



Court File No. S15335
Campbell River Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE *JUDICIAL REVIEW PROCEDURE ACT*, R.S.B.C. 1996,
s. 241 and PART 12 OF THE LOCAL GOVERNMENT ACT, R.S.B.C. 2015 C. 1**

PIVOT LEGAL SOCIETY

PETITIONER

AND:

CITY OF CAMPBELL RIVER

RESPONDENT

PETITION TO THE COURT

ON NOTICE TO:

The City of Campbell River
301 St. Ann's Road
Campbell River, V9W 4C7

Attorney General of the Province of British Columbia
Ministry of Attorney General
1001 Douglas Street
Victoria BC V8W 2C5

This proceedings is brought for the relief set out in Part 1 below by the person named as petitioner in the style of proceedings above.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner,

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1) The address of the registry is: 500 – 13th Avenue
Campbell River, BC V9W 4G7

(2) The ADDRESS FOR SERVICE of the petitioner is:

PIVOT LEGAL SOCIETY
121 Heatley Avenue
Vancouver, BC V6A 3E9
Telephone: 604-255-970
Fax: 604-255-1552

(3) The name and office address of the petitioner's lawyer is:

MARION & RUNYON CRIMINAL LAWYERS
1250-A Cedar Street
Campbell River, BC V9W 2W7
Telephone: 250-204-1699
Attn: Sarah Runyon and Caitlin Shane

CLAIM OF THE PETITIONER

PART 1: ORDERS SOUGHT

1. A declaration that Bylaw No. 3884 (the *Public Nuisance Amendment Bylaw*) and Bylaw No. 3885 (the *Ticketing for Bylaw Offences Amendment Bylaw*) (collectively the “**Bylaws**”) are *ultra vires* the City of Campbell River;

2. A declaration that the Bylaws are unreasonable, contrary to the provisions of the *Local Government Act* and *Community Charter* and are invalid;

3. An order quashing the Bylaws;
4. An Interim Injunction restraining the City from enforcing the Bylaws;
5. An order for costs of this proceeding; and
6. Such further and other relief as this Honourable Court deems just.

PART 2: FACTUAL BASIS

The Parties

1. The Petitioner, Pivot Legal Society (“**Pivot**”) is a society incorporated under the *Society Act*, and works in partnership with communities affected by poverty and social exclusion to identify priorities and develop solutions to complex human rights issues. Pivot’s work is focused in four policy areas, including drug policy and homelessness. Pivot maintains an office at 121 Heatley Avenue in Vancouver, BC.

2. The City of Campbell River (the “**City**”) is a municipality incorporated pursuant to the *Local Government Act*, RSBC 2015, c 1. It maintains a business office at 301 St. Ann’s Road in Campbell River, BC.

Pivot’s Work in Drug Policy and Homelessness

3. Pivot’s Housing campaign is aimed at ending the criminalization of people experiencing homelessness by challenging discriminatory laws and law enforcement practices that violate human rights, perpetuate stigma, and prevent unsheltered and precariously housed people from taking steps to save their own lives.

4. Pivot’s Drug Policy Reform campaign is premised on the understanding that the criminalization and penalization of people who use drugs is largely responsible for the harms mistakenly associated with drug use itself, including barriers to health services, criminal activity, violence, and the toxic drug supply. In advocating for evidence-based, public health-focused drug policy, Pivot aims to ensure that law- and policy makers at every level of government understand the harmful impacts that prohibition-based policies can have on public health and safety.

5. Chiefly, Pivot strives to reduce the stigma and criminalization of people who use drugs to ensure that people who use drugs have full access to health care, social services, and peer-run programming that protects and enhances their rights, dignity and health.
6. Pivot's drug policy campaign is particularly urgent amid BC's public health emergency, declared in 2016 due to the increase in illicit drug overdose deaths. Pivot has been an integral advisor to municipal, provincial and federal governments in developing responses to the opioid crisis.
7. In 2018, Pivot testified before the Standing Committee on Justice and Human Rights regarding the effect that certain policies can have on people who use drugs, in particular their willingness to access health and harm reduction services.
8. In 2018, Pivot intervened at the Supreme Court of Canada in *R v Boudreault*, 2018 SCC 58, regarding the harms of surcharges on marginalized communities, including people who use drugs and people experiencing homelessness. *Boudreault* resulted in a finding that Canada's mandatory victim fine surcharge amounts to cruel and unusual punishment (contrary to s 12 of the *Canadian Charter of Rights and Freedoms*) and is therefore of no force and effect.
9. In 2019, Pivot testified before the Standing Senate Committee on Legal and Constitutional Affairs regarding the effect of drug policy on marginalized communities, including people who use drugs.
10. In 2021, Pivot presented to the Expert Task Force on Substance Use, established by the federal Minister of Health, testifying on drug policy matters including harm reduction and access barriers to services for people who use drugs.
11. In 2022, Pivot testified before the BC Legislative Assembly's Select Standing Committee on Health to advise on the urgent and ongoing illicit drug toxicity and overdose crisis. Pivot provided testimony on the harms of punitive drug policy and the federal, provincial, and municipal responses to the public health emergency.
12. Since 2021, Pivot has been a member of the BC Ministry of Mental Health and Addictions' "Decriminalization Core Planning Table," which developed the Province's newly-implemented

decriminalization policy and which continues to meet for the purposes of policy rollout and evaluation.

The Adoption of the Bylaws

13. On January 26, 2023, at a duly convened meeting of City Council, the City adopted Bylaw No. 3884 (the *Public Nuisance Amendment Bylaw*) which prohibits consumption of a controlled substance in public places.

14. At that same meeting on January 26, 2023, the City also adopted Bylaw No. 3885 (the *Ticketing for Bylaw Offences Amendment Bylaw*) to allow for a \$200 penalty for violations of Bylaw 3884 (collectively referred to as the “Bylaws”).

15. At the January 26, 2023 Council meeting, wherein the Bylaws passed third reading, Council voted against receiving a letter dated January 25, 2023 from Dr. Charmaine Enns, the North Island Medical Health Officer (the “**MHO Letter**”). It was expressly noted during the meeting that the City had not consulted Dr. Enns, or any other medical professional, in the development of the Bylaws.

16. The MHO Letter requested that Council postpone adoption of the bylaws for six months, and stated that “[w]hen making public health decisions, it is necessary to consult the local medical health officer.” The MHO Letter also addressed the potential adverse health impacts from the adoption of the Bylaws, and stated that “enforcement activities can drive people to use drugs alone and can elevate risk of death”.

17. The Bylaws were adopted in anticipation of Health Canada’s January 31, 2023 exemption issued to the Province pursuant to s. 56(1) of the *Controlled Drugs and Substances Act*. The exemption, which was applied for by the Province, removes criminal sanctions for adults in British Columbia who possess certain illicit substances up to a total of 2.5 grams for their own use (the “Health Canada Exemption”).

18. Since 2016, BC has been in a public health emergency, declared under the *Public Health Act*, due to a significant increase in drug-related overdoses and deaths.

