



## *Report from the Director of Development Services*

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TO: Her Worship Mayor Cooper and Members of Council  
DATE: June 5, 2018  
SUBJECT: Proposed Street Solicitation Prevention Bylaw No. 4273

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### **MOTION FOR CONSIDERATION**

**That: Street Solicitation Prevention Bylaw No. 4273 receive first and second readings;**  
**And Further That: Third and Final Readings be withheld subject to a Public Hearing.**

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### **BACKGROUND**

At its January 15, 2018 meeting, Council requested a staff report on the topic of street soliciting.

The issue was discussed last year by the Social Impact Advisory Committee (SIAC) after Downtown Salmon Arm (DSA) received complaints from several merchants who expressed concerns about increased soliciting and nuisance activities in front of their businesses. City staff met with City Council, the SIAC, DSA Board and staff, and local RCMP members on several occasions to discuss the issue.

When Council reviewed the information and background report by the undersigned at the February 26, 2018 Council meeting, staff was directed to draft a bylaw to regulate street solicitation activities and to model the bylaw on ones in effect in Kelowna and Kamloops, along with the intent of the bylaw to be an extension to the Provincial Safe Streets Act.

The majority of solicitation activity occurs along Alexander Street between Hudson Avenue and Lakeshore Drive NE.

### **PROPOSED BYLAW**

Proposed Bylaw No. 4273 (attached) is similar to the bylaws in Kamloops and Kelowna. It incorporates the term "solicitation" instead of "panhandling" with using more or less the same definition to that in the Safe Streets Act. The definition of solicitation in the proposed bylaw was modified due to recent complaints about some busking activities in the downtown core.

Concerns about busking have been echoed to City staff by some of the DSA Board members and staff, and the Bylaw Enforcement Officer periodically receives complaints. It was determined that the busking activities in question are not programmed or organized in anyway, and some of the actions cross into the realm of street solicitation, are deemed as a nuisance to some members of the public and merchants, and in some rare cases have involved complaints of public harassment.

Under the Safe Streets Act and Criminal Code, it is the RCMP members who deal with matters crossing into harassment. The local RCMP detachment has been responsive the local concerns and has recently increased its on-foot presence in the downtown core.

Section 4 of the proposed bylaw increases the restriction zone of solicitation activities from the 5 m prescribed in the Safe Streets Act to 15 m in proximity to various kinds of businesses and land uses. The proposed 15 m buffer is a greater restrictive zone compared to Kamloops and Kelowna, each with a 10 m proximity to various land uses such as banks and ATMs.

Other types of locations, such as public facilities and plazas, theatres, and restaurants with approved outside seating (e.g. street cafes) are included in the proposed Bylaw.

The penalties of the proposed bylaw are consistent with Kelowna and Kamloops. Should Bylaw No. 4273 be adopted, staff will prepare amendments to the City's Ticket Information Utilization Bylaw. At this time, appropriate ticketing levies have not been contemplated.

#### COMMUNITY CHARTER

Proposed Bylaw No. 4273 would appear to fall within the scope of the Community Charter which, broadly speaking, allows a municipality as a fundamental power to regulate matters concerning:

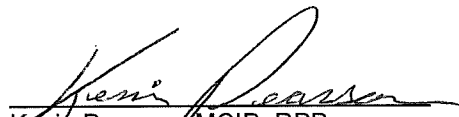
- 1) the health, safety or protection of persons or property; and
- 2) the protection and enhancement of the well-being of its community in relation to nuisances, disturbances and other objectionable situations.

These types of bylaws do not require a statutory public hearing, and can in fact receive three readings at a single Council meeting followed by final reading at a subsequent Council meeting without public notification. Staff suggests that proposed Bylaw No. 4273 receive two readings at a single Council meeting, followed by a non-statutory public hearing at a subsequent meeting prior to third and final readings, which could potentially be at the same meeting as the public hearing.

#### CONCLUSION

Proposed Bylaw No. 4273 is intended to have the effect of increasing the restriction zones for solicitation activities beyond the distance prescribed in the Provincial Safe Streets Act. The idea of having an entire street restricted was contemplated; however, it is determined that doing so would merely displace solicitation activities to other streets. The idea of restricting the entire downtown commercial core could be seen as an over-reach in the context of the Charter of Rights and Freedoms.

