

REGULAR MEETING OF COUNCIL AGENDA

DATE: October 3, 2023
TIME: 4:30 p.m.
LOCATION: Council Chambers, Enderby City Hall

The public may attend this meeting in person or by means of electronic facilities.

The City of Enderby uses Zoom for its electronic facilities and encourages those who are unfamiliar with the application to test it in advance; for technical support, please contact Zoom.

The access codes for this meeting are:

*Meeting ID: 844 8135 0882
Passcode: 368586*

If you would like to attend this meeting by means of electronic facilities and do not have a computer or mobile phone capable of using Zoom, please let us know and we can provide you with a number that you can call in from a regular telephone.

*When applicable, public hearing materials are available for inspection at
www.cityofenderby.com/hearings/*

1. LAND ACKNOWLEDGEMENT

We respectfully acknowledge that we are on the traditional and unceded territory of the Secwepemc.

2. APPROVAL OF AGENDA

3. ADOPTION OF MINUTES

3.1 Meeting Minutes of September 5, 2023 Page 3

4. CONTINUING BUSINESS AND BUSINESS ARISING FROM COMMITTEES AND DELEGATIONS

5. BYLAWS

5.1 Business License and Regulation Bylaw No. 1558, 2014 Amendment Bylaw No. 1776, 2023 and Fees and Charges Bylaw No. 1479, 2010 Amendment Bylaw No. 1777, 2023 (Adoption) Page 9

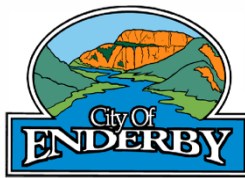
5.2 City of Enderby 2024-2027 Tax Exemption Bylaw No. 1778, 2023 (Three Readings) Page 13

6. REPORTS

6.1 Mayor and Council Reports

6.2 Area F Director Report

6.3	<u>Chief Administrative Officer Report</u>	
6.3.1	<u>Council Inquiries</u>	
6.4	<u>RDNO Building Permit Report – August 2023</u>	Page 16
6.5	<u>Bylaw Enforcement Statistics for Second Period of 2023 (May-Aug)</u> Memo prepared by Planner dated September 6, 2023	Page 17
7.	NEW BUSINESS	
7.1	<u>Proposed Date and Time for 2023 Business Walk</u> Memo prepared by Planner dated September 14, 2023	Page 21
7.2	<u>Inventory of Existing Food Security Initiatives</u> Memo prepared by Planner dated September 20, 2023	Page 22
7.3	<u>Enderby Farmers Market – Road Closure Application to Extend 2023 Market Season</u> Memo prepared by Planner dated September 21, 2023	Page 25
7.4	<u>Christmas Parade and Festivities 2023 – Road Closure Applications</u> Memo prepared by Chief Administrative Officer dated September 22, 2023	Page 33
7.5	<u>Snow and Ice Control Policy</u> Memo prepared by Chief Administrative Officer dated September 28, 2023	Page 40
8.	CORRESPONDENCE AND INFORMATION ITEMS	
8.1	<u>Amendment to Decriminalization of Illicit Substances</u> Media Releases from the British Columbia Association of Chiefs of Police dated September 14, 2023 and from the Province of B.C. dated September 18, 2023	Page 54
9.	PUBLIC QUESTION PERIOD	
10.	CLOSED MEETING RESOLUTION <i>Closed to the public, pursuant to Section 90 (1) (e) of the Community Charter</i>	
11.	ADJOURNMENT	



THE CORPORATION OF THE CITY OF ENDERBY

Minutes of a **Regular Meeting** of Council held on Tuesday, September 5, 2023 at 4:30 p.m. in Council Chambers.

Present: Mayor Huck Galbraith
Councillor Roxanne Davyduke
Councillor David Ramey
Councillor Brian Schreiner
Councillor Shawn Shishido
Councillor Sarah Yerhoff

Absent: Councillor Tundra Baird

Staff: Chief Administrative Officer – Tate Bengtson
Chief Financial Officer – Jennifer Bellamy
Planner – Kurt Inglis
Clerk-Secretary – Andraya Holmes

Other: Press and Public

LAND ACKNOWLEDGEMENT

We respectfully acknowledge that we are on the traditional and unceded territory of the Secwepemc.

APPROVAL OF AGENDA

Moved by Councillor Yerhoff, seconded by Councillor Shishido
“THAT the September 5, 2023 Council Meeting agenda be approved as circulated.”

CARRIED

ADOPTION OF MINUTES

Meeting Minutes of August 21, 2023

Moved by Councillor Ramey, seconded by Councillor Yerhoff
“THAT the August 21, 2023 Council Meeting minutes be adopted as circulated.”

CARRIED

Public Hearing Report August 21, 2023

Moved by Councillor Schreiner, seconded by Councillor Yerhoff
“THAT the August 21, 2023 Public Hearing Report be adopted as circulated”

CARRIED

BYLAWS**Public Spaces Bylaw No. 1604, 2016 Amendment Bylaw No. 1772, 2023**

Moved by Councillor Shishido, seconded by Councillor Ramey
“THAT Council adopts City of Enderby Public Spaces Bylaw No. 1604, 2016 Amendment Bylaw No. 1772, 2023”

CARRIED

Amendment to Business License Regulations and Fees for Cannabis-Related Businesses – Business License and Regulation Bylaw No. 1558, 2014 Amendment Bylaw No. 1776, 2023 and Fees and Charges Bylaw No. 1479, 2010 Amendment Bylaw No. 1777, 2023

Councillor Shishido stated that he sympathizes with business owners having to comply with regulations over and above the federal and provincial regulations, however, he will not vote in favour of policies that normalize the use of cannabis.

Moved by Councillor Schreiner, seconded by Councillor Yerhoff
“THAT Council gives Three Readings to Business License and Regulation Bylaw No. 1558, 2014 Amendment Bylaw No. 1776, 2023;

AND THAT Council gives notice of its intention to adopt Business License and Regulation Bylaw No. 1558, 2014 Amendment bylaw No. 1776, 2023 by posting notice at the public notice board at City Hall and provides an opportunity for persons who consider themselves affected by the proposed bylaw to make representation to Council at its Regular Meeting of September 18, 2023;

AND FURTHER THAT Council gives Three Readings to Fees and Charges Bylaw No. 1479, 2010 Amendment Bylaw No. 1777, 2023.”

CARRIED

OPPOSED Councillor Shishido

REPORTS**Mayor and Council Reports****Councillor Davyduke**

Reported that the Fall Recreation Guide has been released by Enderby Recreation Services with classes running from September 5th to December 22nd. Has received great feedback on the summer programming.

Had a meeting with a representative of the Enderby & District Community Resource Centre. They are offering many programs starting up for the fall.

The Harvest Hut had a successful season with lots of produce shared.

Community Futures is hosting a Business Model Canvas program monthly that is open to new or transforming businesses. There are a few spots left for the September session.

Councillor Yerhoff

Attended a FACT Meeting. There is a new online ordering system for the Good Food Box. The seniors' meal program will be starting up again soon.

Reported that the Harvest Hut is exploring options to expand their community garden.

Councillor Schreiner

Asked what the signage at Rail Trail crossings says.

Chief Administrative Officer responded that he believes that the signs state that the Rail Trail is closed during the construction phase. As construction is not finished, the Trail is not yet inviting the public to use it.

Asked if construction has stopped for the year.

Chief Administrative Officer responded that the construction is expected to start up this fall.

Councillor Ramey

Councillor Ramey asked if the current surface material will be the Rail Trail's final surface.

Chief Administrative Officer responded that it is his understanding that this is the final surface but that the material needs more moisture to pack down properly, so the surface should solidify with more rain.

Councillor Ramey reported that he will be attending an Okanagan Regional Library Board meeting next week.

Councillor Shishido

Reported that Friday Night Lights was great.

Recently hiked the Enderby Cliffs.

Reported that he visited Revelstoke and that the public art displayed around the community is great.

Gave kudos to City staff for repairing the baseball outfields so well and quickly after the recent vandalism.

Mayor Galbraith

Reported that a Regional Growth Meeting at the RDNO was cancelled.

Chief Administrative Officer

Reported that RCMP Staff Sergeant Mancini is being transferred to the Armstrong detachment. There will be a new Sergeant for the Enderby detachment. She is in the process of relocating.

A new Parks employee has been hired and will start October 1st. The successful candidate has a refrigeration operator certification and diverse experience that includes pool operation, grounds maintenance, and horticulture.

Interviews for the new Public Works employee have been completed, and reference checks are in progress for the preferred candidate.

The arena refrigeration plant was started up today. Once the arena reaches the proper temperature, ice building will begin. At least one brine leak has been identified on the curling rink side. The location of this leak should make for an easier repair.

Congratulated Recreation Services and their staff on the fantastic pool season.

The Public Works backhoe has a control valve failure that has taken it out of commission. Hopefully the repair will not take long, depending on the lead time for the replacement valve. As the backhoe is critical to certain operations, equipment may need to be hired in the meantime if a task cannot be deferred.

There will be a traffic detour on Regent Avenue this Thursday while servicing for 307 Regent Avenue occurs.

Had a site servicing meeting with the owners of the undeveloped lot at 152 Vetter Place last week, to evaluate for the most viable way to service the lot. Unfortunately, it appears that servicing sewer off of Vetter Place is not viable due to geography of the site, so they will need to make a sewer connection from Reservoir Road.

Council is now aware that two of our Minister meeting requests have been accepted, and two staff-level meeting requests are outstanding. Asked Council to advise if they would like meeting briefs prepared for each meeting topic. Council responded that they would like meeting briefs prepared.

Council Inquiries

Councillor Ramey asked if there is an update on construction of the light at the intersection of Canyon Road and Highway 97A.

Chief Administrative Officer responded that as far as he knows, construction is still planned for this fall.

Councillor Shishido asked if the apple trees behind the Drill Hall are on City property.

Chief Administrative Officer responded that they are either on the Drill Hall parcel or a City-owned lane that backs onto the Drill Hall.

Councillor Yerhoff asked if there is an update on the evaluation of available public land.

Chief Administrative Officer responded that the evaluation is in progress by the Planner.

Councillor Shishido suggested that the City Hall mural could be removed and altered to cut-out faces, and placed around town as a new interactive art installation.

Councillor Yerhoff asked if there has been discussion in the past on recognizing volunteers in the community.

Chief Administrative Officer responded that there are policies in place for Council to give awards recognizing community volunteers. The one that is most commonly awarded is the Lifetime Civic Merit Award, but there are also awards for volunteers who have not been volunteering long enough to be eligible for the lifetime award. Also noted that there has been preliminary discussion in the past about Council hosting a Volunteer Appreciation dinner.

NEW BUSINESS

Proposed Amendments to City of Enderby Zoning Bylaw No. 1550, 2014 – Downtown Designated Parking Area and Shipping Container Regulations

Councillor Davyduke asked for clarification on the proposed change to the shipping container regulations.

Chief Administrative Officer explained that the change in policy would allow flammable and combustible liquids to be stored in shipping containers under a specific set of circumstances that essentially modifies the shipping container to the point that it has the same storage risks as any other structure. If the shipping container is built to perform in the same manner as any other storage structure, it could be used to store these materials in the limited amounts specified by the BC Fire Code.