19. The Province's stated rationale for seeking the Health Canada Exemption is to reduce the barriers and stigma that prevent people from accessing life-saving supports and services, declaring that substance use is a public health matter, not a criminal justice issue. Canada's stated rationale for approving the Health Canada Exemption is "to support the public health response to the overdose crisis in BC."

PART 3: LEGAL BASIS

1. The Petitioner pleads and relies upon:

- (a) the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241 (the "JRPA") and specifically sections 2 to 7, and 10;
- (b) the *Community Charter*, S.B.C. 2003, c. 26 (the "Community Charter") and specifically sections 1, 3, 4, 7, 8, 9;
- (c) the *Local Government Act*, R.S.B.C. 2015 c. 1 (the "LGA") and specifically Parts 12 and 16;
- (d) the *Public Health Bylaws Regulation*, B.C. Reg. 255/2016 and specifically section 2;
- (e) *Public Health Act*, S.B.C. 2008, c. 28 and specifically Part 9.

2. The Petitioner has public interest standing to challenge the Bylaws under s. 2 of the *JRPA* and pursuant to *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45.

The Bylaws are Ultra Vires

3. Pursuant to the *Community Charter*, the *Public Health Bylaws Regulation* and the *Public Health Act*, the council of a municipality may not adopt a bylaw that is in pith and substance in relation to public health unless the bylaw is approved by the responsible Minister (in this case the Minister of Health and/or the Minister of Mental Health and Addictions), and the council has consulted with the regional health board or the medical health officer responsible for public health

matters within the municipality. The Petitioner says the Bylaws, passed in anticipation of the Health Canada Exemption, are in pith and substance in relation to public health and the City did not obtain the approval of the responsible Minister, nor, by its own admission, consult with the regional health board or responsible medical health officer. The Bylaws are therefore *ultra vires* and invalid.

4. Municipalities are creatures of statute with powers derived from the provincial government. On an application to judicially review a bylaw, the court must first consider whether the municipality is authorized by its governing legislation to adopt the bylaw. This question of jurisdiction is reviewed on a standard of correctness.

Benoit v. Strathcona Regional District, 2019 BCSC 362 [*Benoit*], para. 21, citing
Canadian Plastic Bag Association v. Victoria (City), 2018 BCSC 1007 [*Canadian Plastic Bag*], para. 20

5. If a bylaw is not authorized by its enabling statute, it is *ultra vires* and must be set aside.

Benoit, para. 22

6. As a matter of constitutional law, "pith and substance" refers to the "true character" or "dominant characteristic" of an impugned law. The determination of pith and substance involves an examination of the purpose and effects of the law, including its effects on the rights of citizens and practical consequences.

Canadian Plastic Bag, para. 43 [emphasis added]

7. The pith and substance of the Bylaws is in relation to public health. The Bylaws were passed mere days before the adoption of the Health Canada Exemption. The Health Canada Exemption is a response to BC's declared public health emergency. The Bylaws sustain punishment for people who use drugs, thereby creating material health risks of isolation and restricted access to overdose prevention services.

8. The Community *Charter* prohibits a council from adopting a bylaw that regulates, prohibits, or imposes requirements in relation to public health without approval (via regulation,

agreement, or express approval) from the Minister responsible, in this case the Minister of Health and/or the Minister of Mental Health and Addictions.

Community Charter, s. 9(3)

9. The *Public Health Bylaws Regulation* sets out the “restrictions and conditions” that bylaws are subject to when they relate to public health. Bylaws that relate to “the restriction, or potential restriction, of any individual’s access to health services” require council to obtain Ministerial approval. Bylaws that relate to “the protection, promotion or preservation of the health of individuals” require that council deposit a copy of the bylaw with the Minister.

Public Health Bylaws Regulation, s. 2

10. In addition, council must not adopt a public health bylaw of any kind without consulting with the regional health board or the medical health officer responsible for public matters within the municipality.

Public Health Bylaws Regulation, s. 2

11. The *Public Health Act* requires a medical health officer to advise local governments on bylaws, policies and practices respecting “public health issues, including health promotion and protection.” In turn, local governments must “consider advice or other information provided to the local government by a health officer.”

Public Health Act, ss. 73(3), 83(1)(c)

12. Contrary to the *Community Charter*, the City did not obtain ministerial approval nor deposit copies of the Bylaws with the responsible minister prior to adopting the Bylaws.

13. Contrary to both the *Public Health Bylaws Regulation* and the *Public Health Act*, the City did not consult with either the responsible minister, the regional health board, or the medical health officer prior to adopting the Bylaws. In this case, the City voted not to receive advice from the responsible medical officer at the time it adopted the Bylaws.

Interim Injunction



14. By its own admission, in adopting bylaws which are in pith and substance in relation to public health, the City has acted in an *ultra vires* manner by failing to obtain the approval of the responsible Minister and refusing to consult with the responsible medical health officer. There is plainly a serious question to be tried. The medical health officer has specifically identified irreparable harm arising from the enforcement of the Bylaws in that it “can drive people to use drugs alone and can elevate risk of death”. The balance of convenience weighs heavily in favour of reducing life-threatening health risks over the imposition of financial penalties on individuals suffering from serious health and addiction issues.

PART 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Eva Botten (Ureta), Managing Director of Pivot Legal Society, affirmed February 10, 2023
2. Transcripts of the City Council Meeting of January 24 and 26, 2023 [to be forwarded]
3. Affidavit #1 of Dr. Enns affirmed on February 9, 2023
4. City of Campbell River Report/Recommendation to Council, Community Safety Division, dated January 6, 2023

The petitioner estimates that the hearing of the petition will take 1.5 days.

Dated: 10 Feb 2023

Signature of lawyers for petitioner
Sarah Runyon and Caitlin Shane

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this petition

☐ with the following variations and additional terms:

.....
.....
.....

Date:

.....
Signature of ☐ Judge ☐ Master



Court File No. S15335
Campbell River Supreme Court Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

In the matter of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241 and Part 12 of the
Local Government Act, R.S.B.C. 2015, c.1

BETWEEN:

PIVOT LEGAL SOCIETY

PETITIONER

- and -

CITY OF CAMPBELL RIVER

RESPONDENT

AFFIDAVIT OF EVA BOTTEN (URETA)

Affirmed February 10, 2023

I, **Eva Botten (Ureta)**, Managing Director of Pivot Legal Society, of the City of Vancouver, in the Province of British Columbia, AFFIRM:

1. I am the Managing Director of Pivot Legal Society ("Pivot"), a non-profit society incorporated under the laws of British Columbia. I am authorized to make this affidavit on behalf of Pivot. I have personal knowledge of the facts and matters hereinafter deposed to, save and except where same are stated to be made on information and belief, and where so stated, I verily believe them to be true.

A. Pivot Legal Society

2. Pivot is a non-profit legal organization located in Vancouver's Downtown Eastside ("DTES"), one of Canada's poorest urban neighbourhoods. Pivot's work focuses

predominantly on the systemic legal issues that affect marginalized people. This includes people who use drugs; people who are unhoused and precariously housed; people who do sex work; and people who experience discriminatory and/or harmful treatment by police.

