement service demands.

The third strategy is meant to identify and allocate additional financial resources to clean-up locations where sheltering activities occur, and to restore damaged or degraded parks areas. If

no additional financial resources are allocated, then resources will need to be reallocated from existing budgets by reducing service levels in other areas of Parks and Public Works.

Long-term strategies are required to achieve the City's OCP and Strategic Plan objectives in the areas of housing and social inclusivity. These strategies are intended to address the causes of homelessness by addressing issues of housing affordability and availability and to increase the support services available to those people whose lives are adversely affected by mental illness and addictions. These strategies include:

4. Actions in support of the City's strategic plan objective to *Make Victoria More Affordable*, such as increasing the stock of affordable housing;
5. Advocacy to senior levels of government for additional resources for emergency and supportive housing, mental health and addiction services.

The fourth strategy would include actions that the City can take within its area of authority to improve housing affordability and reduce the cost of living. The fifth strategy of advocating to senior levels of government for additional resources for emergency and supportive housing, mental health and addiction services is consistent with the City's OCP objectives. New strategies may be needed to ensure that new programs, housing or support services more effectively meet the needs of those persons who routinely take shelter in City parks. However, achieving outcomes from both of these strategies in the form of new services and housing units in the ground is expected to take a number of years.

Conclusion

Continuing with the current compliance monitoring approach has a significant impact on VicPD and Bylaw & Licensing Services resources, and additional resources will be needed in 2015 to sustain this same approach. Likewise, additional resources to clean-up and restore parks areas damaged by sheltering activities are needed by Parks, along with additional funding for waste disposal.

Improving the City's *Bylaw* that regulates sheltering activities and increasing the authority provided to the Director to manage the parks system may help to reduce the impacts on parks and green spaces. Consideration might also be given to changing how the City approaches the issue; for example, the City might consider designating specific areas for sheltering activities and provide the necessary public health and safety supports at these locations.

In any event, long-term strategies to address the factors that cause people to shelter in parks are needed if the City is to resolve this community issue. A combination of short-term and long-term strategies is likely needed if the City is to achieve a successful, long-term resolution.

Recommendation

That Council consider this report and provide direction to staff regarding further reporting on the issues and options outlined in this report.

Appendix A
Map of Parks where Sheltering Activity was Prevalent in 2014