Moved by Councillor Shishido, seconded by Councillor Schreiner

“THAT Council directs Staff to prepare an amendment to the City of Enderby Zoning Bylaw in order to remove the zoning regulations related to i) the \$3,500 fee for reducing the minimum number of required off-street parking spaces for properties in the Downtown Designated Parking Area, and ii) prohibiting the storage of flammable and combustible liquids or gases in shipping containers;

AND THAT Council directs Staff to update the Shipping Containers Health and Safety Policy in order to mirror the health and safety specifications related to the storage of flammable and combustible liquids and gases in shipping containers, as described in the Fire Chiefs’ Association of British Columbia’s Position Paper: Intermodal Shipping Container Fire Safety.”

CARRIED

Funding to Support Business Association Feasibility Initiative

Council discussed the functions of a Chamber of Commerce or Business Association.

Chief Administrative Officer explained that this funding will help fund a second engagement session, and give business owners in the community an opportunity to discuss the possibility of forming a business association. This will help the City and business community to assess if there is adequate grassroots support from the business community to support a business association. If there is a lack of support, it is unlikely that the association will be successful or sustainable. That information is useful to understand, as well, as it will help the City to understand how best to approach community economic development in the future.

Moved by Councillor Schreiner, seconded by Councillor Davyduke

THAT Council provides \$500 from the Community Enhancement Fund to support site host costs incidental to a meeting to explore the feasibility of a business association.”

CARRIED

PUBLIC QUESTION PERIOD

There were no questions from the public.

ADJOURNMENT

Moved by Councillor Shishido, seconded by Councillor Yerhoff

“THAT the regular meeting of September 5, 2023 adjourn at 5:44 p.m.”

CARRIED

MAYOR

CORPORATE OFFICER

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1776

A BYLAW TO AMEND THE CITY OF ENDERBY BUSINESS LICENSE AND REGULATION
BYLAW NO. 1558, 2014

WHEREAS Council of the City of Enderby has adopted “The City of Enderby Business License and Regulation Bylaw No. 1558, 2014”;

NOW THEREFORE Council of the City of Enderby, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the “City of Enderby Business License and Regulation Bylaw No. 1558, 2014 Amendment Bylaw No. 1776, 2023”.

2. *Section 2 – Definitions* is amended by including the following definitions for “brand element” and “young person”:

“brand element” has the same meaning as defined in the *Cannabis Act*.

“young person” has the same meaning as defined in the *Cannabis Act*.

3. *Section 5 - Business Regulations* is amended by deleting Sections 5.i.iii.f, 5.i.iv, 5.i.v.g, and 5.i.v.h, and renumbering the subsequent sections of the Bylaw accordingly.

4. *Section 5 - Business Regulations* is amended by replacing Section 5.i.vii as follows:

- vii. A license holder for a Cannabis-Related Business must not do any of the following:

- a) Permit a person under 19 years of age to enter or remain on the premises of the Cannabis-Related Business unless accompanied by a parent or guardian over 19 years of age;
 - b) Operate the Cannabis-Related Business between the hours of 11:00 p.m. and 9:00 a.m. the following day;
 - c) Permit the consumption of any cannabis containing product on the premises;
 - d) Promote cannabis, a cannabis accessory or any service related to cannabis in a way that could be appealing to Young Persons or by presenting it or any of its Brand Elements in a manner that associates it or the Brand Element with, or evokes a positive or negative emotion about or image of, a way of life such as one that includes glamour, recreation, excitement, vitality, risk or daring;

- e) Promote cannabis, a cannabis accessory or a service related to cannabis by displaying a Brand Element of cannabis, a cannabis accessory or a service related to cannabis on a cannabis related item if the item is:
 - i. associated with young persons;
 - ii. appealing to young persons; or
 - iii. associated with a way of life such as one that includes glamour, recreation, excitement, vitality, risk or daring; and
- f) Use the premises to carry on business other than that defined as a Cannabis-Related Business.

READ a FIRST time this 5th day of September, 2023.

READ a SECOND time this 5th day of September, 2023.

READ a THIRD time this 5th day of September, 2023.

ADOPTED this day of , 2023.

MAYOR

CORPORATE OFFICER

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1777

A BYLAW TO AMEND FEES AND CHARGES BYLAW NO. 1479, 2010

WHEREAS Council of the City of Enderby has adopted "The City of Enderby Fees and Charges Bylaw No. 1479, 2010";

NOW THEREFORE Council of the City of Enderby, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the "The City of Enderby Fees and Charges Bylaw No. 1479, 2010 Amendment Bylaw No. 1777, 2023".
2. Schedule "1" is deleted and Schedule "1" attached to and forming part of this bylaw is substituted therefore.

READ a FIRST time this 5th day of September, 2023.

READ a SECOND time this 5th day of September, 2023.

READ a THIRD time this 5th day of September, 2023.

ADOPTED this day of , 2023.

MAYOR

CORPORATE OFFICER

SCHEDULE 1

CORPORATE SERVICES FEES

a.	List of Electors (candidates for local government elected office shall receive the first copy at no charge	\$	20.00	
b.	Minutes of Council proceedings	\$	0.25	per page
c.	Copies of bylaws	\$	1.00	per page
d.	Photocopying	\$	0.50	per page
e.	Copy of the Official Community Plan – Text – Maps	\$ \$	10.00 5.00	
f.	Copy of the Zoning Bylaw – Text – Map	\$ \$	20.00 5.00	
g.	Copy of the Subdivision Bylaw	\$	100.00	
h.	Fax charges	\$ \$	2.00 1.50	first page each additional page
i.	Tax Certificates	\$	15.00	
j.	NSF cheques	\$	25.00	
k.	Copies of Infrastructure Maps	\$	1.00	per page
l.	Research and Copy of Property Service Cards	\$	5.00	
m.	Building Permit Deposit Liability	\$	350.00	
n.	Business License Fee	\$	75.00	
o.	Annual Rental Fee for Mobile Vendor Operating on Public Property	\$	100.00	
p.	Annual Business License Fee for Cannabis-Related Business	\$	2,000.00	
q.	Annual Business License Renewal for Cannabis-Related Business	\$	500.00	

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1778

A bylaw of the Corporation of the City of Enderby to exempt certain properties from taxation for the years 2024 to 2027.

WHEREAS Section 224 of the Community Charter provides that Council may by bylaw grant exemption from taxation of certain land or improvements or both;

NOW THEREFORE the Municipal Council of the Corporation of the City of Enderby, in open meeting assembled, enacts as follows:

1. That the following properties, or portions of properties, shall be exempt from taxation for the years 2024 to 2027:

Charitable, Philanthropic or other Not for Profit Organization – 224(2)(a)

- a. **Folio 208.0017.000** - Lot 30, Plan KAP211, DL 150 [PID 012-454-842] [909 Belvedere Street]. Registered Owner and Occupier - **Royal Canadian Legion Branch #98**. Class 8 portion of property to be 100% exempt.
- b. **Folio 208.0020.000** - Lot 1, Plan KAP67159, DL 150 [PID 024-819-310] [1104 Belvedere Street]. Registered Owner and Occupier – **Turning Points Collaborative Society**.
- c. **Folio 208.0023.022** - Lot A, Plan KAP54361, DL 150 [PID 023-025-930] [606 Stanley Avenue]. Registered Owner and Occupier - **Enderby & District Senior Citizens Complex**.
- d. **Folio 208.0270.000** - Lot 2, Block 14, Plan KAP211A, DL 150, KDYD, REFERENCE POSTING PLAN KAP37747 Lot 3, Block 14, Plan KAP211A, DL 150, KDYD, EXCEPT THE EASTERLY 30.3 FT [PID 012-593-877 & PID 012-593-842] [903 George Street]. Registered Owner - **The Corporation of the City of Enderby**. Occupier – **Enderby & District Community Museum Society**.
- e. **Folio 208.0294.000** - Lot 3, Block 16, Plan KAP211A, DL 150, KDYD, Except Plan B5857 Lot 2, Block 16, Plan KAP211A, DL 150, KDYD [PID 012-594-059 & PID 012-594-067] [1101 George Street]. Registered Owner and Occupier - **Enderby & District Senior Citizens Complex**.
- f. **Folio 208.0492.000** - Lot 1, Block 3, Plan KAP920, DL 150 [PID 009-974-148] [208 George Street]. Registered Owner - **The Corporation of the City of Enderby**. Occupier – **Enderby Drill Hall Committee** (Drill Hall).
- g. **Folio 208.0493.000** - Lot 2, Block 3, Plan KAP920, DL 150 [PID 009-974-164] [206 George Street]. Registered Owner - **The Corporation of the City of Enderby**. Occupier – **Enderby Drill Hall Committee** (Drill Hall Parking Lot).

- h. **Folio 208.0494.000** - Lot 3, Block 3, Plan KAP920, DL 150 [PID 009-974-083] [204 George Street]. Registered Owner - **The Corporation of the City of Enderby**. Occupier - **Enderby Drill Hall Committee** (Drill Hall Parking Lot).
- i. **Folio 208.0590.500** - Lot 5, Plan KAP6406, DL 150 [PID 010-101-578] [507 Mill Avenue]. Registered Owner and Occupier - **Enderby Fraternal Hall Society**.
- j. **Folio 208.0607.007** - Lot 1, Plan KAP77756, DL 150, [PID 026-240-319] [708 Granville Avenue]. Registered Owner – **Provincial Rental Housing Corp.** Occupier – **Enderby Seniors Housing Society**. Phase 2 improvements to be 100% exempt only.

Property for Public Worship – 224(2)(f)

- k. **Folio 208.0018.000** - Lot 31, Plan KAP211, DL 150 [PID 005-363-187] [1110 Belvedere Street]. Registered Owner and Occupier - **St Andrew's United Church**.
- l. **Folio 208.0113.100** - Lot Z, Block 6, DL 150, Plan KAP211A [PID 012-591-904] [706 Mill Avenue]. Registered Owner and Occupier - **Enderby Evangelical Chapel**.
- m. **Folio 208.0298.000** - Lot 5, Block 16, Plan KAP211A, DL 150 [PID 005-363-195] [606 Regent Avenue]. Registered Owner and Occupier - **St Andrew's United Church**.
- n. **Folio 208.0356.000** - Lot 2, Plan KAP20377, Section 26, Township 18, Range 9, Meridian W6 [PID 003-932-150] [608 Knight Avenue]. Registered Owner and Occupier – **Synod of the Diocese of Kootenay**.
- o. **Folio 208.0358.004** - Lot 1, Plan KAP27530, DL 150 [PID 004-825-683] [602 Knight Avenue]. Registered Owner and Occupier – **Synod of the Diocese of Kootenay**.
- p. **Folio 208.0607.100** - Lot 1, Plan KAP10055, DL 150 [PID 009-593-764] [115 George Street]. Registered Owner and Occupier - **Trustees of the Enderby Congregation of Jehovah's Witnesses**.
- q. **Folio 208.0618.200** - Lot 1, Plan KAP12491, DL 150 [PID 009-422-323] [1406 George Street]. Registered Owner and Occupier - **Roman Catholic Bishop of Kamloops**.