3. Pivot's mandate is to work in collaboration with marginalized communities to create a just, fair, and equal society through litigation, law reform, research, and legal education. Pivot takes a strategic approach to social change, using the law to address the root causes that undermine the quality of life for people who are pushed to the margins.
4. Pivot was founded in 2001 after meetings between lawyers and local residents to discuss issues of concern in the DTES neighbourhood. Pivot's first campaign focused on holding police accountable for misconduct through complaints, lawsuits, public education, and policy recommendations. Since 2001, Pivot has expanded its work to respond to the needs of marginalized communities throughout B.C. and across Canada. We currently run four different but interrelated campaigns: drug policy; homelessness; police accountability; and sex workers' rights.
5. Pivot employs a client-centered approach to its advocacy work, wherein people who are impacted by the issues we work on are recognized for their expertise and vision for change. Pivot uses community consultation, research, human rights documentation, and campaign planning with directly-impacted people to set its campaign priorities according to the issues and concerns raised by the community. Pivot then uses legal tools, such as strategic litigation and law reform efforts, to create and support social change.
6. Pivot is governed by a volunteer board of eight directors made up of lawyers, other professionals, community organizers, and DTES residents. Our work is supported by our over ten thousand members, supporters, and volunteers.

B. Pivot's Work in Marginalized Communities

7. Pivot's legal work is driven by the lived experiences and needs of marginalized people, including those living throughout Vancouver, B.C., and Canada.
8. In 2001, Pivot's policing campaign collected 50 affidavits for our policy report, *To Serve and Protect*. In 2002-2003, Pivot collected 94 affidavits from DTES sex workers for our policy report, *Voices for Dignity*. In 2005, we collected 150 affidavits from DTES residents for our policy report, *Cracks in the Foundation*. In 2007, we spoke with 157 people from the DTES to gather information about their interactions with private security. In 2013, Pivot published a report entitled *Throwing Away the Keys: The Human and Social Cost of Mandatory Minimum Sentences*, which is based on and incorporates 19 life story interviews with low-income people who use drugs in Vancouver and Victoria, B.C.
9. In 2018, Pivot published a report entitled *Project Inclusion: Confronting Anti-Homeless & Anti-Substance User Stigma in British Columbia* ("Project Inclusion"). The report was based on the one-on-one interviews of over 70 individuals living across B.C. who face stigma, criminalization, and barriers to healthcare due to laws, policies, and practices at the federal, provincial, and municipal levels. In 2019, Pivot published a Know Your Rights toolkit containing information about people's rights and police obligations in public space. In 2020, Pivot published a report entitled *Act Now! Decriminalizing Drugs in Vancouver*, which details the ability of local governments to effectively decriminalize simple drug possession by way of a federal exemption. Pivot is presently working on a report entitled *Talking Back to the City: A manual for winning (and resisting) local drug policy*. The report focuses on local governments and their powers and limitations in relation to drug policy. All Pivot reports are available on our website at www.pivotlegal.org/research_reports.

i. Drug Policy Campaign

10. Pivot's drug policy campaign aims to ensure that law and policy-makers understand the harmful impacts of drug prohibition and prohibition-based policies people who use drugs and public health more broadly. Pivot takes the position that the criminalization and

penalization of people who use drugs is largely responsible for the harms mistakenly associated with drug use itself, including stigma, drug-related health harms, criminal activity, and violence. Pivot strives to reduce the criminalization of people who use drugs and to ensure that people who use drugs have full access to health care, social services, and peer-run programming that protects and enhances their rights, dignity, and health.

11. In my experience, arrest and surveillance by police and law enforcement is a constant concern for people who use drugs, the consequence of which is oftentimes for people who use drugs to modify their behavior to avoid detection. This includes consuming drugs in more clandestine spaces, rushed transactions, and hurried injection—all of which can result in various health and safety-related harms. An individual who is rushing to consume a substance may, for instance, be less likely to clean injection sites or equipment prior to use, or to test substances first for strength. An individual who fears administrative or criminal penalties may additionally avoid accessing harm reduction services and supports.
12. Pivot's drug policy campaign is particularly urgent given the overdose crisis in British Columbia and the public health emergency that was declared on April 14, 2016 by British Columbia's Provincial Health Officer. I am advised that since the emergency declaration, an estimated 10, 505 people in B.C. alone have died due to illicit drug-related overdoses.
13. Between 2018 and 2022, Pivot lawyer Caitlin Shane has appeared before various House of Commons and Senate Standing Committees regarding the harms of prohibition-based drug policy on marginalized communities. Committees include: the House of Commons Standing Committee on Justice and Human Rights (2018); the Standing Senate Committee on Legal and Constitutional Affairs (2019, 2022); and the Legislative Assembly of B.C.'s Select Standing Committee on Health (2022).
14. Pivot played a significant role in the applications of both Vancouver and B.C. for federal exemptions to decriminalize drug possession. Since 2021, Pivot has been a member of B.C.'s Ministry of Mental Health and Addictions' Decriminalization Core Planning Table,

advising on the development of the Province's decriminalization policy that took effect on January 31, 2023.

ii. Homelessness Campaign

15. Pivot's homelessness campaign has evolved since 2001, with its current aim being to end the criminalization of people experiencing homelessness. Our advocacy includes challenging discriminatory laws and law enforcement practices that violate human rights, perpetuate stigma, and prevent unsheltered and precariously housed people from taking steps to ensure their own health and safety.
16. Many of Pivot's unsheltered clients have experienced profound physical and psychological harms as a result of routine displacement. Since 2013, Pivot has led litigation on behalf of residents living in various tent cities across B.C., including Vancouver, Abbotsford, and Maple Ridge. While Pivot acknowledges that housing for all is the long-term goal, being able to live safely and with dignity in a tent or other makeshift housing structure is a critical form of harm reduction that provides health and safety benefits and a level of privacy to individuals who are left especially vulnerable amid the housing, overdose, and COVID-19 crises.

iii. Policing and Criminalization Campaign

17. Pivot's policing campaign focuses on challenging the systems of criminalization and incarceration that harm the communities we work alongside and that disproportionately impact Black people, Indigenous people and people of colour.
18. Pivot advocates against overcriminalization through advisory groups, police complaint processes, litigation, and public education.
19. Municipal police and RCMP officers are one element of a comprehensive and oppressive network of policing that also includes bylaw officers and private security guards.

Collectively, these agents enforce a web of laws, bylaws, and regulations, resulting in all-encompassing legislative control over the lives of homeless people. These policies and practices are punitive in their own right, and in Pivot's experience, often result in a cycle of criminalization and incarceration.

iv. Project Inclusion

20. In December 2018, Pivot released *Project Inclusion*, a comprehensive study into the ways in which specific laws and policies in policing, health care, and the court system directly undermine the health and safety of people who are homeless and living with substance use issues by trapping them in a cycle of criminalization. Pivot researchers travelled to municipalities across B.C. to hear directly from those affected and gather insight into how local laws and practices create harm by shaping lived experience. *Project Inclusion* concludes that these laws, policies, and their enforcement are setting people up to fail.
21. *Project Inclusion* was developed through multiple research strategies, including legal research and conducting 76 interviews with individuals marginalized on the basis of social condition, such as poverty or housing status. *Project Inclusion* reflects the numerous intersecting ways in which homelessness and substance use are perpetuated through law, policy, and societal stigma. *Project Inclusion* continues to inform our advocacy priorities throughout B.C.

