

**Community Services Report to
SPC on Community and Protective Services
2019 March 13**

**ISC: UNRESTRICTED
CPS2019-0222**

Parks and Pathways Bylaw Review

EXECUTIVE SUMMARY

The Parks and Pathways Bylaw was last enacted in 2003. Since then a number of innovations have occurred that influence how we use parks, such as the use of drones in parks or electric bikes and scooters on pathways. The proposed Parks and Pathways Bylaw (Attachment 1) will allow more flexibility with these types of initiatives and be less proscriptive with acceptable uses in parks. The proposed changes to the Bylaw are coming forward following a comprehensive engagement process with an aim to better reflect Calgarians' desires as well as current operations.

ADMINISTRATION RECOMMENDATIONS:

- 1) That the SPC on Community and Protective Services recommend that Council give three readings to the proposed Parks and Pathways Bylaw (Attachment 1); and
- 2) That the SPC on Community and Protective Services refer this report as an item of urgent business to the Combined Meeting of Council on 2019 March 18 in order to align with TT2019-0205 (as per Council direction in C2018-0934 to facilitate the use of mobility devices with electric motors).

PREVIOUS COUNCIL DIRECTION / POLICY

On 2018 October 15, Council approved Notice of Motion C2018-1117, directing Administration to "develop a consistent inter-departmental strategy to better manage pathway closures and detours".

On 2018 July 23, Council approved Notice of Motion C2018-0934 directing Administration to "review the existing bylaw rules governing mobility devices such as scooters, skateboards, roller skates and personal mobility devices with electric motors and to bring forward any necessary bylaw amendments to facilitate the use of such devices no later than Q1 2019".

On 2004 January 12, Council approved report CPS2003-86 and gave three readings to the Parks and Pathways Bylaw 20M2003.

BACKGROUND

The Municipal Government Act authorizes municipalities to pass bylaws respecting the safety, health and welfare of people and the protection of people and property. The Parks and Pathways Bylaw is a set of rules to guide the action or behaviours of parks users. The rules are intended to provide a balance between protection of public assets and reduction of City liability, while ensuring a safe and enjoyable experience for park users. The Bylaw also allows Calgary Parks to fulfill its mission to "enable, contribute and sustain dynamic communities through great parks and open space". The current Parks and Pathways Bylaw (20M2003) is somewhat restrictive regarding allowed uses in parks. The proposed Bylaw provides wording that is more reflective of what is actually happening in our parks.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

A comprehensive review of the Bylaw has been completed, including internal and external engagement and a best practices review of other cities. A summary of all engagement is found in Attachment 2.

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To better reflect plain language, as well as the numerous changes, the proposed Bylaw has been rewritten, rather than modified. Therefore a black line copy of the current Bylaw indicating changes is not possible. Attachment 3 provides a comparison between the current and proposed Bylaws, with significant changes under each section shaded in grey.

A summary of the major changes from the current Bylaw to the proposed Bylaw are as follows:

Correcting Overly Restrictive Bylaw Statements

The current Bylaw contains an extensive list of restricted activities such as horseshoes, archery, golf, lawn darts, hockey, any sport with an airborne ball, or “anything that is likely to attract a crowd”. This has led to the following concerns:

- Citing specific activities is inflexible and does not allow for the frequent changes we see in our recreation patterns. Many of the listed activities are no longer considered to be harmful or disturbing. For example, lawn darts now have safe rounded tips, and flash mobs are a desired fun activity, even though they can attract a crowd.
- The proscriptive list of activities does not take into consideration individual differences. An adult ball game could definitely be harmful if played among passive park users; however, a grandparent playing catch with their grandchild is perfectly acceptable, even though it may involve an airborne ball.
- More concerning, a definitive list is inevitably going to miss listing an activity that should be controlled. For example, recreational axe throwing is currently growing in popularity, yet it is not mentioned in the current Bylaw.