Occupied by a Religious Organization as a Licensee for Public Worship – 224(2)(g)

- r. **Folio 208.0212.000** - Lot 9, Block 11, Plan KAP211A, DL 150 KDYD Lot 8, Block 11, Plan KAP211A, DL149-150, KDYD [PID 012-453-463 & PID 012-453-447] [703 Old Vernon Street]. Registered Owner – **Crown Provincial**. Occupier - **Seventh-day Adventist Church (BC Conference)**. 50% of the land to be exempt and 70% of improvements to be exempt.

Held by a Municipality – 224(2)(b)

- s. **Folio 208.0269.100** - Lot 4, Block 14, Plan KAP211A, DL 150 [PID 009-553-479 & PID 012-593-851] [907 George Street]. Registered Owner - **172965 Canada Limited**. Occupier - **The Corporation of the City of Enderby** (Parking lot behind City Hall).
2. This bylaw may be cited as the **“City of Enderby 2024-2027 Tax Exemption Bylaw No. 1778, 2023”**.
3. **“City of Enderby 2020-2023 Tax Exemption Bylaw No. 1685, 2019”** is hereby repealed.

READ A FIRST TIME this ____ day of _____, 2023;

READ A SECOND TIME this ____ day of _____, 2023;

READ A THIRD TIME this ____ day of _____, 2023;

ADOPTED this ____ day of _____, 2023.

MAYOR

CORPORATE OFFICER

RDNO Building Permits Issued Comparison for Year/Month - Summary

Area: CITY OF ENDERBY

Category: BUILDING PERMITS

Year: 2023 Month: 08

Folder Type	2023 / 08		2022 / 08		2023 to 08		2022 to 08	
	Permits Issued	Res. Units Created	Building Value	Permits Issued	Res. Units Created	Building Value	Permits Issued	Res. Units Created
ACCESSORY BUILDING	0	0	0	0	0	0	0	0
AGRICULTURAL BUILDING	0	0	0	0	0	0	0	0
COMMERCIAL BUILDING	0	0	0	0	0	0	0	0
DEMOLITION	0	0	0	0	0	0	0	0
END - ACCESSORY BUILDING	0	0	0	1	0	53,000	1	0
END - COMMERCIAL BUILDING	0	0	0	0	0	0	5	0
END - DEMOLITION	0	0	0	0	0	0	1	0
END - INDUSTRIAL BUILDING	0	0	0	0	0	0	1	0
END - MANUFACTURED HOME	0	0	0	0	0	0	0	0
END - MODULAR HOME	0	0	0	0	0	0	0	0
END - MULTI FAMILY DWELLING	0	0	0	0	0	0	0	0
END - PLUMBING	1	0	10,000	0	0	0	1	2
END - RETAINING WALL	0	0	0	0	0	0	1	0
END - SFD W/SUITE	5	10	0	0	0	0	1	0
END - SIGN	1	0	2,211,000	0	0	2,511,000	0	0
END - SINGLE FAMILY DWELLING	1	0	7,000	0	0	37,360	0	0
INDUSTRIAL BUILDING	0	0	10,000	0	0	2,648,200	0	4
INSTITUTIONAL	0	0	0	0	0	0	0	0
MANUFACTURED HOME	0	0	0	0	0	0	0	0
MODULAR HOME	0	0	0	0	0	0	0	0
MULTI FAMILY DWELLING	0	0	0	0	0	0	0	0
OLD PIMS PERMITS	0	0	0	0	0	0	0	0
PLUMBING	0	0	0	0	0	0	0	0
POOL	0	0	0	0	0	0	0	0
RETAINING WALL	0	0	0	0	0	0	0	0
SIGN	0	0	0	0	0	0	0	0
SINGLE FAMILY DWELLING	0	0	0	0	0	0	0	0
SOLID FUEL BURNING APPLIANC	0	0	0	0	0	0	0	0
Report Totals	8	10	2,238,000	1	0	53,000	31	18
							5,473,319	22
								6
								2,964,320

THE CORPORATION OF THE CITY OF ENDERBY

AGENDA

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner
Date: September 6, 2023
Subject: Bylaw Enforcement Statistics for Second Period of 2023 (May-Aug)

RECOMMENDATION

THAT Council receives this memorandum for information.

BACKGROUND

The bylaw enforcement statistics for the second period of 2023 (May-Aug) are attached to this memorandum as Appendix "A"; the highlights of these statistics are as follows:

- A total of 125 complaints were received between May 1, 2023 and August 31, 2023, which is slightly less than the second period of 2022 (135 complaints) but more than the second period of 2021 (105 complaints);
- The most common complaints were related to unsightly properties, excessive barking, and unlawful use (combined 66.4% of complaints);
- Of the 125 complaints, 77 (61.6%) were resolved through voluntary compliance or were already compliant upon investigation;
- Of the 125 complaints, 52 (41.6%) were identified by the Bylaw Enforcement Officer or Staff;
- The following enforcement measures were undertaken:
 - 27 warnings issued;
 - 8 Bylaw Notices issued;
 - 7 Orders to Comply issued;
 - 4 Stop Work Orders issued; and
 - 1 vehicle towed.

Respectfully Submitted,



Kurt Inglis
Planner

APPENDIX "A" - BYLAW COMPLAINT STATISTICS FOR SECOND PERIOD OF 2023 (MAY-AUG)

BREAKDOWN OF COMPLAINTS		
Category	No. of Complaints	Percentage of Complaints
Property	61	48.8%
Dogs	31	24.8%
Parking/Traffic	11	8.8%
Zoning	10	8.0%
Nuisance	5	4.0%
Building	4	3.2%
Public Spaces	2	1.6%
Business Licensing	1	0.8%
TOTAL	125	
Identified By	Bylaw Enforcement / Staff	Public
	52 (41.6%)	73 (58.4%)

PROPERTY COMPLAINTS		
Type	No. of Complaints	Percentage of Property Complaints
Unsightly Property	51	83.6%
Sprinkling Outside of Permitted Days/Times	3	4.9%
Failure to Contain Garbage Within a Prescribed and Secured Container	2	3.3%
Derelect Vehicle	1	1.6%
Unlawful Burning	1	1.6%
Deposit Hazardous Material	1	1.6%
Place Garbage at Curbside Prior to 4:00 am on Day of Collection	1	1.6%
Overgrown Boulevard	1	1.6%
TOTAL	61	

DOG COMPLAINTS		
Type	No. of Complaints	Percentage of Dog Complaints
Excessive Barking	24	77.4%
Aggressive Dog	4	12.9%
Dog on Dog Attack	2	6.5%
Dog at Large	1	3.2%
TOTAL	31	
Complaints Per Jurisdiction	Enderby	Area 'F'
	23 (74.2%)	8 (25.8%)

PARKING/TRAFFIC COMPLAINTS		
Type	No. of Complaints	Percentage of Parking/Traffic Complaints
Unlawful Parking	7	63.6%
Vegetation Overhanging Sidewalk	2	18.2%
Vegetation Overhanging Roadway	1	9.1%
Detached Trailer Parked on Roadway	1	9.1%
TOTAL	11	

ZONING COMPLAINTS		
Type	No. of Complaints	Percentage of Zoning Complaints
Unlawful Use	8	80.0%
Unlawful Sign	1	10.0%
Unlawful Shipping Container on Residential Property	1	10.0%
TOTAL	10	

NUISANCE COMPLAINTS		
Type	No. of Complaints	Percentage of Nuisance Complaints
Excessive Noise	3	60.0%
Excessive Glare	1	20.0%
Offensive Odours	1	20.0%
TOTAL	5	

BUILDING COMPLAINTS		
Type	No. of Complaints	Percentage of Building Complaints
Construction Without a Permit	4	100.0%
TOTAL	4	

PUBLIC SPACES COMPLAINTS		
Type	No. of Complaints	Percentage of Public Spaces Complaints
Operate a Vehicle in a Restricted Area	1	50.0%
Taking Abode in a Public Space	1	50.0%
TOTAL	2	

BUSINESS LICENSING COMPLAINTS		
Type	No. of Complaints	Percentage of Business Licensing Complaints
Operate a Business Without a Business License	1	100.0%
TOTAL	1	

THE CORPORATION OF THE CITY OF ENDERBY

AGENDA

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner
Date: September 14, 2023
Subject: Proposed Date and Time for 2023 Business Walk

RECOMMENDATION

THAT Council identifies a preferred date between October 17-20 for the 2023 Business Walk;

AND THAT Council confirms that 10:00 am - 12:00 pm is an acceptable time for the 2023 Business Walk.

BACKGROUND

Since 2016, Enderby City Council in cooperation with Community Futures North Okanagan, has undertaken an annual Business Walk. The intent of the Business Walk is to learn more about local businesses through face-to-face interviews and to identify opportunities for further supporting community economic development; the British Columbia Economic Development Association has identified Business Walks as a key initiative to supporting local business retention and expansion.

In past years, the City has scheduled its Business Walk to correspond with Small Business Week; this year, Small Business week is from October 15-21, therefore Staff are requesting that Council identifies a preferred date between October 17-20 for the 2023 Business Walk (October 16th was excluded from consideration given that many local businesses are closed on Mondays). Staff are also requesting that Council confirms that 10:00 am - 12:00 pm is an acceptable time for the 2023 Business Walk, consistent with previous years.

Respectfully Submitted,



Kurt Inglis
Planner

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner
Date: September 20, 2023
Subject: Inventory of Existing Food Security Initiatives

RECOMMENDATION

THAT Council receives and files this memorandum.

BACKGROUND

The City previously received a request to support the creation of a fenced community garden consisting of raised beds that could be rented seasonally, in the passive park space in the northwest corner of Riverside Park, directly north of the Enderby Arena. After considering the request, Council directed Staff to conduct a review of available public, civic and institutional lands that would be suitable for a range of community amenities, as well as inventory existing food security initiatives. This memorandum is intended to satisfy the latter policy direction.

Below is a list of local food security initiatives occurring within the City of Enderby along with a brief description of each:

1. FACT Committee

The Food Action Committee for Today and Tomorrow (FACT Committee) was established in 2012 as an entity to support food security within the community, with the following as their vision statement:

"A community that has a sustainable and healthy food system where all people have access to safe, healthy and culturally appropriate food that can be obtained in a dignified manner."

The FACT Committee has monthly meetings and has representation from the Enderby and District Community Resource Centre, City Council, Interior Health, local agricultural producers, and members of the public.

2. Harvest Sharing Hut

The Harvest Sharing Hut is a volunteer run initiative that provides a time and place to connect people who have an abundance of produce with people who want fresh produce; a small structure is located on the east side of the Maud Street parking lot and acts as a central location for gardeners and farmers to bring their extra produce and the general public to attend for pick-up.

3. Feed Enderby & District (FED)

Feed Enderby & District (FED) is a food bank located at 102-907 Belvedere Street which serves the the City of Enderby and surrounding area, with the following as their mission statement:

“Our mission is to provide food to people and families who are food-insecure — who may be hungry, or unable to put nutritious food on the table. Some food recipients have a short-term problem — loss of a job, sickness, an unexpected move — and need temporary help to get them through a rough spot. Others have longer term needs. Whatever the need, people at FED will do their best to help.”