C. Pivot's Litigation Experience

22. Pivot has commenced many strategic legal actions including the following:
 - a. Since 2013, Pivot has challenged injunctions sought against various homeless encampments. Pivot has represented residents of encampments, arguing that the health and safety benefits afforded to residents by these encampments in the absence of accessible housing outweigh government property interests, and threaten to violate residents' *Charter* rights: *Maple Ridge (City) v. Scott*, 2019

BCSC 157 2019, BCSC 1150, and 2019 BCCA 99; *City of Maple Ridge v. Drury*, (2017) Vancouver S175088 (BCSC); *City of Abbotsford v Shantz* (2013) New Westminster S156820 (BCSC); *Vancouver Board of Parks and Recreation v Williams*, 2014 BCSC 1871; *City of Vancouver v Jerry Cummings, et al*, 2016 BCSC No. S1610137.

- b. A judicial review in the Supreme Court of British Columbia regarding the City of Surrey's revocation of a business license from the BC/Yukon Association of Drug War Survivors. Revocation of the license meant that the Surrey-Newton Union of Drug Users could no longer operate a drug user resource centre: *BC/Yukon Association of Drug War Survivors v Surrey (City)*, 2022 BCSC 855.
- c. An action in the Supreme Court of British Columbia successfully establishing that City of Abbotsford bylaws prohibiting homeless people from sleeping outdoors on streets, parks and other city property and prohibiting the creation of temporary shelters are unconstitutional: *Abbotsford (City) v Shantz*, 2015 BCSC 1909.
- d. Litigation aimed at protecting the rights of drug users to access effective medical care in the form of prescription heroin. In 2013, Pivot, on behalf of former participants in the Study to Assess Longer-term Opioid Medication Effectiveness (SALOME), and alongside Providence Health Care, successfully sought an injunction to ensure patients would continue to receive prescribed heroin treatment. Pivot argued the unconstitutionality of regulatory constraints imposed by the federal government on Health Canada to block access to prescription heroin. This regulatory framework was later amended in 2014 under a new government: *Providence Health Care Society v. Canada (Attorney General)*, 2014 BCSC 1160.
- e. A 2010 human rights complaint against the City of Vancouver alleging discriminatory treatment experienced by homeless persons by a private security company: *Pivot Legal Society v. Downtown Vancouver Business Improvement Association and another (No. 6)*, 2012 BCHRT 23.
- f. An action in the Supreme Court of British Columbia seeking a declaration that City of Vancouver bylaws prohibiting unsheltered people from sleeping outdoors on streets, parks and other City property and prohibiting the creation of temporary shelters are unconstitutional.

- g. An action in the Supreme Court of British Columbia and an accompanying human rights complaint against the City of Abbotsford on behalf of three Abbotsford residents who use drugs and the BC/Yukon Association of Drug War Survivors. Pivot challenged an Abbotsford zoning bylaw, which prohibited all harm reduction uses anywhere in the municipality.
- h. A 2007 constitutional challenge to Canada's criminal laws pertaining to adult prostitution on behalf of Downtown Eastside Sex Workers United Against Violence. The Supreme Court of Canada's decision in this case expanded the scope of public interest standing: *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45.
- i. A 2007 action on behalf of a resident of the Piccadilly Hotel against the City of Vancouver for negligent enforcement of its *Standards of Maintenance Bylaw*. The building's owners and managers are also named as defendants for their failure to maintain the building to an adequate standard. The Piccadilly Hotel was ordered closed for B.C. Fire Code violations in 2007.
- j. Various actions against the Vancouver Police Department and the Royal Canadian Mounted Police for negligence, assault, battery, unlawful arrest, and *Charter* violations.

23. Pivot has been granted leave to intervene in the following cases:

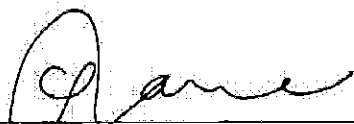
- a. *Simons v. Minister of Public Safety*, 2020 ONSC 1431: a *Charter* challenge regarding the failure of Correctional Service of Canada to provide adequate harm reduction services in Canada.
- b. *R v. Zora*, 2020 SCC 14: an appeal to the Supreme Court of Canada, wherein Pivot submitted that the *Charter* values of liberty and equality require that a subjective *mens rea* standard be read into the offence of failing to comply with an undertaking or recognizance under s. 145(3) of the *Criminal Code*.
- c. *Chinatown & Area Business Association v. Canada (Attorney General)*, 2019 FC 236: a successful defence of three supervised consumption sites in Edmonton, Alberta, wherein Pivot acted as counsel for the Canadian Drug Policy Coalition,

making submissions regarding the need to prioritize public health in Ministerial decisions about supervised consumption sites in Canada.

- d. *R. v. Boudreault*, 2018 SCC 58: a successful challenge to the *Criminal Code* s. 737 mandatory victim fine surcharge, wherein Pivot argued that the provision was unconstitutional, amounting to cruel and unusual punishment, and disproportionately impacted people at risk of overdose.
- e. *R. v. Lloyd*, 2016 SCC 13: a successful challenge to mandatory minimum sentences for possession of drugs for the purpose of trafficking. Pivot argued that the mandatory minimum violates s. 12 of the *Charter* and had the potential to disproportionately impact Indigenous people and people who come before the Court as a result of their addictions.
- f. *R v Dickey*, 2016 BCCA 177: a successful challenge to mandatory minimum jail sentences in relation to drug trafficking offences. Pivot submitted that mandatory minimums violate ss. 7 and 12 of the *Charter* insofar as they disproportionately impact vulnerable groups, including women, Indigenous people, and people who come before the Court as a result of their addictions.
- g. *R. v. Nur*, 2015 SCC 15: the Court found that the mandatory minimum sentence in s. 95(1)(2)(a)(i) and (ii) of the *Criminal Code* violates s. 12 of the *Charter*.
- h. *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852: Pivot provided submissions concerning the proper interpretive scope of ss. 7 and 15 of the *Charter*, specifically relating to housing and homelessness.
- i. *Canada (Attorney General) v. Bedford*, 2013 SCC 72: Pivot represented the interests of street-based sex workers in the DTES in a successful challenge to the *Criminal Code* offences of communicating in public for the purposes of prostitution, common bawdy-house offences, and the offence of living on the avails of prostitution. Pivot submitted that the s. 7 *Charter* rights of street-based sex workers were violated by the prohibition on communicating for the purpose of prostitution.

- j. *Victoria (City) v. Adams*, 2009 BCCA 563: the Court determined that the right to security of the person under s. 7 of the *Charter* was impaired by city bylaws prohibiting homeless persons from erecting tents in public parks to shelter themselves in cold weather.

Affirmed before me at the City of
Vancouver in the Province of British
Columbia on February 10, 2023.



