

School Safe Zones Bylaw Amendment

RECOMMENDATION:

That the Standing Policy Committee on Community and Protective Services recommend that Council give three readings to the proposed amendments to the Temporary Signs on Highways Bylaw 29M97 to restrict advocacy messaging on public property near schools.

RECOMMENDATION OF THE STANDING POLICY COMMITTEE ON COMMUNITY AND PROTECTIVE SERVICES, 2020 SEPTEMBER 09:

That Council give three readings to **Proposed Bylaw 37M2020** to amend Bylaw 29M97.

Opposition to Recommendation: Councillor Farkas

HIGHLIGHTS

- Council directed Administration to draft a bylaw to restrict advocacy messaging on public streets near schools due to the harmful impact this messaging has on unwilling viewers, including students, their caregivers, and school staff, who do not want to be exposed to this messaging while attending school.
- What does this mean to Calgarians? Currently, The City does not specifically restrict advocacy messaging on public streets near schools. A bylaw of this kind, carefully crafted to withstand a challenge under the *Canadian Charter of Rights and Freedoms*, balances freedom of expression with the rights of those who must attend schools and who do not wish to be exposed to this type of messaging.
- Why does this matter? Advocacy messaging creates a captive audience of often young, psychologically unprepared viewers who become unwilling viewers of the messaging because they cannot avoid being exposed to it.
- Stakeholders confirm that advocacy groups show up unexpectedly and position themselves with large signs with graphic advocacy images close to school entrance/exit doors giving unwilling viewers little chance to avoid being exposed to the messaging.
- Additionally, stakeholders confirm that young, vulnerable, and psychologically unprepared students who are unwillingly exposed to this type of messaging can suffer psychological trauma, confusion, upset and fear, which is also disruptive to the school environment. While this type of messaging primarily impacts students, it also negatively impacts school staff and student caregivers who have no choice but to attend school on certain days and hours.
- Proposed bylaw restrictions do not impose a ban on advocacy messaging, but rather restrict the size of the sign within a certain distance from the school, thereby mitigating the captive audience issue. The *Municipal Government Act (MGA)* grants The City authority to enact bylaws on public property and bylaw amendments can be made to the *Temporary Signs on Highways Bylaw* which currently prohibits the placement of signs in certain areas, including playground and school zones.

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- While freedom of expression is protected under the *Charter of Rights and Freedoms*, a government may impose reasonable restrictions where there is proper justification for doing so.
- On 2019 December 14, Council directed Administration to draft a bylaw to restrict advocacy messaging on public property around schools.
- Strategic Alignment to Council's Citizen Priorities: A city of safe and inspiring neighbourhoods.
- Background and Previous Council Direction is included as Attachment 1.

DISCUSSION

In response to Council direction, Administration engaged with every Calgary school board/district as well as students and advocacy groups. Numerous internal partner consultations took place as well with Law, Calgary Police Service, Calgary Neighbourhoods, and Roads.

Administration has defined advocacy messaging as messaging that publicly expresses an opinion on an issue or cause. An advocacy group is any group that promotes this type of messaging whether it be an external group or student group.

The following outlines the research, analysis, and rationale for a bylaw restricting advocacy messaging prominently located near schools:

The Issue

Calgary schools have described how certain large graphic signs have had a serious and negative impact on vulnerable students. Parents and teachers were similarly impacted, and feedback indicated a distracting and harmful effect on the teaching/learning environment at schools. Advocacy messaging positioned near schools creates a captive audience of students, teachers, and parents who could not avoid exposure to messaging/images when coming and going from school.

Municipal Jurisdictional Authority

Section 7 of the *MGA* grants Council the authority to enact bylaws relating to the safety, health and welfare of people and the protection of people and property on or near a public place. This includes regulating activities that occur on The City's public streets and sidewalks.

The Charter of Rights and Freedoms

While freedom of expression is protected under section 2(b) of the *Canadian Charter of Rights and Freedoms* ("*Charter*") The City may, in appropriate circumstances, restrict freedom of expression in limited ways where it can provide a proper justification for doing so.

