

## Discriminatory Municipal Bylaws and Zoning

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Municipalities across BC have authority to determine land use and zoning within their jurisdictions. Too often this authority is exercised in a discriminatory and stigmatizing way, which results in the denial of services to marginalized and vulnerable groups.

Bylaws, policies, and processes founded on discrimination play a role in perpetuating homelessness, risk of disease transmission (such as HIV and hepatitis C), overdose, and vulnerability to violence. They limit our collective ability to provide evidence-based health interventions for people with addictions in the midst of a public health emergency, and they result in the failure to provide shelter and housing services for people in need.

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Pivot Legal Society has researched the prevalence of discriminatory zoning across BC, has worked in communities with people experiencing discrimination through zoning, and has litigated in multiple communities where discriminatory zoning impedes access to life-saving services, including one community where harm reduction health care was prohibited through zoning. Here is what we have learned:

- At least 17 municipalities with populations over 10,000 have bylaws restricting necessary health care including bans on carrying “drug paraphernalia” (i.e., harm reduction equipment) in public, restrictions or prohibitions on methadone and other addiction health services, or prohibitions on selling harm reduction equipment.
- Other, more opaque bylaws have the effect of prohibiting services such as needle exchanges, methadone clinics, shelters, and supportive housing by defining such services within existing zoning legislation and then providing few or possibly no zones in which those services are permitted.
- Zoning processes, which seem neutral on their face, to rezone land for the provision

of shelter, health care and housing services for people experiencing homelessness and addiction, can create a context where zoning decisions are made predominately based on “who” will use the service, not the use to which the land will be put; e.g.:

- a. public consultation processes are often required to establish services for people experiencing homelessness and addiction, but are not required for other housing or health services; and
  - b. public consultation processes often become a venue for people to openly air prejudices against people experiencing homelessness and addiction. In turn, municipalities are basing their decisions, at least in part, upon this discriminatory input.
- Municipal bylaws in relation to zoning, parks, and the regulation of public space more generally, frequently combine in a manner that effectively bans homeless people and their belongings from being anywhere in the community.

## Recommendations

Recognizing that municipalities have the authority to govern land use within their jurisdiction, this right must not be exercised in a discriminatory manner. Pivot recommends that BC take the following immediate actions:

1. Amend the *Human Rights Code*, RSBC 1996, c 210 to include “social status” and “homelessness” as grounds for discrimination.
2. Develop province-wide standards for non-discrimination in land use consultations and zoning. Consideration of the City of Victoria motion “Upholding Non-Discrimination Principles At City Land Use Consultations” and the work of the Ontario Human Rights Commission may be of assistance in this regard.
3. Determine what, if any, legislative amendments are required to ensure that local bylaws are not discriminatory against people with addictions and people experiencing homelessness.

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## Contact Information

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