Instead of a proscriptive list of activities, Section 7 of the proposed Bylaw states “a person must not engage in activities that are:

- perceived to be reckless and could injure someone;
- could disturb the enjoyment of other park users;
- or could damage a park amenity or vegetation.”

This allows officers to use their fair judgement when enforcing the Bylaw, and is more reflective of actual current practices.

Drones

Drone regulation is complicated and falls to the Canadian Aviation Regulations with recent changes that take place June 1. The City of Calgary must be careful not to include anything in a bylaw that would contradict these Regulations. Any drone over a particular weight (currently 250 grams) has numerous requirements for operation. In the proposed Bylaw these drones will be allowed in our parks by permit, only. This will allow us to ensure the drone user has been authorized to use the drone, and that no one park has too many drones that may negatively affect other park users.

In the proposed Bylaw, a drone that has minimal rules imposed by the Canadian Aviation Regulations (currently under 250 grams) can be used without a permit, in designated areas.

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Park users who feel drones negatively impact their park experience would be able to avoid these areas. Calgary Parks is considering a few parks for use of these drones including West Baker Park, Elliston Park and North Glenmore Park. Other remote-controlled items such as model airplanes, cars, or boats, could also be allowed in designated areas.

Tobogganing

While every effort has been made to eliminate sections that are overly restrictive, it was determined that tobogganing would not be one of those clauses. The number of serious injuries associated with tobogganing continues to be significant, even more serious than skateboard injuries. Unfortunately, The City is still named in lawsuits resulting from toboggan accidents, and the Parks and Pathway Bylaw does provide some legal protection. Therefore the proposed Bylaw will continue to allow for tobogganing in designated areas.

Calgary Parks will attempt to designate more hills, and encourage communities to nominate a toboggan hill. Sometimes a simple modification such as moving a picnic table or tree is needed to make a hill safe. Situations where simple solutions are not available would present an opportunity to educate communities as to why the location is not safe for tobogganing.

Electric Recreational Vehicles

In 2018 July, Council directed Administration to bring forward any necessary bylaw amendments to allow the use of scooters, skateboards, roller skates, and personal mobility devices, all with electric motors, no later than 2019 Q1. Calgary Parks has worked with Transportation to ensure the proposed Bylaw will accommodate these vehicles.

The proposed Bylaw will empower the Director to determine what vehicles will be permitted on our pathways, such as electric assisted bikes, Segways, electric scooters, and even hoverboards. In order to have flexibility to accommodate new types of vehicles, the proposed Bylaw will allow Calgary Parks to maintain an ongoing list of the types of vehicles will be allowed. This list will be posted on Calgary.ca and will be updated regularly. Vehicles proposed to be on this list when the proposed Bylaw comes into effect are included in Attachment 4.

It is important to note that while these types of motorized recreational vehicles will be allowed on pathways, they are not permitted on sidewalks or roads as per the Alberta Transportation Safety Act. Education may be required so users understand where they can and cannot use these vehicles.

Pathway Restrictions

The pathway speed limit remains at 20km/hour, unless otherwise posted, as safety continues to be a priority. Further, cyclists wishing to travel faster than 20km/hour are now able to utilize cycle routes on the street. A number of other clauses related to pathways have been eliminated in the proposed Bylaw where they were overly restrictive, or were not applicable to the different types of recreational vehicles that would be allowed.

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Park and Pathway Closures

The proposed Bylaw allows for closure of park areas to address safety concerns, manage wildlife, conduct maintenance and repairs, or allow for rehabilitation of natural areas. In addition, to better manage pathway closures and detours, permits are now required to complete any construction projects that would impact the use of the pathway. This proposed Bylaw change directly responds to Council Direction in 2018 October to “develop a consistent inter-departmental strategy to better manage pathway closures and detours”.