FED has two distribution days per month and also provides emergency dry food hampers to the Enderby & District Resource Centre to be distributed to people with sudden unforeseen needs; the Resource Centre supplements these dry food hampers with fresh food that they keep available at their facility.

4. Sharing Garden Behind Harvest Hut

In 2019, ‘sharing gardens’ were installed behind the Harvest Sharing Hut. These ‘sharing gardens’ involve large bags of growing medium which have been pre-planted with tomatoes, onions, etc. which is available for the public to pick, with any leftovers being integrated into the Harvest Sharing Hut. These ‘sharing gardens’ are maintained by the FACT Committee and Harvest Hut volunteers.

5. Food Recovery Program

The Enderby & District Resource Centre partners with local businesses to collect produce that is edible, but not saleable, which is then made available to those in need (i.e. young families, Resource Centre clients and referrals). The produce is collected weekly and any remaining at the end of the week is donated for agricultural feed.

6. Senior Lunch Delivery Program

The Enderby & District Seniors Luncheon Buffet provides a hot meal to seniors, for a fee, every Wednesday; the Enderby & District Resource Centre provides a service to deliver these meals to seniors throughout the area free of charge. Furthermore, the Resource Centre sponsors up to 10 seniors per week to cover the cost of the meal, in addition to the delivery.

7. Brown Bag Dinner Program

The Enderby & District Resource Centre delivers a Brown Bag Dinner program which provides those in need with a bag complete with all of the food necessary to make a casserole; for those who do not have access to kitchen facilities to cook a casserole, alternatives are provided.

8. Meal Mentoring for Moms

Meal Mentoring for Moms is a forthcoming program to be offered by the Enderby & District Resource Centre whereby an instructor will provide free classes to caregivers on core cooking techniques and recipes.

9. Kings Table Soup Kitchen

The Ashton Creek Christian Fellowship runs the Kings Table Soup Kitchen which offers a free meal on Wednesdays from 4:00 – 7:00 pm at 125 George Street.

Respectfully Submitted,



Kurt Inglis
Planner

THE CORPORATION OF THE CITY OF ENDERBY

AGENDA

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner
Date: September 21, 2023
Subject: Enderby Farmers Market – Road Closure Application to Extend 2023 Market Season

RECOMMENDATION

THAT Council approves the Road Closure Application from the Enderby Farmers Market for the closure of Cliff Avenue from Highway 97A to Belvedere Street on October 20, October 27, November 3 and November 10, 2023 from 7:00 am – 2:00 pm, with the approval being subject to the following conditions:

1. The road closure shall be in general accordance with the Road Closure Application attached to this memorandum as Schedule 'A';
2. The road closure cannot begin until snow clearing along Cliff Avenue is complete, and in cases where the road closure is delayed due to snow clearing occurring, the Market organizers shall take the necessary steps to ensure that vendors are not staging downtown in a manner that negatively impacts other snow clearing operations or the regular flow of traffic;
3. The Market shall be responsible for setting up and removing traffic control devices, emptying municipal garbage receptacles, and immediately cleaning up any litter from the road closure area;
4. The Market shall ensure that porta-potties are properly maintained and are removed at the end of each market event;
5. The Market shall ensure that the road closure area is re-opened to traffic no later than the end time noted in the application;
6. The Market shall provide proof of Comprehensive Public Liability and Property Damage Insurance for \$2,000,000 inclusive, with the City of Enderby as additional insured, which shall include, i) a cross liability clause, ii) a waiver of subrogation clause, and iii) a requirement that the policy cannot be cancelled, lapsed or materially changed without at least thirty (30) days written notice to the City of Enderby, delivered to the Corporate Officer; and
7. The Market Board shall pass a resolution to:
 - a. confirm that the City of Enderby is indemnified, saved harmless, and released in all respects arising from the proposed road closure and use of the adjacent sidewalks and walkways, including legal fees;
 - b. expressly acknowledge the risks associated with the proposed road closure and that they have sought independent advice on this matter, prior to considering this resolution;
 - c. acknowledge that they are responsible for any additional snow and ice clearing that exceeds the City's bylaw requirements and its *Snow and Ice Clearing Policy*; and
 - d. confirm that when a road closure is delayed due to snow clearing occurring, the Market will take the necessary steps to ensure that vendors are not staging downtown in a manner that negatively impacts other snow clearing operations or the regular flow of traffic.

BACKGROUND

In March of 2023, Enderby City Council approved a Road Closure Application from the Enderby Farmers Market to close portions of Cliff Avenue and Belvedere Street every Friday from 6:00 am – 2:30 pm between April 14, 2023 and October 20, 2023, subject to a number of conditions.

The Enderby Farmers Market has now submitted an additional Road Closure Application seeking to extend the road closure approval for an additional four weeks. The Market would be operating under a reduced footprint, with road closure only to affect Cliff Avenue from Highway 97A to Belvedere Street; furthermore, the road closure would have reduced hours, with the closure proposed to occur from 7:00 am to 2:00 pm. Given that this would be considered a new event under the City's *Temporary Road Closures for Community Events Policy*, as part of the Road Closure Application process the Market was required to circulate a Petition of Affected Business Owners to all affected businesses within a one-block radius of the proposed road closure. The completed Petition of Affected Business Owners is attached to the Market's Road Closure Application and confirms that 21 businesses are in favour, 2 businesses are opposed, and 1 business did not provide a response.

Given the favourable outcomes of the Petition of Affected Business Owners, coupled with the fact that weekly market events have generally been well received by the community and no major issues or concerns were observed by Staff, it is recommended that Council support the Enderby Farmers Market's Road Closure Application which seeks to extend of the road closure approval for an additional four weeks, subject to the following conditions:

1. The road closure shall be in general accordance with the Road Closure Application attached to this memorandum as Schedule 'A';
2. The road closures cannot begin until snow clearing along Cliff Avenue is complete, and in cases where the road closure is delayed due to snow clearing occurring, the Market organizers shall take the necessary steps to ensure that vendors are not staging downtown in a manner that negatively impacts other snow clearing operations or the regular flow of traffic;
3. The Market shall be responsible for setting up and removing traffic control devices, emptying municipal garbage receptacles, and immediately cleaning up any litter from the road closure area;
4. The Market shall ensure that porta-potties are properly maintained and are removed at the end of each market event;
5. The Market shall ensure that the road closure area is re-opened to traffic no later than the end time noted in the application;
6. The Market shall provide proof of Comprehensive Public Liability and Property Damage Insurance for \$2,000,000 inclusive, with the City of Enderby as additional insured, which shall include, i) a cross liability clause, ii) a waiver of subrogation clause, and iii) a requirement that the policy cannot be cancelled, lapsed or materially changed without at least thirty (30) days written notice to the City of Enderby, delivered to the Corporate Officer; and
7. The Market Board shall pass a resolution to:
 - a. confirm that the City of Enderby is indemnified, saved harmless, and released in all respects arising from the proposed road closure and use of the adjacent sidewalks and walkways, including legal fees;

- b. expressly acknowledge the risks associated with the proposed road closure and that they have sought independent advice on this matter, prior to considering this resolution;
- c. acknowledge that they are responsible for any additional snow and ice clearing that exceeds the City's bylaw requirements and its *Snow and Ice Clearing Policy*; and
- d. confirm that when a road closure is delayed due to snow clearing occurring, the Market will take the necessary steps to ensure that vendors are not staging downtown in a manner that negatively impacts other snow clearing operations or the regular flow of traffic.

The aforementioned conditions are consistent with those from Council's previous Road Closure Application approvals, including previous late fall/winter markets. It should be noted that given the potential for snow fall during the requested road closures, conditions #2 and #7 are critical to ensuring that the event is not negatively impacting snow clearing activities within the downtown, nor resulting in the City accepting any additional liability associated with the event, which is proposed to occur during a time of year that is higher risk for injury given potential conditions.

Respectfully Submitted,



Kurt Inglis
Planner

Schedule A
Application for a Temporary Road Closure for a Community Event

Is this a first-time or relocated event?

Yes

No

Name of Sponsoring Organization

Enderby Farmers Market

Name of Contact Person

Vallerie Byrne

Telephone or Email

Name of Event

Enderby Farmers Market - outdoor Winter Market

Date(s) of Closure

Oct 20th, Oct 27th, Nov 3rd, Nov 10th

Start time for Closure

7am

End time for Closure

2pm

Location of Closure

Cliff Ave from Hwy 97 to crosswalk by Hungry Jacks

Required Attachments

- ☒ Map showing closure and emergency access route
☐ Petition of affected business owners (if applicable)
☐ Certificate of insurance (if applicable)

See Schedule A attached

Indemnity:

The applicant agrees to indemnify and save harmless the City of Enderby from and against any and all claims, including but not limited to harm, damage, injury, or loss to body or property caused by, arising from, or connected with any act or omission of the applicant or any agent, employee, customer licensee or invitee of the applicant, and against and from all liabilities, expense costs and legal or other fees incurred in respect of any such claims or any actions or proceedings brought thereon arising directly or indirectly from or in connection with the property, facilities, or services of the City. The applicant will be required to obtain and keep in force throughout the period of use insurance in a form specified by the City of Enderby unless waived in writing.

Authorized Signatory

Date

Do Not Complete – For Administrative Purposes			
Approved by	Date		
Certificate of Insurance	Yes	No	N/A
Map	Yes	No	N/A
Petition of Affected Business Owners	Yes	No	N/A

Policy Title	Temporary Road Closures for Community Events
--------------	--

Adopted: August 13, 2012	<u>Authorized By:</u> Mayor and Council Regular Meeting of August 13, 2012	Replaces: Not applicable
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PURPOSE:

The City will consider approving the temporary closure of municipal roads for a community event.

POLICY:

Temporary road closures will only be considered for community events which are sponsored by a recognized organization.

The Chief Administrative Officer or designate is granted the authority to approve a Temporary Road Closure Permit on behalf of Council, subject to the applicant meeting all the requirements of this policy. First time events must be approved by City Council.

A completed Schedule A, "Application for Temporary Road Closure," shall be submitted to City Hall at least 21 days prior to the closure. The application must include a map of the proposed road closure and emergency access through the closure. Applications for first-time or relocated events requiring Council approval must be submitted two months prior to the closure.

The organizer shall notify and consult with business owners within a one-block radius of the proposed road closure and residents adjacent to the proposed road closure. The organizer agrees to take reasonable steps to mitigate disruption for affected business owners and residents. Failure to adequately notify and consult affected businesses and residents may result in revocation of permit or refusal of future applications. Unless exempted by Council, all first-time or relocated event applications must include a petition signed by a majority of affected business owners agreeing to the proposed event.