Currently, The City regulates a person's freedom of expression through numerous bylaws including: *Parks and Pathways Bylaw*, *Calgary Traffic Bylaw*, *Community Standards Bylaw*, *Municipal Complex Bylaw*, *Street Bylaw*, and *Temporary Signs on Highways Bylaw*. Some bylaws require permits for approval of certain activities, one places restrictions on the dissemination of printed materials to a private residence, and some set out restrictions on acceptable activities on City streets and sidewalks and regulate the placement of signs on highways, overpasses and pedestrian walkways. The proposed amendments to the *Temporary*

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Signs on Highways Bylaw similarly have a strong rationale for justifiable limits to personal freedom of expression.

Next Steps

After seeking and considering input from schools, students, advocacy groups, and consultations with Law, an amendment to the Temporary Signs on Highways Bylaw has been drafted for consideration to prevent advocacy messaging from being forced upon a captive audience of vulnerable individuals while also protecting the rights of citizens to express opinions. The proposed amendments will not prohibit advocacy messaging, but rather, restrict the size of sign allowed for advocacy messaging within a certain distance of schools. A summary of amendments is provided in Attachment 2.

STAKEHOLDER ENGAGEMENT AND COMMUNICATION (EXTERNAL)

- Public Engagement was undertaken
- Public Communication or Engagement was not required
- Public/Stakeholders were informed
- Stakeholder dialogue/relations were undertaken

Developing a proposed bylaw required three separate stakeholder engagements.

1. Understanding the issue: Council directed Administration to engage with all Calgary school boards/districts to understand the situation schools were facing. Every school board/district was interviewed and a regularly occurring captive audience situation was described where students, teachers, and caregivers could not avoid exposure to large and graphic signage near the school. Impact to students and school environment was described as negative, and long lasting. This input directly informed Administration's bylaw recommendation.
2. Informing the bylaw: Administration engaged with the same participating school board/district contacts via email to request input into the bylaw distance restriction. Administration asked how far students travel at lunch hour, where parking is located, and the distance to bus stops. Distances ranged greatly from 5m to a bus stop to 750m for lunch. This information directly informed the decision to recommend a 150m restriction distance.
3. Impacts and effectiveness of the proposed bylaw: An open link online survey was sent to all school board/district contacts, to advocacy groups, and students. Advocacy groups were identified through: stakeholder engagement, advertised youth groups, and city councillor offices. Students were reached through schools and advocacy groups. The survey requested input on definitions within the bylaw, potential bylaw impacts, and if the bylaw would address the issue schools are facing. Input contributed to stronger definitions, validated the proposed bylaw restrictions, and identified potential risks and impacts outlined in this report and attachments.

Attachment 3 provides a summary of all stakeholder engagements.

Additionally, Administration presented to the Social Wellbeing Advisory Committee which resulted in valuable support, feedback, and identification of potential impacts. A summary of feedback is provided in Attachment 4.

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IMPLICATIONS

Social

Moving forward with this proposed bylaw amendment allows The City to advance the Social Wellbeing Principle of prevention. Restrictions within this bylaw will provide students and schools with an environment free from unexpected and large graphic signs positioned immediately outside of schools and therefore contributing to the wellbeing and safety of students and teachers.

Environmental – Not applicable

Economic – Not applicable

Service and Financial Implications

There are no operating budget requests associated with this report. If Council approves the proposed bylaw, all costs associated with bylaw training and enforcement would be absorbed into the existing operating budget.

No anticipated financial impact

RISK

Student groups that engage in advocacy activities within school property currently require permission from their school to do so. This process will not be affected by the proposed bylaw. However, if the school does not give permission and a student group engages in advocacy activities outside of school grounds they will need to comply with the proposed bylaw restrictions. This is a manageable risk as it still allows schools to manage student protests on school property and ensures all advocacy groups are treated equally on public property. Administration will monitor the bylaw for unintended impacts to students or others and is prepared to explore future bylaw amendments if required.

As with any bylaw that impacts constitutional freedoms, there is a possibility that the bylaw may be challenged in court. This is a manageable risk as Law is confident that the bylaw's restrictions will be upheld as a justifiable limit on freedom of expression and is prepared to defend the bylaw if a court challenge is made.

ATTACHMENTS

1. Background and Previous Council Direction
2. **Proposed Bylaw 37M2020**
3. Summary of Stakeholder Engagements
4. Social Wellbeing Advisory Committee Input Summary
5. **Public Submission**

**Community Services Report to
SPC on Community and Protective Services
2020 September 9**

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Department Circulation

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