A Commissioner for taking affidavits in
the Province of British Columbia

CAITLIN O. SHANE
Barrister & Solicitor
Pivot Legal Society
121 Heatley Avenue
Vancouver BC V6A 3E9
(604) 255-9700



EVA BOTTEN (URETA)



Court File No. S15335
Campbell River Supreme Court Registry

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In the Matter of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241 and Part 12 of the
Local Government Act, R.S.B.C. 2015 c. 1

BETWEEN:

PIVOT LEGAL SOCIETY

PETITIONER

AND:

CITY OF CAMPBELL RIVER

RESPONDENT

AFFIDAVIT #1

I, Dr. Charmaine Enns, North Island Medical Health Officer, of the District of Tofino, Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am the North Island Medical Health Officer ("MHO") with the Vancouver Island Health Authority and as such, I have personal knowledge of the facts and matters hereinafter deposed, save and except where same are stated to be made upon information and belief, in which case I verily believe them to be true.

2. In my role as MHO, I act for the geographic region that includes the City of Campbell River. My duties include statutory responsibilities, as provided through an Order in Council, under the *Public Health Act*, *Community Care and Assisted Living Act*, *Drinking Water Protection Act*, *School Act* and other Acts and related regulations. Additionally, as a Public Health and Preventive Medicine Specialist, I am a specialist consultant that provides evidence-based opinions and advice to physicians, municipal councils, school boards and the larger community on a wide range of public health issues. I have a responsibility for monitoring and assessing the health status of the population

Charmaine Enns
Dr. Charmaine Enns

Excellent health and care, for everyone,
everywhere, every time.



Sent via email

January 25, 2023

Mayor and Council
City of Campbell River
301 St. Ann's Road
Campbell River BC V9W 4C7
Email: Lisa.Gentry@campbellriver.ca

This is Exhibit "A" referred to in the
Affidavit of Dr. Charmaine Enns
sworn (of affirmed) before me at
Nanaimo, B.C.
this 9 day of February, 2023


A Commissioner for Taking Affidavits
within British Columbia

Dear Mayor Dahl and Council:

I am writing in response to the recently proposed Nuisance Amendment Bylaw No. 3884 and Bylaw Offences Amendment Bylaw 3885, 2023 to prohibit the consumption of illegal drugs on public property. It is my understanding that these amendments passed three readings in the Special Council meeting yesterday, January 24th and will be presented to Council for adoption tomorrow, January 26th.

I have reviewed the package prepared by staff and it is my request that Council reconsider and adopt Option #4, Postpone consideration for 6 months. This would allow staff to monitor the situation to determine if there is in fact an increase in public drug use and give council the time to seek sound public health advice. At this time we are not anticipating an increase in public drug use in communities as this has been a long standing issue and the status quo hasn't served as an effective deterrent.

At present, the report makes a number of assumptions that are not rooted in evidence, including a fact statement in the opening Background paragraph that BC's exemption is for one year. This is incorrect as BC's exemption is for 3 years. Making a decision in haste without due consideration of the evidence, impacts, and other tools to address the issues of public substance use will not serve the community or its citizens well. It is important to recognize that enforcement activities can drive people to use drugs alone and can elevate risk of death. The preference is to emphasize referral to health and social supports, including overdose prevention sites.

The intent of decriminalization of possession of small amounts of illicit substances for personal use is to reduce the stigma associated with substance use and to reinforce that an individual's substance use is a health issue rather than a criminal issue. This approach further breaks down the barriers that prevent people from getting support and creating new pathways to life-saving services. In preparation for this policy change, the Ministry of Mental Health and Addictions is working with the BC Centre for Disease Control to develop guidance for local governments on taking a public health approach to substance use, including public consumption. These resources will be available this spring, and will provide tools to assist staff in formulating evidence-informed recommendations to council.

When making public health decisions, it is necessary to consult the local medical health officer, and consider both the pros and cons of a proposed policy and assessing the risks to the public weighed against

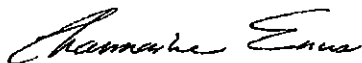
Office of the North Island Medical Health Officer
355 - 11th Street
Courtenay, BC V9N 1S4 Canada

Tel: 250-331-8591 | Fax: 250-331-8513
islandhealth.ca

the risk of driving people at risk of drug poisoning deaths to be alone in private settings. Existing evidence shows that the primary public health risks of public consumption relate to smoking indoors and near buffer zones (such as doorways and air intakes). Therefore, it is reasonable for the City of Campbell River to consider enacting or amending bylaws to restrict smoking of any substance in these areas. The risk associated with second-hand smoke exposure in outdoor public spaces (other than buffer zones) is low, and outweighed by the risk of driving people to use drugs alone, resulting in high risk of drug toxicity deaths. For this same reason, restricting non-smoking forms of consumption, such as injecting, are not recommended. Any bylaw concerning public consumption should be accompanied by a bylaw enforcement policy to guide situations in which human dignity is preserved, discretion will be used, including prioritizing education over fines or other punitive measures directed towards vulnerable individuals.

As your Medical Health Officer, I am committed to working with the City of Campbell River to strike the right balance in advancing the complementary interests of public health and public safety, and again request that Mayor and Council adopt Option 4 in the staff report, thereby postponing consideration for 6 months so we can work together on options to keep the community and its citizens safe and well.

Yours in health,

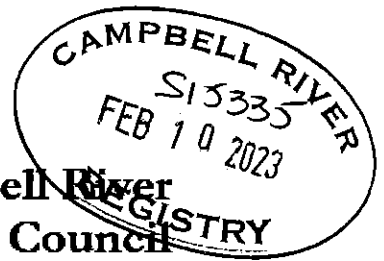


Charmaine Enns, MD, MHSc, FRCPC
Medical Health Officer

Cc: Dr. Reka Gustafson, VP Population and Public Health & Chief Medical Health Officer, Island Health
Elle Brovold, Acting City Manager, City of Campbell River



City of Campbell River Report/ Recommendation to Council



Date: January 6, 2023
Submitted by: Community Safety Division
Subject: **Prohibit the consumption of illegal drugs on public property**

Purpose / Introduction

To prohibit the consumption of illegal drugs on public property.

Recommended Resolutions

1. **THAT Public Nuisance Amendment Bylaw No. 3884, 2023 (consumption of illegal drugs on public property) be given first three readings.**
2. **THAT Ticketing for Bylaw Offences Amendment Bylaw No. 3885, 2023 be given first three readings.**

Background

On January 31, 2023, adults in B.C. will no longer be subject to criminal charges for the personal possession of 2.5 grams or less of certain illegal drugs, including: opioids (such as heroin, morphine, and fentanyl), crack and powder cocaine, methamphetamine (Meth) and MDMA (Ecstasy). *Health Canada* has granted the Province of B.C an exemption from the *Controlled Drugs and Substances Act* for one year. BC is the first province to bring in such regulations.