Finally, staff remains concerned on the City's ability and capacity to enforce proposed Bylaw No. 4273. Recent examples of the challenges associated with repeated enforcement and court proceedings involving one person in Penticton were noted in the previous staff report. Specifically, potential challenges related to an inability to collect fines, along with the staff time and court costs involved to either collect ticket fines or prosecute as an offence. This bylaw is coming forward as a result of political direction.

  
Kevin Pearson, MCIP, RPP  
Director of Development Services

# CITY OF SALMON ARM

## BYLAW NO. 4273

### **A bylaw to regulate street solicitation in the City of Salmon Arm**

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WHEREAS street solicitation is deemed to be a cause of public nuisances, disturbances and other objectionable situations within the City of Salmon Arm;

AND WHEREAS the Council of the City of Salmon Arm is authorized by the Community Charter to regulate street solicitation for the purpose of protecting and enhancing the well-being of its community;

NOW THEREFORE the Council in open meeting assembled enacts as follows:

1. This Bylaw may be cited as "Street Solicitation Bylaw No. 4273"
2. DEFINITIONS

All word or phrases shall have their normal or common meaning except where this is changed, modified or expanded by the definitions set forth in this bylaw.

"Automated teller machine" means a device linked to a financial institution's account records which is able to carry out transactions including, but not limited to account transfer, deposits, withdrawals, balance inquiries and mortgage and loan payments.

"Bylaw Enforcement Officer" means the person appointed by the City of Salmon Arm and any person delegated to assist him/her in enforcing municipal bylaws and regulations as set out in the bylaw.

"Peace Officer" means any member of the Royal Canadian Mounted Police and any person delegated to assist him/her in carrying out his/her duties under the bylaw.

"Solicitation" means an act to solicit by communicating in person using the spoken, written or printed word, or by a gesture or another means, including the playing of musical instruments or equipment that causes a nuisance to the public and businesses, any of which being for the purpose of receiving money or another item of value, regardless of whether consideration is offered or provided in return.

"Street" includes a public road, highway, bridge, viaduct, underpass, lane, sidewalk and any walkway or space normally open to the use of the public.

"Traffic control signal" means a traffic control signal as defined in the Motor Vehicle Act.

"Trust company" means an office or branch of a trust company to which the Trust and Loans Companies Act (Canada) applies and in which deposit accounts are held.

3. AUTHORITIES

Peace Officers and Bylaw Enforcement Officers are authorized and empowered to enforce all sections of this bylaw.

4. APPLICATION

.1 No person shall solicit on a street within 15 metres of:

- a) an entrance to a bank, credit union or trust company,
- b) an automated teller machine,
- c) a bus stop or bus shelter,
- d) a restaurant with outdoor seating, or
- e) the entrance to a theatre or art gallery.

.2 No person shall solicit from an occupant of a motor vehicle which is:

- a) parked,
- b) stopped at a traffic control signal, or
- c) standing temporarily for the purpose of loading or unloading.

.3 No person shall solicit at any time during the period from sunset to sunrise.

.4 No person shall sit or lie on a street for the purpose of solicitation.

.5 No person shall solicit from a public bench, seating or within a public plaza.

.6 No person shall continue to solicit on a street from a person after that person has made a negative response.

5. PENALTY

.1 Every person who offends against any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention of, or in violation of, any provisions of this bylaw, or who neglects to do, or refrains from doing anything required to be done by any of the provisions of this bylaw, or who does any act or thing which violates any of the provisions of this bylaw, shall be deemed to guilty of an infraction of the bylaw, and shall be liable to the penalties hereby imposed.

.2 Offences for which tickets can be issued and fines imposed are prescribed in the City of Salmon Arm Ticket Information Utilization Bylaw No. 2760.

.3 Every person who commits an offence against this bylaw is liable to a fine and penalty of not more than \$2,000 and not less than \$50 for each offence.

6. SEVERABILITY

If any part, section, sub-section, clause of this bylaw for any reason is held to be invalid by the decisions of a Court of competent jurisdiction, the invalid portion shall be severed and the decisions that are invalid shall not affect the validity of the remaining portions of this bylaw.

7. EFFECTIVE DATE

This bylaw shall come into full force and effect upon adoption of same.

READ A FIRST TIME THIS 11th DAY OF June 2018

READ A SECOND TIME THIS 11th DAY OF June 2018

READ A THIRD TIME THIS DAY OF 2018

ADOPTED BY COUNCIL THIS DAY OF 2018

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MAYOR

\_\_\_\_\_  
CORPORATE OFFICER