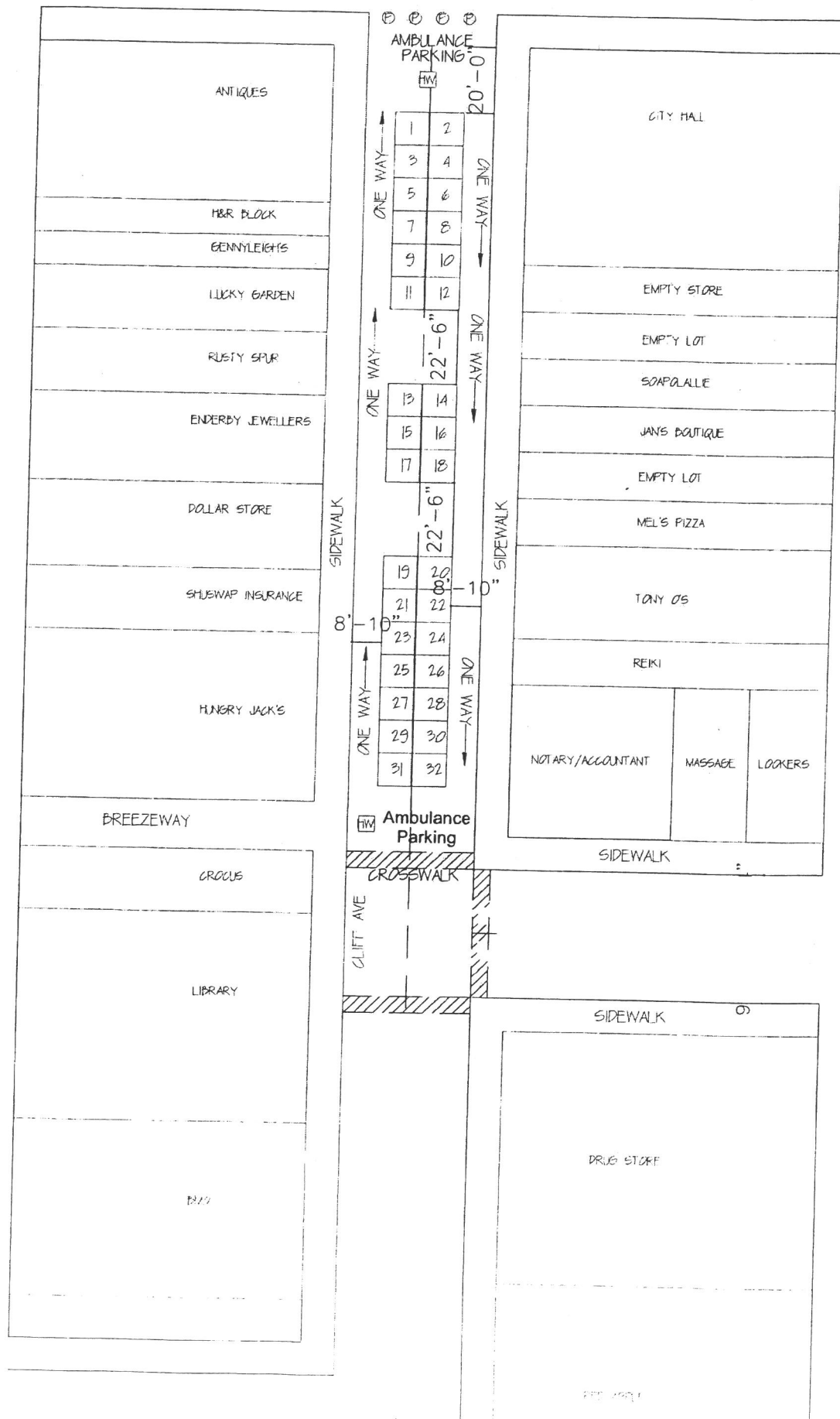
The applicant for a Temporary Road Closure must submit proof of public liability and property damage insurance in a form acceptable to the City. The applicant may request that insurance requirements be waived based on the risk profile of the event. Such waiver does not affect any other responsibility of the applicant to obtain insurance.

The applicant shall be responsible for all traffic management, including the provision, set up, and removal of signs and barricades on the same day as the road closure.

The applicant shall be responsible for ensuring that all food service establishments, including but not limited to mobile vending units, food services at temporary events, and sellers of home-prepared foods, shall have the appropriate authorization or permit from Interior Health.

The applicant shall be responsible for emptying municipal garbage receptacles and cleaning up litter from the road closure area on the same day as the closure.

As a condition of permit, the City of Enderby will not be liable or otherwise responsible for any scheduling conflict, revocation, refusal, maintenance closure or other damage or harm related to the issuance of this permit.



Date Tuesday Sept 19/23

Certificate of Insurance Yes No N/A
Map Yes No N/A

Page 2 of 3

Petition of Affected Business Owners

Business	Yes	N/A	No
BMO	✓		- watch we not parking in their lot.
Shuswap Insurance	✓		
Dollar Store		✓	Kills his business. Does not agree w/ us blocking main street
Enderby Jewelry	✓		
Rusty Spur	✓		
H&R	✓		would like to re-visit this before summer 2024.
Jan's Boutique	✓		market
Out Fitters	✓		would like to re-visit this before summer 2024.
Law Firm	✓		market
Accountants Rossborn	✓		
Guardian Drug Store			
Recycle	✓		only because we not using Belvedere.
Hungry Jacks	✓		
Library	✓		
Cheeky Tones		✓	Kills her business
Mel's Pizza	✓		would like to re-visit this before summer 2024 market

Rainfresh Health Collective	✓		
Antique Store	✓		
Genny Leighs	✓		
Soapolallie	✓		
Courtyard Gallery	✓		
CanHealth & Dental	✓		
Red Apple	✓		
Enderby & District Arts Council	✓		

THE CORPORATION OF THE CITY OF ENDERBY

AGENDA

MEMO

To: Mayor and Council
From: Tate Bengtson, CAO
Date: September 22, 2023
Subject: Christmas Parade and Festivities 2023 - Road Closure Applications

RECOMMENDATION

THAT Council receives the City of Enderby Event Coordinator's road closure applications for the 2023 Christmas Parade and Traditional Christmas Festivities for information.

BACKGROUND

The City of Enderby Event Coordinator has submitted road closure applications (attached) related to the 2023 Christmas Parade and Traditional Christmas Festivities.

For the parade, the applicant is proposing to close portions of Kate Street, Howard Avenue, Belvedere Street, Cliff Avenue and Railway Street between the hours of 5:00 pm and 7:00 pm. For the Traditional Christmas Festivities, the applicant is proposing to close Belvedere Street between Mill Avenue and Cliff Avenue, and Cliff Avenue between Highway 97A and Vernon Street, between the hours of 7:00 pm and 9:00 pm.

The *Temporary Road Closures for Community Events Policy* has delegated authority to Staff to approve a Temporary Road Closure Application, subject to the applicant meeting the requirements of the Policy. All first-time events must be approved by Council. As this is not a first-time event and all requirements for a road closure have been met, Staff have approved the application.

Respectfully Submitted,



Tate Bengtson
Chief Administrative Officer

Schedule A
Application for a Temporary Road Closure for a Community Event

Is this a first-time or relocated event?

Yes

No

Name of Sponsoring Organization

The City of Enderby / The Christmas Committee

Name of Contact Person

Valerie Byrne

Telephone or Email

250 859-4494 - valeriebyrne@gmail.com

Name of Event

Enderby's Traditional Christmas

Date(s) of Closure

Dec 1st 2023

Start time for Closure

7pm

End time for Closure

9pm

Location of Closure

mill ave + Belvedere to Cliff Ave + Belvedere
Cliff Ave + Hwy to Cliff Ave + Vernon St

Required Attachments

- ☒ Map showing closure and emergency access route
- ☐ Petition of affected business owners (if applicable)
- ☐ Certificate of insurance (if applicable)

See Attached

Indemnity:

The applicant agrees to indemnify and save harmless the City of Enderby from and against any and all claims, including but not limited to harm, damage, injury, or loss to body or property caused by, arising from, or connected with any act or omission of the applicant or any agent, employee, customer licensee or invitee of the applicant, and against and from all liabilities, expense costs and legal or other fees incurred in respect of any such claims or any actions or proceedings brought thereon arising directly or indirectly from or in connection with the property, facilities, or services of the City. The applicant will be required to obtain and keep in force throughout the period of use insurance in a form specified by the City of Enderby unless waived in writing.

Authorized Signatory _____

Date _____

Do Not Complete – For Administrative Purposes

Approved by _____

Date _____

Certificate of Insurance

Yes

No

N/A

Map

Yes

No

N/A

Petition of Affected Business Owners

Yes

No

N/A

Policy Title	Temporary Road Closures for Community Events
--------------	--

Adopted: August 13, 2012	Authorized By: Mayor and Council Regular Meeting of August 13, 2012	Replaces: Not applicable
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PURPOSE:

The City will consider approving the temporary closure of municipal roads for a community event.

POLICY:

Temporary road closures will only be considered for community events which are sponsored by a recognized organization.

The Chief Administrative Officer or designate is granted the authority to approve a Temporary Road Closure Permit on behalf of Council, subject to the applicant meeting all the requirements of this policy. First time events must be approved by City Council.

A completed Schedule A, "Application for Temporary Road Closure," shall be submitted to City Hall at least 21 days prior to the closure. The application must include a map of the proposed road closure and emergency access through the closure. Applications for first-time or relocated events requiring Council approval must be submitted two months prior to the closure.

The organizer shall notify and consult with business owners within a one-block radius of the proposed road closure and residents adjacent to the proposed road closure. The organizer agrees to take reasonable steps to mitigate disruption for affected business owners and residents. Failure to adequately notify and consult affected businesses and residents may result in revocation of permit or refusal of future applications. Unless exempted by Council, all first-time or relocated event applications must include a petition signed by a majority of affected business owners agreeing to the proposed event.

The applicant for a Temporary Road Closure must submit proof of public liability and property damage insurance in a form acceptable to the City. The applicant may request that insurance requirements be waived based on the risk profile of the event. Such waiver does not affect any other responsibility of the applicant to obtain insurance.

The applicant shall be responsible for all traffic management, including the provision, set up, and removal of signs and barricades on the same day as the road closure.

The applicant shall be responsible for ensuring that all food service establishments, including but not limited to mobile vending units, food services at temporary events, and sellers of home-prepared foods, shall have the appropriate authorization or permit from Interior Health.

The applicant shall be responsible for emptying municipal garbage receptacles and cleaning up litter from the road closure area on the same day as the closure.

As a condition of permit, the City of Enderby will not be liable or otherwise responsible for any scheduling conflict, revocation, refusal, maintenance closure or other damage or harm related to the issuance of this permit.

Schedule A
Application for a Temporary Road Closure for a Community Event

Is this a first-time or relocated event?

Yes

No

Name of Sponsoring Organization

The City of Enderby / The Christmas Committee

Name of Contact Person

Vallerie Byrne

Telephone or Email

250 859 4494 - valleriebyrne@gmail.com

Name of Event

Enderby's Traditional Christmas

Date(s) of Closure

Dec 1st 2023

Start time for Closure

5pm

End time for Closure

7pm

Location of Closure

Parade Route: Kate St, Howard Ave,
Belvedere St, Cliff Ave to Railway St.