Attached to the report is a briefing from the provincial government entitled "*Decriminalizing people who use drugs in B.C.*" The briefing states: "... **local governments will continue to have authority to pass bylaws restricting public substance use.**" This authority is granted to local governments through the *BC Community Charter*. Relevant sections of the *Charter* include:

- **s. 7(d):** *fostering the economic, social and environmental well-being of its community*
- **s. 8(3)(b) and s. 62:** *public places, including persons, property, things and activities that are in, on or near public places*
- **s. 8(3)(g) and s. 64:** *the protection and enhancement of the well-being of the community in relation to nuisances, refuse and garbage, and unsightly conditions on property*
- **s. 8(3)(i):** *public health*
- **s. 8(3)(j):** *protection of the natural environment*
- **s. 36 and s. 46:** *uses of or involving highways*

This report and attached bylaw amendment provides Council with the option of regulating where illegal drugs can be consumed.

Report/Recommendation to Council

Prohibit the consumption of illegal drugs on public property

January 6, 2023

Discussion

Illicit drug use continues to impact the City in several ways including:

- safety and health of residents
- pedestrian and motorist safety
- criminal activity
- social disorder
- the accumulation of hazardous garbage and refuse
- environmental impacts associated with hazardous substances
- visual nuisance and blight; and
- costs associated with first responders and public safety

When considering whether to adopt restrictions on where illegal drugs can be consumed; Council may want to consider the following questions and considerations:

Questions - Considerations:

1. What type of community standards would the general public want Council to uphold?
2. Would the general public expect the City to take some sort of action to prohibit the consumption of illegal drugs on public property?
3. Should individuals be allowed to smoke crack cocaine or inject heroin on the benches in Spirit Square? in public parks? on Shopper's Row? on public beaches?
4. If provincial and City regulations do not permit the consumption of alcohol in non-licensed public areas; and the City's smoking bylaw does not permit the smoking of cannabis in public areas; then, does it make sense to permit the consumption of illegal drugs on public property?
5. Currently, people can consume illegal drugs at the Overdose Prevention Site (OPS) at 1330 Dogwood Street. In addition to the OPS, are there public area(s) within the City where individuals should also have the ability to consume illegal drugs? Where would these locations be and how many locations would be needed?
6. A person experiencing homelessness does not have a residence. If Council chooses to prohibit the consumption of illegal drugs on public property; then, with the exception of the OPS, where could these people *go to consume their drugs*? Could such a bylaw be considered discriminatory based on the *Human Rights Code* and/or the *Canadian Charter of Rights and Freedoms*? Could the City be legally challenged?
7. Will permitting the consumption of illegal drugs on public property further stigmatize drug users or will it de-stigmatize them?

Report/Recommendation to Council

Prohibit the consumption of illegal drugs on public property

January 6, 2023

Options

Option #1 – Adopt Bylaw No. 3884 (prohibit on both public property and roadways)

THAT Public Nuisance Amendment Bylaw No. 3884, 2023 (consumption of illegal drugs on public property) be given first three readings.

The adoption of Bylaw No. 3884 would prohibit the consumption of illegal drugs on all public property and roadways.

Pros

- The public may have a of greater sense of perceived safety – particularly downtown where there is a greater concentration of social services, and in turn, feel safer being out in the public.
- The consumption of illegal drugs would be treated the same way as alcohol and cannabis and would be seen as City's attempt to make their residents feel safer and help to reduce social disorder.
- Drug users would still have the option of consuming at the Overdose Prevention Site at 1330 Dogwood Street.
- Easier for the RCMP and Bylaw to enforce

Cons

- Proposed bylaw amendment could result in a legal challenge which has the potential of harming the City's reputation – similar to what happened in Prince George and Penticton.
- It is unknown if the proposed Bylaw and issuing individuals with \$250 fines would serve as a deterrent and persuade people from consuming illegal drugs in the public.

Option #2 – Bylaw No. 3877 (prohibit on public property & permit on public roadways)

THAT Public Nuisance Amendment Bylaw No. 3884, 2023 be amended by removing the words “consume a Controlled Substance on a Highway or Other Public Place” and replacing it with “consume a Controlled Substance at a *City Facility”.

AND THAT Public Nuisance Amendment Bylaw No. 3884, 2023 be given first three readings as amended.

Option #2 would prohibit the consumption of illegal drugs on public property, parks, etc.) but would allow consumption on public right-of-ways (roadsides, sidewalks).

*the term “**City Facility**” is defined in the Public Nuisance Bylaw as:

any Real Property owned by the City, or operated by the City under statutory right of way or legal instrument, that is open to and for the use of the public and includes but is not limited to City Hall, Community Centre, Sportsplex, Campbell River Visitor's Centre, Spirit Square, and City Parks.

Pros

- Public property and public gathering places such as Spirit Square and parks would be protected and could be enforced by the RCMP and Bylaw.
- Compared to Option #1, there may be less risk of a legal challenge.

Report/Recommendation to Council

Prohibit the consumption of illegal drugs on public property

January 6, 2023

Cons

- People could consume illegal drugs on downtown sidewalks.
- The consumption of drugs may be more visible as opposed to it occurring on public property.
- Consuming drugs on roadsides and sidewalks could place the drug user in an unsafe position in relation to vehicles.

Option #3 – Defer consideration (pending receipt of location options)

THAT Council defer consideration of Bylaw No. 3884 until staff bring back a follow-up report that provides a list of public properties where the consumption of illegal drugs could be permitted.

Instead of implementing a blanket ban, Option #3 would provide Council with a list of public properties where people could consume illegal drugs. Council could select one or several properties from a list that staff would bring back in a bylaw to be adopted.

Pros

- Instead of leaving it to chance, Council identifies specific locations throughout the City where people could consume illegal drugs.
- Reduced risk of a legal challenge.

Cons

- Once identified, it is unlikely that the general public would want to frequent these locations.
- It could further stigmatize this population.
- Drug users may not feel safe using these locations.
- These known locations would most likely attract drug dealers and criminal activity.

Option #4 – Postpone consideration for 6 months

THAT the decision to consider prohibiting the consumption of illegal drugs be postponed for six (6) months.

Option #4 would provide the City with time to evaluate how the new provincial regulations have impacted the City and how other local governments have responded, before making a decision.

Pros

- Provides the City with time to learn about what has worked and not worked in other jurisdictions.
- Lowers the City's risk of a legal challenge and potential harm to the City's reputation.

Cons

- Taking no action for 6 months could result in habitual behavior patterns becoming established that may be more difficult to prevent/enforce once started.
- The public may criticize of the City for taking no action.

Report/Recommendation to Council

Prohibit the consumption of illegal drugs on public property


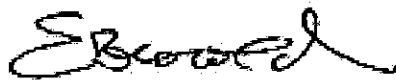
January 6, 2023

Financial - Operational Considerations

It is expected that both the new provincial regulations and the proposed bylaw amendments will require additional RCMP and Bylaw staff resources to enforce.

Attachments

1. "Nov 10, 2022 bulletin from Provincial Government entitled: *"Decriminalizing people who use drugs in B.C."*
2. Public Nuisance Amendment Bylaw No. 3884,2023 (consumption of illegal drugs on public property)
3. Ticketing for Bylaw Offences Amendment Bylaw No. 3885, 2023 (controlled substance).