Reflective of Current State

The current Parks and Pathways Bylaw (20M2003) is somewhat restrictive regarding allowed uses in parks; however, several clauses allow for the Director of Calgary Parks to make exemptions. This ability has made it possible to pilot new innovations such as vendors in parks, or use of goats to manage weeds. The proposed Bylaw now provides wording that is more reflective of what is actually happening in our parks.

Encroachment

The proposed Bylaw includes encroachment onto a park as an offence that carries a fine. Currently, it is simply a policy of Real Estate and Development Services, and is only enforceable through the Streets Bylaw 20M88, when encroachment occurs onto a street. The proposed Bylaw will also allow enforcement of encroachment onto a park.

Fines

Fines have increased for all offences, to reflect inflation and the severity or impact of the various offences. A list of fines is included in Schedule A of the proposed Bylaw, and a comparison of fines from the current Bylaw begins on page 23 of the Bylaw Comparison in Attachment 3.

As with all bylaws, it is intended that the proposed Bylaw would be enforced in a manner that emphasizes education over enforcement.

Stakeholder Engagement, Research and Communication

Stakeholder engagement was completed through several means including a citizen panel survey, an online Engage page, meetings with cultural and senior groups, and a review of all 311 calls over 2017. In addition, best practices from nine other municipalities were investigated. Full results of engagement and best practices review are included in Attachment 2. Calgary Parks endeavours to respond to park use trends; for example, Parks has undertaken public engagement to gauge interest in a pilot to allow alcohol in select park picnic areas.

Strategic Alignment

The proposed Bylaw aligns and supports many other City of Calgary bylaws, such as the Public Behaviour Bylaw, Tree Protection Bylaw, and Responsible Pet Ownership Bylaw. The proposed Bylaw also considers all relevant Calgary Parks policies and plans, including the overarching Imagine Parks plan that outlines a focus on people, open space, and governance and

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management. The proposed Bylaw aligns with the following 2019-2022 Citizens Priorities: a city of safe and inspiring neighbourhoods, a healthy and green city, and a well-run city.

Clauses in the proposed Bylaw are in accordance with the Provincial Wildlife Act, which includes restrictions to protect and manage wildlife, even within city limits, and Federal Acts, which prohibit hate speech.

Social, Environmental, Economic (External)

The proposed Bylaw provides a set of rules that will protect the ability for all Calgarians to enjoy the parks and pathways for leisure, recreation, and nature appreciation, all of which contribute to the social fabric of our communities. In addition to promoting nature appreciation, the proposed Bylaw also has several sections to ensure protection of our environment, such as not harming wildlife or disturbing vegetation. Finally the section on Commercial Activities in the proposed Bylaw allows flexibility to allow for economic activities while enhancing our parks.

Financial Capacity

Current and Future Operating Budget:

The proposed Bylaw will have no impact on current or future operating budgets. The focus will be on public education rather than increasing enforcement. It is anticipated that the proposed increases in fines would have minimal budget impact.

Current and Future Capital Budget:

The proposed Bylaw will have no impact on current or future capital budgets.

Risk Assessment

The proposed Bylaw provides the ability to encourage appropriate behaviour in our parks and to close areas, restrict use, or limit activities in parks as issues arise; however, enforcement of the proposed Bylaw is confined by limited resources. Public awareness and education will be required to encourage compliance.

REASON(S) FOR RECOMMENDATION(S):

The proposed Parks and Pathways Bylaw reflects changes that both Calgarians and Administration believe are necessary in order for our parks to enable diverse mixed uses that still respect the environment and open space. The proposed Bylaw is also more reflective of current practices, using a common sense approach where users are respectful of each other and the environment.

ATTACHMENT(S)

1. Attachment 1 – Proposed Text for a new Parks and Pathways Bylaw
2. Attachment 2 – Summary of Engagement for the Parks and Pathways Bylaw Review
3. Attachment 3 – Bylaw Comparison
4. Attachment 4 – Allowed Recreational Vehicles on Pathways