

## Regulating the Unsolicited Distribution of Graphic Images Depicting a Fetus

### RECOMMENDATION:

That the Community Development Committee recommend that Council give three readings to the proposed bylaw to amend the Community Standards Bylaw 5M2004 to regulate the unsolicited distribution of graphic images depicting a fetus.

### HIGHLIGHTS

- **Content Advisory:** This report contains subject matter and terminology that may be disturbing or cause a negative emotional response for some readers. For support with pregnancy and infant loss, contact the Pregnancy & Infant Loss Support Centre at <https://pils.org> or 1-(825)-205-7918.
  - Council directed Administration to bring forward a bylaw to regulate how unsolicited flyers showing, or claiming to show, graphic images of fetuses can be delivered to any premises. The proposed amendments to the Community Standards Bylaw 5M2004 would require that flyers showing graphic images of fetuses be concealed in an opaque envelope bearing a graphic content warning and the name and address of the sender with a \$1000 specified penalty for not meeting every requirement.
  - **What does this mean to Calgarians?** If approved, the proposed regulations will help protect people from being unwillingly exposed to potentially disturbing images and will give them the ability to make an informed decision about whether they want to view flyers showing graphic images.
  - **Why does this matter?** Unsolicited flyers with graphic images of fetuses have caused harm to some recipients and can be deeply traumatizing for young children and those who have experienced pregnancy loss, among others.
  - Background and Previous Council Direction is included as Attachment 1.

### DISCUSSION

People living in Calgary have expressed concerns that unsolicited flyers showing graphic images of aborted fetuses are being delivered to homes and causing harm.

Through engagement, Administration heard that images of aborted fetuses can be deeply disturbing to some viewers and can trigger traumatic memories of a pregnancy termination or miscarriage, particularly among those who have experienced pregnancy loss multiple times. Impacts can include feelings of grief, guilt, or shame, as well as more long-lasting effects such as withdrawing from family, work, and daily life. Viewing such images can also trigger fear and anxiety in those who are pregnant and can cause feelings of grief in children whose families have suffered pregnancy loss.

In 2016 November, Council took steps to regulate the distribution of unsolicited flyers by approving amendments to the Community Standards Bylaw 5M2004. The amendments included a prohibition against delivering non-commercial flyers to any premises displaying a 'no flyers' sign or similar notice. While this provision continues to be in force, the onus is on Calgarians to decide whether they want to post a 'no flyers' sign and receive no flyers, or

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whether they want to receive all flyers, including unsolicited non-commercial flyers showing graphic images of fetuses.

The proposed regulations in Attachment 2 build on the earlier amendments to the Community Standards Bylaw by requiring that all flyers delivered to any premises showing, or purporting to show, a graphic image of a fetus be delivered in a sealed opaque envelope with a graphic content warning and the name and address of the sender identified. The regulations do not prohibit the distribution of flyers with such images, but rather establish rules for their delivery to minimize harm to recipients who may be experiencing a vulnerability. Requiring flyers to be concealed in a sealed opaque envelope prevents people from being unwittingly exposed to graphic images depicting a fetus. The inclusion of the graphic content warning and sender information alerts recipients to the nature of the content, allowing people to make an informed decision about whether they wish to view the images enclosed.

The proposed bylaw applies to graphic image flyers being distributed to a premises defined as the external surface of all buildings and the whole or part of any parcel of real property, including the land immediately adjacent to any building or buildings. A person handing out flyers on a public sidewalk or roadway will not be subject to the restrictions in the proposed bylaw amendments.

### **Legislation**

Although the Canadian Charter of Rights and Freedoms (“Charter”) protects the fundamental freedom of expression, Charter rights are not absolute and may be limited, in appropriate circumstances, where The City can provide a proper justification for doing so.

Through the *Municipal Government Act*, The City has the authority to pass bylaws respecting the safety, health and welfare of people and the protection of people and property. The proposed bylaw amendments introduce reasonable limits that uphold the right of interest groups to exercise their freedom of expression while balancing the right of people to avoid harm.

### **EXTERNAL ENGAGEMENT AND COMMUNICATION**

- |  |   |
|--|---|
| <input type="checkbox"/> Public engagement was undertaken        | <input checked="" type="checkbox"/> Dialogue with interested parties was undertaken |
| <input type="checkbox"/> Public/interested parties were informed | <input type="checkbox"/> Public communication or engagement was not required        |

Administration engaged with organizations that provide counselling, support or advocacy for individuals who have experienced pregnancy loss and abortion, including the Pregnancy and Infant Loss Support Centre, the Viewer Discretion Legislation Coalition of Alberta, the Abortion Rights Coalition of Canada, and the Kensington Clinic. Engagement was conducted through virtual meetings in 2023 January and February. The Canadian Centre for Bio-ethical Reform was also notified of this proposed amendment to the bylaw.

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### IMPLICATIONS

#### Social

The proposed recommendations advance the Social Wellbeing Policy's principle of prevention by reducing harm to individuals who may be inadvertently exposed to graphic images depicting a fetus, as well as those who find these images disturbing or offensive.

#### Environmental

Not applicable

#### Economic

Existing regulations provide the option for a resident to prevent delivery of all types of flyers by posting a 'no flyers' sign. The proposed regulations would target only those flyers depicting graphic images and not commercial or community flyers. (e.g., food and bottle drives, local business information etc.). This would allow those who wish to continue to receive commercial or community flyers the ability to do so while warning them of flyers with graphic content prior to opening the envelope.

#### Service and Financial Implications

No anticipated financial impact

### RISK

The continued distribution of flyers containing graphic images poses a risk to people being unwillingly exposed to potentially disturbing images without the ability to make an informed decision about whether they want to view flyers showing graphic images. The City is managing the risk by introducing amendments to the Community Standards Bylaw to restrict the manner in which flyers containing graphic images are distributed to residents.

Mail that is delivered through Canada Post will not be subject to the restrictions in the proposed bylaw amendments as it is federally regulated. As a result, there could be a reputation risk for The City as people may assume the bylaw regulations are not being enforced properly. To mitigate this risk, Administration has developed a communications plan to ensure that the parameters of the bylaw are clearly articulated.

### ATTACHMENTS

1. Background and Previous Council Direction
2. Proposed Text of a Bylaw to Amend Bylaw 5M2004, the Community Standards Bylaw
3. Presentation
4. Public Submissions

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform
Jill Floen	Law & Legislative Services	Consult