Prepared by:	Reviewed for form & content / Approved for submission to City Council by:	
 Peter F. Wipper Director of Community Safety	 Elle Brovold City Manager	
Corporate Review	Initials	
RCMP	JP	
Police Services	CJ	
Bylaw Enforcement	KR	



Decriminalizing people who use drugs in B.C.

Adults in B.C. will not be subject to criminal charges for the personal possession of small amounts of certain illegal drugs starting January 31, 2023. Health Canada has granted an exemption from the Controlled Drugs and Substances Act to the Province of B.C. until January 31, 2026.

Last updated: **November 10, 2022**

On this page:

- [Why we're decriminalizing personal possession of some drugs](#)
- [What will change](#)
- [What remains criminal](#)
- [Youth and the law](#)
- [How decriminalization will be implemented](#)
- [Resources](#)

Why we're decriminalizing personal possession of some drugs

The decriminalization of people who possess illegal drugs for personal use is a critical step in B.C.'s fight against the toxic drug crisis.

It will help reduce the barriers and stigma that prevent people from accessing life-saving supports and services. Substance use is a public health matter, not a criminal justice issue.

What will change

Health Canada has granted an exemption from the Controlled Drugs and Substances Act to the Province of B.C. The exemption takes effect from January 31, 2023 to January 31, 2026.

Under this time-limited exemption, adults (18 years and older) in B.C. will not be arrested or charged for possessing small amounts of certain illegal drugs for personal use. The total amount of illegal drug(s) must be equal to or less than 2.5 grams. The illegal drugs covered by the exemption are:

- Opioids (such as heroin, morphine, and fentanyl)
- Crack and powder cocaine
- Methamphetamine (Meth)
- MDMA (Ecstasy)

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Adults found in personal possession of any combination of these illegal drugs that adds up to a combined total of 2.5 grams or less will not be subject to criminal charges and the drugs will not be seized. Instead, they will be offered information about health and social supports, including local treatment and recovery services, if requested.

What remains criminal

Adults (18 and over) are not allowed to possess:

- More than 2.5 grams of these illegal drugs
- Any amount of other illegal drugs not included in the exemption

Decriminalization is not legalization. Under this exemption, illegal drugs (including those listed in the exemption) will **not** be legalized and will **not** be sold in stores. Drug trafficking will remain illegal, regardless of the amount of drug(s) in possession.

The exemption will not apply to certain circumstances, locations and groups, including individuals under 18 years of age.

Adults found in possession of any amount of illegal drugs in these locations could be charged with a criminal offence:

- On the premises of elementary and secondary schools and licensed child-care facilities
- At airports
- On Canadian Coast Guard vessels and helicopters

In many cases, illegal drug use will continue to be prohibited on private property, including places like shopping malls, bars and cafes. Police will retain legal authority to remove people from these premises under the authority of the Trespass Act if open drug use is occurring against the wishes of the owner.

However, adults removed from private establishments would not be subject to federal criminal charges for their personal possession of up to 2.5 grams of the illegal drugs listed in the exemption.

Additionally, local governments will continue to have authority to pass bylaws restricting public substance use.

Travel and transportation

This exemption applies in British Columbia. In all other Canadian provinces and territories, the existing laws regarding illegal drugs still apply. The exemption does not change Canada's border rules. Taking any amount of illegal drugs across domestic and international borders – either exiting or entering – remains illegal even if travelling to and from B.C., where the exemption will be in place. It can result in serious criminal penalties both in Canada and abroad.

The exemption has special restrictions that apply to personal motor vehicles, watercraft and public transit. Impaired driving will remain illegal and subject to enforcement of applicable laws.

Members of the Canadian Armed Forces

[Check out our new site](#)

It remains a criminal offence for Canadian Armed Forces members subject to the Code of Service Discipline to possess the drugs listed in the exemption, unless otherwise authorized.

Youth and the law

The exemption will not apply to people under the age of 18.

Youth, 17 years and younger, who are found in possession of illegal drugs are subject to the federal Youth Criminal Justice Act. The Act promotes the use of measures outside the court system for minor offences, when appropriate. This can include referral by law enforcement or prosecutors to community or health services, or designated counselling services.

Schools and daycare facilities

Adults are still prohibited from possessing illegal drugs on the premises of schools and licensed childcare facilities. Policies in other workplaces and organizations will continue to protect children and youth in settings, like community or recreation centres.

How decriminalization will be implemented

B.C. is preparing for implementation by:

- Creating a robust plan for training police
- Educating the public about these important changes
- Engaging First Nation communities, with:
 - People who use drugs
 - Law enforcement
 - Racialized and diverse communities
 - Youth
 - Business improvement associations
 - Municipalities
- Building mental health and substance use supports, including treatment and recovery services.

Resources

To learn more about decriminalization in B.C., read the full exemption granted by Health Canada and the accompanying Letter of Requirements.



Amendment Bylaw No. 3884, 2023

ADOPTED

,2023

PURPOSE

This bylaw sets out to amend Public Nuisance Bylaw No. 3543, 2014 to prohibit the consumption of illegal drugs on public property.

The Council of the City of Campbell River enacts as follows:

PART 1: Title

This bylaw may be cited for all purposes as **Public Nuisance Amendment Bylaw No. 3884, 2023**.

PART 2: Amendments

2.1 Public Nuisance Bylaw No. 3543, 2014 is hereby amended by:

a) Adding the following definition to Part 2:

Controlled Substance means a substance included in Schedule I, II, III, IV or V of the Federal *Controlled Drugs and Substances Act*

b) Adding Section 4.5(n)

4.5 n. consume a Controlled Substance on a Highway or Other Public Place.

READ THE FIRST TIME this ____ day of _____ 2023

READ THE SECOND TIME this ____ day of _____ 2023

READ THE THIRD TIME this ____ day of _____ 2023

RECEIVED APPROVAL this ____ day of _____ 2023

ADOPTED this ____ day of _____ 2023

Signed by the Mayor and Corporate Officer this ____ day of _____ 2023

Kermit Dahl, MAYOR

Sheila Girvin, CORPORATE OFFICER



Amendment Bylaw No. 3885, 2023

ADOPTED

,2023

PURPOSE

This bylaw sets out to amend Schedule 17 of Ticketing for Bylaw Offences Bylaw No. 3322, 2007 to properly reflect amendments adopted under Public Nuisance Amendment Bylaw No 3884, 2023.