Required Attachments

☒ Map showing closure and emergency access route

☐ Petition of affected business owners (if applicable)

☐ Certificate of insurance (if applicable)

See Attached

Indemnity:

The applicant agrees to indemnify and save harmless the City of Enderby from and against any and all claims, including but not limited to harm, damage, injury, or loss to body or property caused by, arising from, or connected with any act or omission of the applicant or any agent, employee, customer licensee or invitee of the applicant, and against and from all liabilities, expense costs and legal or other fees incurred in respect of any such claims or any actions or proceedings brought thereon arising directly or indirectly from or in connection with the property, facilities, or services of the City. The applicant will be required to obtain and keep in force throughout the period of use insurance in a form specified by the City of Enderby unless waived in writing.

Authorized Signatory _____

Date _____

Do Not Complete – For Administrative Purposes

Approved by _____

Date _____

Certificate of Insurance

Yes

No

N/A

Map

Yes

No

N/A

Petition of Affected Business Owners

Yes

No

N/A

Policy Title	Temporary Road Closures for Community Events
--------------	--

Adopted: August 13, 2012	<u>Authorized By:</u> Mayor and Council Regular Meeting of August 13, 2012	Replaces: Not applicable
---------------------------------	---	---------------------------------

PURPOSE:

The City will consider approving the temporary closure of municipal roads for a community event.

POLICY:

Temporary road closures will only be considered for community events which are sponsored by a recognized organization.

The Chief Administrative Officer or designate is granted the authority to approve a Temporary Road Closure Permit on behalf of Council, subject to the applicant meeting all the requirements of this policy. First time events must be approved by City Council.

A completed Schedule A, "Application for Temporary Road Closure," shall be submitted to City Hall at least 21 days prior to the closure. The application must include a map of the proposed road closure and emergency access through the closure. Applications for first-time or relocated events requiring Council approval must be submitted two months prior to the closure.

The organizer shall notify and consult with business owners within a one-block radius of the proposed road closure and residents adjacent to the proposed road closure. The organizer agrees to take reasonable steps to mitigate disruption for affected business owners and residents. Failure to adequately notify and consult affected businesses and residents may result in revocation of permit or refusal of future applications. Unless exempted by Council, all first-time or relocated event applications must include a petition signed by a majority of affected business owners agreeing to the proposed event.

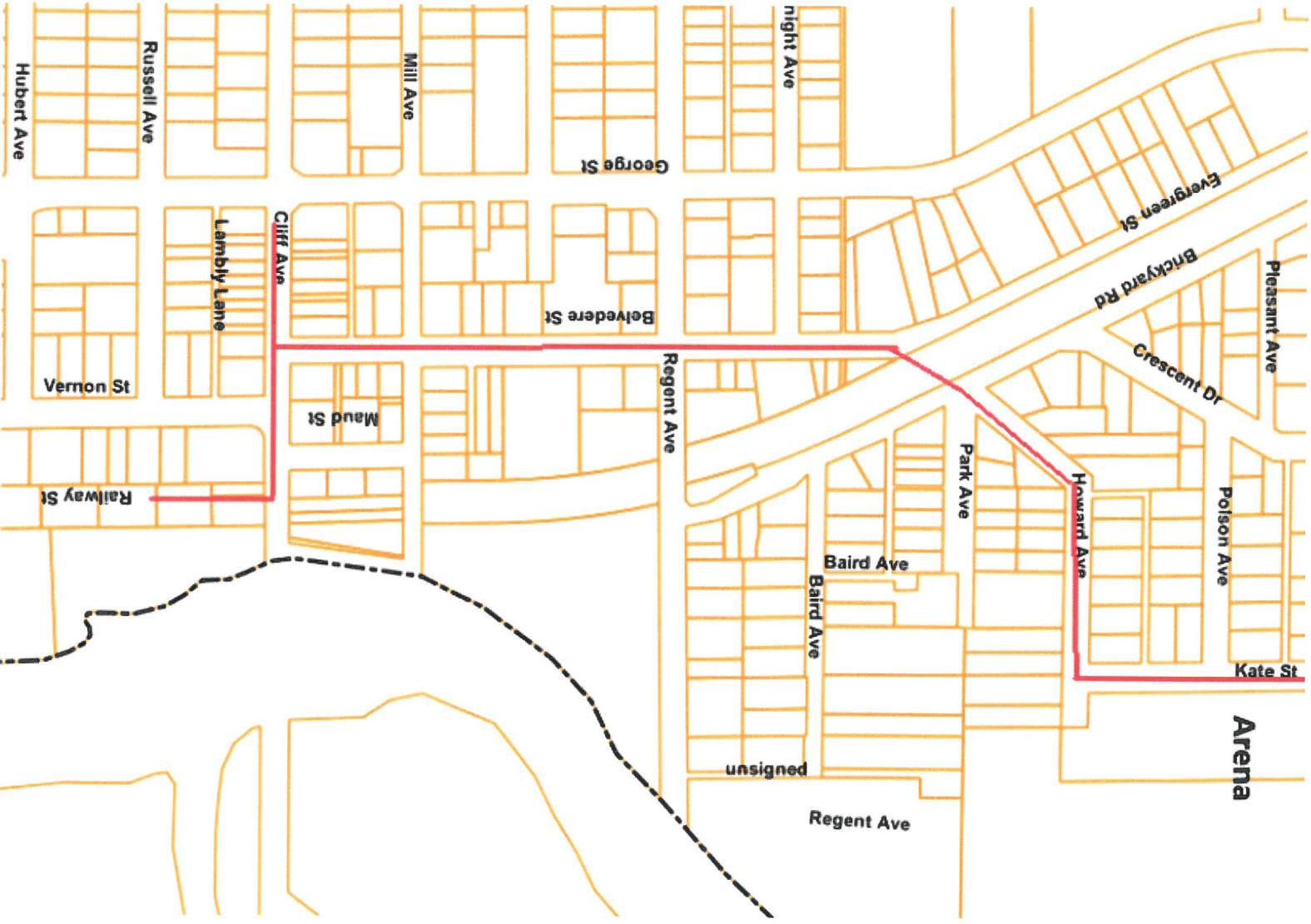
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The applicant shall be responsible for emptying municipal garbage receptacles and cleaning up litter from the road closure area on the same day as the closure.

As a condition of permit, the City of Enderby will not be liable or otherwise responsible for any scheduling conflict, revocation, refusal, maintenance closure or other damage or harm related to the issuance of this permit.



THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Mayor and Council
From: Tate Bengtson, CAO
Date: September 28, 2023
Subject: Snow and Ice Control Policy

RECOMMENDATION

THAT Council adopts the Snow and Ice Control Policy, replacing the Snow/Ice Removal Policy adopted in 2004.

BACKGROUND

Local governments are among the entities that owe a *public* duty of care to those who use its infrastructure. A public duty of care is different from a private duty of care; among other things, a public duty of care may establish reasonable standards of service based on a variety of social and economic factors, and balance competing priorities, including taxation rates, which collectively determine the public good in a democratic society.

The courts have determined that an adequate policy can serve as a complete defense against a liability claim (often described as “core policy immunity”), which is necessary to protect the balancing of priorities from being eroded by individual claims demanding a service standard that may be unattainable without placing significant hardship upon the taxpayer and without compromising other values and priorities. Core policy immunity evolved out of the judicial recognition that an unconstrained private law duty of care would subvert the democratic will while resulting in public infrastructure no longer being financially viable to operate for the general taxpayer, let alone the broader public good.

Provided a policy is adequate and reasonable, and is adopted by decision makers in close proximity to the social, economic and other priorities at play for a given public entity, a claim may be defended by way of core policy immunity; however, claims may still be made on the basis of negligence associated with operational (rather than policy) decisions. While operational decisions are necessary to implement a policy, they are not protected by core policy immunity; instead, operational decisions must defend a claim by demonstrating that those decisions were not negligent.

In short: a local government is responsible for a negligent act or omission in the operation of its public infrastructure but possesses immunity in the adequate and reasonable exercise of its public policy authority.

In 2021, the Supreme Court of Canada provided clarity on the distinction between policy decisions and operational decision, in *Nelson (City) v. Marchi*. The decision narrowed core policy immunity by clarifying what is, and is not, a policy decision over and against an operational decision. The Supreme Court of Canada remitted the matter to the lower court for a new trial, which would now need to make a judgement on the basis of the law of negligence. The new trial has not yet occurred, to the best of staff's knowledge. Attached to this memorandum is a law bulletin describing the impact of the Supreme Court of Canada's judgment for government entities in Canada.

Staff have performed a review of the City's existing Snow/Ice Control Policy, adopted in 2004, against current practices and legal advice. While the existing policy has proven generally adequate, there are several updates that the proposed Snow and Ice Control Policy addresses:

1. Improved language, aligned with templates provided by the risk-management arm of the City's insurer, the Municipal Insurance Association of BC, to articulate the core policy decision more effectively.
2. Ice control and sanding activities, as described in the existing policy, do not reflect best practices and, had they been implemented in the manner prescribed by policy, would have been wasteful and costly. The proposed policy aligns itself with best practices for achieving a reasonable service level that is effective and efficient. The operational departure from a policy due to the latter's inconsistency with best practices presents a risk to the City of Enderby, particularly in light of the Supreme Court of Canada's decision in *Nelson (City) v. Marchi*.
3. Areas that are not cleared of snow or ice are clearly identified in the proposed policy.
4. Sidewalks, parking lots, multi-use paths, and driveway access service levels are clarified.
5. Matters within the realm of operational decision-making, such as shift scheduling and normal hours of work, have been severed and will be adopted separately in a new administrative policy.

Council is advised that a policy sets a *base service level* that must be attained in ordinary circumstances. There are no legal issues with an operational decision that results in the policy decision being exceeded, which is often the case. Provided genuine policy decisions are operationalized on a "meet or beat" basis, core policy immunity is available to the local government; for instance, unpaved residential lanes are often cleared operationally, provided the lane is sufficiently wide to do so and other policy priorities are addressed, particularly if clearing the unpaved lane is incidental to snow plow routing, although it is not feasible to make a policy commitment and continue to meet existing priorities without expanding personnel and equipment.

As the new policy reflects what is reasonable to achieve given available resources and competing priorities, and there has been no substantial change to that balancing of resources

and demands, Council and the public should not notice any material change to service levels as they exist in practice, following the adoption of the proposed policy.

Respectfully submitted,



Tate Bengtson
Chief Administrative Officer

Policy Title	Snow and Ice Control
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Adopted:	<u>Adopted by:</u> Council	<u>Replaces:</u> Snow/Ice Removal Policy November 15, 2004
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PURPOSE:

This policy establishes a level of service for Public Works to ensure that Snow and Ice Control operations are carried out on roads and sidewalks in a timely manner by balancing the social, economic, and other priorities identified by Council, the competing demands for the finite operational capacity of labour and equipment, and a reasonable allocation of budgetary resources.