The Council of the City of Campbell River enacts as follows:

PART 1: Title

1.1 This bylaw may be cited for all purposes as **Ticketing for Bylaw Offences Amendment Bylaw No. 3885, 2023**

PART 2: Amendments

- 2.1** Ticketing for Bylaw Offences Bylaw No. 3322, 2007 is hereby amended by:
- a) Deleting Schedule 17 “Public Nuisance Bylaw No 3543, 2014” and replacing with Schedule 17 attached to and forming part of this bylaw

READ THE FIRST TIME this ____ day of _____ 2023

READ THE SECOND TIME this ____ day of _____ 2023

READ THE THIRD TIME this ____ day of _____ 2023

RECEIVED APPROVAL this ____ day of _____ 2023

ADOPTED this ____ day of _____ 2023

Signed by the Mayor and Corporate Officer this ____ day of _____ 2023

Kermit Dahl, MAYOR

Sheila Girvin, CORPORATE OFFICER

SCHEDULE 17

PUBLIC NUISANCE BYLAW NO. 3543, 2014

<i>Designated Offence</i>	<i>Section</i>	<i>Penalty (\$)</i>
Panhandling within 10 metres of a bank, credit union or Trust Company	4.0(a)	100
Panhandling within 10 metres of an Automated teller machine	4.0(b)	100
Panhandling within 10 metres of a bus stop	4.0(c)	100
Panhandling within 10 metres of a bus shelter	4.0(d)	100
Panhandling within 10 metres of the entrance to any liquor store	4.0(e)	100
Panhandling from an occupant of a motor vehicle that is parked	4.1(a)	100
Panhandling from an occupant of a motor vehicle that is stopped at a traffic control signal	4.1(b)	100
Panhandling from an occupant of a motor vehicle that is in the process of loading or unloading	4.1(c)	100
Panhandling after sunset	4.2	100
Panhandling while sitting or lying down	4.3	100
Panhandling from a person who has made a negative response	4.4	100
Urinate or defecate on a highway or other public place	4.5(a)	200
Impede or obstruct person on a highway or other public place	4.5(b)	100
Stand or congregate on a highway or other public place to impede or obstruct free movement of persons or vehicles	4.5(c)	100
Sleep, camp, erect temporary shelter or place sleeping or camping effects on a street or at prohibited City Facility	4.5(d)	200
Erect temporary shelter greater than 3m x 3m	4.5(e)	200
Erect temporary shelter within 6m of another temporary shelter	4.5(f)	200
Erect temporary shelter within 15m of city infrastructure or private property	4.5(g)	200
Affix or attach temporary shelter to, or damage or alter municipal property, equipment or infrastructure	4.5(h)	200
Leave possessions, debris, litter or any other article behind when required to take down or remove temporary shelter	4.5(i)	200
Sleep in any vehicle located on a highway or other public place	4.5(j)	100
Use of profanity or indecent, obscene, blasphemous or grossly insulting language on or about a highway or public place	4.5(k)	200

SCHEDULE 17 Con't.

PUBLIC NUISANCE BYLAW NO. 3543, 2014

<i>Designated Offence</i>	<i>Section</i>	<i>Penalty (\$)</i>
Obscene, lewd or indecent activity on a highway or other public place	4.5(l)	200
Consume Liquor or possess open liquor	4.5(m)	200
Consume a Controlled Substance on/within Public Space	4.5(n)	200
Failing or refusing to leave City Facility when so ordered	4.7	200
Failing to comply with a Banning Notice	4.9	200
Delivering circulars, pamphlets, handbills, or papers other than within a receptacle provided by the owners or occupiers of the real property or building	5.0	75
Deposit or throw discarded materials	5.1	200
Noise which disturbs on a highway or other public place or private place	6.3	250
Noise which disturbs allowed or permitted by owner or occupier of real property	6.4	250
Radio/stereophonic equipment/ instrument/ apparatus which disturbs	6.5	250
Animal/bird noise which disturbs	6.6	200
Construction or demolition noise outside of acceptable hours	6.7	250
Operate a garbage truck which disturbs, outside of permitted hours	6.8	250
Operate power tools, machines or any models powered by internal combustion, turbine or rocket engine outside acceptable hours	6.9	250
Operate public address system without permission	6.10	250
Commercial or industrial operation contravening requirements regarding continuous noise	6.11	250
Objectionable, unnecessary or disturbing noise emanating from a motor vehicle	6.13	250
Placing graffiti on highway or other public place	7.0	500
Placing graffiti on real property adjacent to highway or other public place	7.1	500

SCHEDULE 17 Con't.

PUBLIC NUISANCE BYLAW NO. 3543, 2014

<i>Designated Offence</i>	<i>Section</i>	<i>Penalty (\$)</i>
Placing graffiti on highway or other public place	7.0	500
Placing graffiti on real property adjacent to highway or other public place	7.1	500
Owner of real property failing to remove graffiti	7.2	250
Utility company failing to remove graffiti	7.3(a)	250
Waste Collection company failing to remove graffiti	7.3(c)	250
Unkempt boulevard fronting on real property	7.4(a-d)	75
Failure to remove rubbish from pedestrian facility	7.5(a)	75
Landscaping encroaching over sidewalk	7.5(b)	75
Damage boulevard/tree/shrub	7.6(a)	200
Erecting a sign, fence, wall or structure on boulevard without City permission	7.6(b)	150
Applying a pesticide or herbicide to boulevard	7.6(c)	75
Disposing of vegetation, clippings, rubbish or liquid or solid waste on boulevard or in drainage facility	7.6(d)	150
Fence adjacent to highway in disrepair	7.7(a)	75
Failure to repair fence adjacent to highway when required by City	7.7(b)	75
Failure to erect or maintain a fence on real property to keep livestock from straying upon an adjacent highway	7.7(c)	75
Failure to maintain vision clearance at intersection	7.8	150
Street Sign vandalized	7.9	200
Not displaying house number readable from highway	7.11(a)	75
Not displaying house number readable from lane	7.11(b)	75
Feed or keep pigeons that create a nuisance	7.12	75
Debris/material not removed after demolition	7.13(a)	200
Failure to cover basement or excavation when required	7.13(b)	200
Unightly property or permit accumulations of water, rubbish, Discarded Materials, noxious, offence or unwholesome matter	7.14(a)	200

SCHEDULE 17 Con't.

PUBLIC NUISANCE BYLAW NO. 3543, 2014

<i>Designated Offence</i>	<i>Section</i>	<i>Penalty (\$)</i>
Building not conforming to required maintenance standards	7.14(b)	200
Failure to keep property clear of unsightly vegetation	7.15(a)	150
Ground cover vegetation exceeds 30 cm	7.15(b)	150
Failure to prevent infestation of destructive insects on real property	7.15(c)	150
Failure to remove unsightly discarded materials or rubbish from Real Property when required by City	7.16(a)	150
Failure to bring building to required maintenance standards when required by City	7.16(b)	200
Failure to maintain or repair Real Property to neighbourhood standards	7.17	150
Failure to maintain physical condition of rental property to the BC Building Code and City of Campbell River Fire Prevention Bylaw	7.18(a)	250
Failure to maintain the appearance and repair of a rental property to neighbourhood standards	7.18(b)	150
Failure to maintain Vacant Premises to maintenance or security standards	7.19(a)	250
Cause/Allow/Permit Nuisance Odour	8.1	250
Commercial/Industrial Operation fails to supply report	8.3(a)	500
Commercial/Industrial Operation fails to supply letter certifying implementation	8.3(b)	500
Hinder or obstruct municipal officer or employee	9.3	500
Refuse to provide identification to a bylaw enforcement officer	9.3(a)	500
Interfere with or attempt to obstruct a bylaw enforcement officer	9.3(b)	500
Provide false or misleading information to a bylaw enforcement officer	9.3(c)	500
Fail to cease activity or conduct that contravenes bylaw when directed by a bylaw enforcement officer	9.3(d)	500