INTERPRETATION

1. **Compacted Snow Surface:** Snow that has accumulated on roads or sidewalks and is packed by vehicle or pedestrian traffic, or Snow Clearing equipment.
2. **Director of Public Works:** The person responsible for the overall management of the Public Works department, including a designate.
3. **Ice Control:** Actions that prevent or reduce the accumulation of snow or ice on roadways through the use of equipment, abrasive materials, or chemicals.
4. **Snow Event:** A snowfall of 5 or more centimetres.
5. **Passable Condition:** Road is passable for vehicles with proper winter tires but does not mean bare pavement; some accumulation of snow or ice may be present. A road in passable condition means that the road may be travelled in accordance with the conditions, which means driving in a manner that is attentive, defensive, and at a controlled speed that a reasonable and cautious person would determine as appropriate to the conditions, which may be significantly less than the posted speed limit. Certain combinations of weather conditions may preclude a Passable Condition, in which case a Compacted Snow Surface may be the only attainable standard.
6. **Roads:** Includes paved roadways, lanes, and parking lots as specified in Schedule A, but excludes roads owned or operated by a government authority or agency other than the City of Enderby, the internal roads of a strata, mobile home park, or recreational vehicle park, roads owned and operated by a private or public entity other than the City of Enderby, unpaved roads and unpaved lanes, unconstructed road dedication, and unconstructed road dedication subject to an unconstructed road right-of-way access permit, unless expressly included in Schedule A.
7. **Sanding:** The application of sand, with or without amendment or treatment, to roads and sidewalks to improve traction.
8. **Sidewalks:** Includes only those paved sidewalks, walkways, and pathways expressly specified in Schedule A.
9. **Snow Clearing:** Moving an accumulation of snow and ice off of a Roads, or to the center or side of the travelled portion of a Road, using equipment such as loaders and plow trucks.
10. **Snow Removal:** Hauling snow and ice to a disposal site.

11. **Weather Forecast:** The temperature and precipitation predicted for the next day for the City of Enderby by Environment Canada or similar weather service.

POLICY

Prioritization and Operationalization

1. Roads and Sidewalks are prioritized in Schedule A ("the Priorities").
2. The Director of Public Works will direct the commencement of Snow Clearing of Roads and Sidewalks after Snow Events in accordance with the Priorities.
3. If resources are unavailable or inadequate to meet the Priorities for reasons including but not limited to worker safety, sickness or fatigue, equipment failure, lack of fuel supply, emergency response, reprioritization due to a competing and higher-urgency demand (such as a water or wastewater breakdown or malfunction), or the extremity of the Snow Event, the Director of Public Works may vary the Priorities or take other steps, such as closing unsafe or impassable roads to vehicle or pedestrian traffic, until the City of Enderby has adequate resources available.

Roads

4. Priority 1 Roads will be maintained to a Passable Condition until the termination of a Snow Event.
5. Priority 2 Roads will be maintained to a Passable Condition after Priority 1 Roads are maintained to a Passable Condition.
6. Priority 3 Roads will be maintained to a Compacted Snow Surface after Priority 1 and Priority 2 Roads are maintained to a Passable Condition.
7. Sanding will be carried out on hills, near emergency vehicle accesses, at intersections, and at sharp corners in accordance with the Priorities.
8. Ice Control will be carried out on hills when the Weather Forecast is between -3° and +1° Celsius and predicts between 1 and 3 centimetres of snowfall, provided the roads are currently bare, in accordance with the Priorities.
9. Snow Removal will be undertaken only in situations where a lack of adequate snow storage prohibits the reasonable movement of vehicular or pedestrian traffic, and only after Priority 3 Roads are maintained to a Compacted Snow Surface.
10. Snow and ice windrows crossing driveway ends, sidewalk let-downs to roads, and occupied on-street parking stalls will not be cleared.
11. Snow and ice may be stored in on-street parking stalls and boulevards until Snow Removal occurs. Snow may be disposed to any public property designated by the Director of Public Works.

12. If a vehicle is parked on a road contrary to the City of Enderby Streets and Traffic Bylaw No. 1471, 2010, that section of the road will not be cleared until the vehicle has been moved and personnel and equipment are available.

Sidewalks

13. Snow and Ice Control on Sidewalks is the responsibility of the adjacent property owner in accordance with Part IV – Property Maintenance of the City of Enderby Good Neighbour Bylaw No. 1517, 2013.
14. Group A Sidewalks will be maintained to a Compacted Snow Surface after Priority 3 Roads are maintained to a Compacted Snow Surface.
15. Limited assistance may be provided to maintain Group B Sidewalks to a Compacted Snow Surface after Priority 3 Roads can be maintained to a Compacted Snow Surface. This assistance does not replace or supersede the adjacent property owner's requirements under Part IV – Property Maintenance of the City of Enderby Good Neighbour Bylaw No. 1517, 2013.

Record Keeping

16. Reports of conditions not meeting the above service level will be reported to the Director of Public Works.
17. Within 12 hours of receiving a report of conditions not meeting the above service level, the Director of Public Works will attend the reported site and determine if additional Snow Clearing, Sanding, Ice Control, or Snow Hauling operations are needed.
18. The Director of Public Works will maintain a record of reported conditions not meeting the above service level and the determination of whether additional Snow Clearing, Sanding, Ice Control, or Snow Hauling operations are needed.
19. The Director of Public Works will maintain a record of the time, equipment, and the operator involved in Snow Clearing, Sanding, Ice Control, and Snow Removal operations.

Appendix A

Priority Roads and Sidewalks

Priority 1

- Arterial (if applicable) and Major Collector Roads
- Emergency vehicle access Roads
- School access Roads
- Hillside Roads

Priority 2

- Minor Collector Roads
- Local Roads
- Prioritized Unpaved Roads:
 - Brickyard Road
 - Francis Drive
 - Railway Street

Priority 3

- Parking Lots
 - Riverside Park Parking Lot will not be cleared
 - Barnes Park Parking Lot and driveway access will not be cleared
 - Tuey Park Parking Lot will only be cleared to the extent necessary for storage associated with Snow Removal operations
 - Railway Street Parking Lot will only be cleared to the extent necessary for storage associated with Snow Removal operations
- Cemetery (main road access and internal roads of new section only)
- Group A Sidewalks
- Group B Sidewalks

Sidewalk Groups

Group A

- Sidewalks adjacent to property owned or operated by the City of Enderby, as well as the Riverwalk, walkway from Belvedere Street to George Street (Stanley Avenue road dedication), Cliff Avenue to Russell Avenue Breezeway, and the Salmon Arm Drive multi-use path.

Group B

- George Street from Knight Avenue to south City limits (west side), George Street from Knight Avenue to Granville Avenue (east side; excludes Cliff Avenue to Lambly Lane), Evergreen Street (west side), Belvedere Street from Evergreen to Mill Avenue (both sides), Knight Avenue from Belvedere Street to Salmon Arm Drive (south side), Sicamous Street from Knight Avenue to Hubert Avenue (west side), Hubert Avenue from George Street to Sicamous Street (north side), Cliffview Drive (north and west sides),

Kate Street and Howard Street from Polson Avenue to Brickyard Road (west and north sides).

Sidewalks that are not in Group A or Group B will not be maintained.

Paved pathways internal to a park will not be maintained.

The Shuswap-North Okanagan Rail-Trail, and its crossings, will not be maintained.

THE CORPORATION OF THE CITY OF ENDERBY

POLICY

Snow/Ice Removal

Existing
(2004)

Snow and Ice Control

In the event of a snowstorm with a minimum accumulation of between 3-5 centimetres of snow, or in extreme slippery conditions, sanding, anti-icing and snowplowing operations shall be conducted according to the following priorities.

First Priority:

Arterial roads, major collector roads, firehall access, ambulance station access, school access roads and hilly areas are given First Priority.

Second Priority:

Second Priority routes include Secondary through roads in residential areas between the arterial or major collector road grids. Second priority work is normally performed during scheduled eight-hour shifts and after first priority routes have been completed.

Third Priority:

Third priority routes may include remaining through roads, parking lots, sidewalks adjacent to City owned properties, pathways and the Cemetery, although the Cemetery may be dealt with as a Second Priority if there is a scheduled funeral service and/or burial. Third Priority areas will be dealt with in a systematic manner starting with the more significant parking lots and problematic areas.

Not all Third Priority routes will be addressed.

Plowing, sanding and anti-icing shall be undertaken as conditions dictate (ie. black ice, snowfall or slushy conditions).

Third Priority routes shall be addressed after Second Priority routes. If conditions deteriorate on First or Second Priority routes, resources may be moved back to those routes.

Sand/Anti-Icing Applications

First Priority routes will receive plowing, anti-icing and sanding as required.

Sanding will be carried out, as required, at intersections, sharp corners, hilly areas, Third Avenue (Ambulance Hill) and in school zones.

Attempts will be made to use anti-icing techniques on Cliff Avenue and Belvedere Street prior to sand application. This will assist in keeping the main merchant areas clean and reduce sand build-up in stormwater catch basins.

Anti-icing may not be effective if temperatures fall below –8 degrees Celsius or if snowfall is expected to turn to rain.

Second and Third Priority routes will receive plowing and sanding when hazardous conditions exist, as determined by the City of Enderby Public Works Superintendent and employees.

Sidewalk Snow and Ice Removal

Property owners are required by bylaw to keep sidewalks adjacent to their properties free from ice and snow.

Sidewalks adjacent to City owned properties and City owned pathways shall be addressed by City staff and/or contractors.

The City of Enderby Public Works Department will assist in keeping a predetermined area of sidewalk free from ice and snow when equipment and manpower is available and where there is an excessive buildup of snow and/or ice. The Public Works Department shall provide such assistance with the following sidewalks:

- Evergreen Street (west side)
- Belvedere Street from Evergreen Street to Cliff Avenue (west and east sides)
- Knight Avenue from Belvedere Street to MV Beattie Elementary School south side
- George Street from Knight Avenue to First Avenue (west side)
- George Street from Knight Avenue to Cliff Avenue (east side)
- Regent Avenue from Sicamous Street to George Street (north side)
- Sicamous Street from Knight Avenue to Cliff Avenue (west side)

Shift Schedule

The Public Works Department will schedule a winter shift commencing on the first Monday of November and concluding on the last day of February. This shift shall be from 6:00 a.m. to 3:00 p.m. Monday to Sunday, and shall be covered by the on-call employee during his regular workweek and covered by an alternate employee during his days off.

The employee on shift shall determine whether assistance is required and will call out other employees and/or contractors as necessary.

The services of contract equipment and manpower may be utilized during times of extreme weather conditions and/or manpower constrictions.

Adopted November 15, 2004

Adopted by Council on November 15, 2004

What the Supreme Court of Canada's Decision in *Nelson (City) v Marchi* Means for Local Government Policy Development and the Policy Immunity Defence

Josh Krusell, Jeff Locke, Andrew Buckley
October 29, 2021 [Legal Updates](#)

This month the Supreme Court of Canada (SCC) released its judgment in *Nelson (City) v Marchi*, 2021 SCC 4. The decision provides greater clarity on how to identify and assess "core policy decisions" of local governments. This is an important decision impacting on the availability of the "policy immunity defence", of which all local governments in Canada should take notice.

In its decision, the SCC upheld the B.C. Court of Appeal's (BCCA) decision that the trial judge had erred in finding that the City of Nelson owed no duty of care to the plaintiff. Ms. Marchi had been injured while attempting to cross a snowbank between an angled parking stall on a downtown street and the sidewalk.

The SCC's finding that the City owed Ms. Marchi a duty of care holds important implications for local governments and their approaches to "policy formulation" and risk management. This article discusses those implications below.

The SCC also upheld the BCCA's decision that the trial judge had erred in finding, in the alternative, that even if the City owed a duty of care, it was not negligent because Ms. Marchi was the proximate cause of her own injuries. The SCC decided that because key factual findings would need to be proven to determine issues of causation and the standard of care owed by the City in the circumstances, a new trial would need to be held.

Facts of the Case

After a heavy snowfall in January 2015, City snow clearing crews started plowing the streets in the order of priority established by its policy. Not long after, Ms. Marchi parked her car on Baker Street, the main downtown street. City crews had already plowed the street, but in doing so, they had created a snowbank along the curb of the sidewalk which acted as a barricade between the roadway and the sidewalk. No access points had been cleared to allow drivers parking their vehicles along the street to get from the stalls to the sidewalk, except at the intersections.

As Ms. Marchi had parked in the middle of the block, she decided to clamber over the snowbank to get from her car to the sidewalk and, in doing so, seriously injured her leg. She sued the City for negligence.

The City's Policy for Snow Removal and Its Defence

The SCC found that the relationship between the City and someone in Ms. Marchi's position was one where Canadian courts have previously recognized that a legal "duty of care" exists, namely: a public authority who has undertaken to maintain a public road or sidewalk owes a duty of care to execute the maintenance in a non-negligent manner.

The SCC was also satisfied that even were this a novel case, the relationship between Ms. Marchi and the City was sufficiently proximate to support the existence of a duty of care; there was foreseeable physical harm to Ms. Marchi from using a public space which the public authority intended and planned for people to use, and which it controlled.

Although not accepted by the Court, the City argued that any duty of care it might owe to Ms. Marchi should be negated because its approach to snow clearing arose from "core policy decisions" that are immune from negligence claims. This defence, commonly referred to as the "policy immunity defence", has been a part of the Canadian legal test for negligence for decades and was thoroughly discussed by former Chief Justice McLachlin in the SCC's 2011 decision in *R v Imperial Tobacco*, 2011 SCC 42.

In broad terms, the policy immunity defence reflects an appreciation that elected public bodies have a role in balancing competing economic, social, political, and other factors when setting policy, and the outcomes of those decisions should not be weighed by the courts. Conversely, where governments and their staff implement policy through myriad "operational" decisions they are not immune from negligence law.

As an example, a local government can, for budgetary reasons, establish a "policy" of inspecting its storm sewer grates at least once every three years. The frequency of the inspections, as set by policy, are immune from judicial scrutiny. However, the way the inspections are carried out (e.g., whether from a truck window or on the ground) and what training the inspectors receive are examples of the "operational" implementation of the policy decision that are open to court evaluation as to whether the "operational" requirements met the legal "standard of care".

In this case, the City had relied since 2000 on a written document called "Streets and Sidewalks Snow Clearing and Removal" (the "Policy"). Broadly, the Policy stated that snow removal, sanding, and plowing would be carried out "on a priority schedule to best serve the public and accommodate emergency equipment within budget guidelines". The Policy set out the following priorities: emergency routes and the downtown core; transit routes; plowing hills; cross streets; and dead-end streets. Ms. Marchi was injured in the 300 block of Baker Street, which is in the "downtown core". The Policy also provided specific guidelines that snow plowing will occur during the early morning hours and that snow removal may be carried out as warranted by build-up levels. The Policy did not address how parking stalls would be cleared or provide for the creation of snowbanks.

In addition to the written Policy, the City also had several unwritten practices. For example, it plowed, sanded, and removed snow from the designated sidewalk route and the various stairs located in the City. It focused on Baker Street in the downtown core for snow removal, but to ensure safety, City workers began to remove snow from other areas, including the civic centre and around schools, when the downtown core started to get busy (typically around 11:00 a.m.). Crews then returned to Baker Street as soon as possible.

City staff followed the Policy during the snowfall in January 2015. The number of staff deployed was a decision of the City's public works supervisor, who chose not to use more than 20 percent of the year's snow removal budget on clearing, as it was only the City's first major snowfall of the year.

The City argued that it could not be found to owe a duty of care to Ms. Marchi as it had made a policy decision about where, when, and how to clear snowfall based on its limited staff and financial resources and in light of competing priority snowfall areas arising throughout the community.

The Court's View of the City's Policy Immunity Defence

The SCC did not accept the City's arguments and found that the City's specific decision to clear snow from the parking stalls in the 300 block of Baker Street — thereby inviting members of the public to park in those stalls — without ensuring direct access to sidewalks was not the result of a core policy decision. Instead, this was an "operational" aspect of the City's snow removal process "to which little thought was given".

The SCC summarized the law regarding the policy immunity defence as follows:

- Core policy decisions are "decisions as to a course or principle of action that are based on public policy considerations, such as economic, social and political factors, provided they are neither irrational nor taken in bad faith". They are a "narrow subset of discretionary decisions" — meaning, the presence of choice is not a marker of core policy.
- Core policy decisions are immune from negligence liability because the legislative and executive branches have core institutional roles and competencies that must be protected from interference by the judiciary's private law oversight. A court must consider the extent to which a government decision was based on public policy considerations and the extent to which the considerations impact the rationale for core policy immunity.

Importantly, and at the core of the SCC's decision, clarity is provided with respect to four factors to be assessed by courts in determining whether a "core policy decision" exists, as follows:

1. ***The level and responsibilities of the decision-maker:*** Persons of a high level of authority, and whose responsibilities include assessing and balancing public policy considerations, are more likely to make core policy decisions.
2. ***The process by which the decision was made:*** Core policy decisions will usually have a sustained period of planning and deliberation with input from different levels of authority.
3. ***The nature and extent of budgetary considerations:*** The mere presence of budgetary, financial, or resource implications does not conclusively determine whether a decision is core policy. The Court contrasted, on one hand, budgetary allotments for departments, which will be classified as a policy decision because it is more likely to be a decision of the legislative or executive branches of government, and on the other hand, day-to-day budgetary decisions made by individual employees, which are unlikely to be policy decisions.
4. ***The extent to which the decision was based on objective criteria:*** The more a decision is based on "technical standards or general standards of reasonableness" the more likely it can be reviewed for negligence, while the more a decision is based upon competing interests and value judgments the less likely a court can assess the decision without substituting its own value judgment.

The SCC also identified that:

- The underlying rationale — protecting the legislative and executive branches' core institutional roles and competencies — serves as an overarching guiding principle for how to weigh the four factors in the analysis. Thus, the nature of the decision along with the

hallmarks and factors that inform its nature must be assessed with a view to protecting this important role of government.

- Finally, the Court clarified that the fact that the word “policy” is found in a written document, or that a plan is labelled as “policy” may be misleading and is certainly not determinative of the question of whether it constitutes a “core policy”. Similarly, that a certain course of conduct is mandated by written government documents is of limited assistance. While core policy might be expected to be reduced to writing, this may depend on the public authority and the circumstances; implementation procedures may also be documented. The focus must remain on the nature of the decision itself rather than the format or the government’s label for the decision.

The SCC’s Consideration of the Facts of the Case

The Court found that the City’s decision in this case bore none of the hallmarks of a “core policy decision”, remarking specifically on the following facts:

- First, the City’s public works supervisor did not have the authority to make a different decision with respect to the clearing of parking stalls, and so the decision was not one made at a “high level of authority”.
- Second, there was no suggestion that the method of plowing the parking stalls on Baker Street resulted from a deliberative decision involving any prospective balancing of competing objectives and policy goals by the supervisor or her superiors. Indeed, there was no evidence suggesting an assessment was ever made about the feasibility of clearing pathways in the snowbanks; the City’s evidence is that this was a matter of custom.
- Third, although it was clear that budgetary considerations were involved, these were not high-level budgetary considerations but rather the day-to-day budgetary considerations of individual employees.
- Fourth and finally, the City’s chosen method of plowing the parking stalls could easily be assessed based on objective criteria as it was a technical decision and not one requiring the weighing of competing interests. The trial court would be well-equipped to determine whether the snowbanks posed an objectively unreasonable risk of harm (the standard of care question) as the safety of a road or sidewalk can be measured based on objective or commonly accepted standards.

Takeaways for Local Government Operations, Decision-making, and Policy Development

At a high level, here is the central takeaway from the decision: The SCC’s decision makes clear that the only decisions of local governments which will be shielded by the policy immunity defence are those based on public policy considerations that reflect the rationale for core policy immunity. In other words, those decisions which raise the risk that if a court were to weigh in, it would be second-guessing the decisions of the legislative or executive branches of government and substituting its own opinion on matters involving the complex weighing of competing economic, social, and political factors.

Following this decision, the team at SMS is creating a new set of advice for local governments on establishing policies that reflect the hallmarks of “core policy decisions”. If you are interested in receiving advice on this topic or a presentation to your group by SMS, please contact **Josh Krusell**, **Jeff Locke**, or **Andrew Buckley** for more information.



MEDIA RELEASE

Victoria, BC – September 14th, 2023 – FOR IMMEDIATE RELEASE

BC Association of Chiefs of Police Addresses Public Consumption of Illicit Drugs

Senior police leadership in British Columbia acknowledge the tragic toll the opioid crisis has taken on our communities and recognizes that extraordinary measures must be considered to address the ongoing deaths from the toxic drug supply.

The BC Association of Chiefs of Police support the decriminalization of personal amounts of illicit drugs as part of an integrated approach to divert persons who use drugs away from the criminal justice system and toward health services and pathways of care, with the goal of improving health and safety outcomes.

However, over the past several months, we have heard overwhelming feedback from individuals, business leaders, city councils, and front-line police officers that the current exemption poses a significant risk to public safety with respect to public consumption. As such, police leaders from across the province agreed that additional measures must be implemented to ensure everyone in our communities feels safe.

We acknowledge that one of the goals of the exemption is to reduce contact between police and people who use drugs, reduce stigma, and encourage people who use drugs to do so in the company of others. We recognize that there is a desire to ensure that people who use drugs are not encouraged to do so alone given the toxic drug supply and the ever-increasing number of overdose deaths. It is also important, however, to address the increasing community concerns with respect to people using drugs in ways that are harmful to children and youth.

Today we are grateful for the federal Minister of Mental Health and Addictions and Associate Minister of Health's approval of the request for an amendment to the existing subsection 56(1) exemption under the Controlled Drugs and Substance Act (CDSA), related to personal possession of illegal drugs. This amendment prohibits the possession of illegal drugs within 15m of public outdoor playgrounds, spray pools, wading pools and skate parks, alongside existing exclusions on possession on the premises of K-12 schools, licenced childcare facilities, and vehicles under certain conditions.

The BCACP believes this is a positive step forward aimed to improve public safety. As part of this amendment, police officers will now have the authority to enforce the CDSA when individuals are found to be in possession of illegal drugs in these child-focused spaces, effective September 18.

"Senior police leaders from across British Columbia are pleased that Health Canada and the Province of British Columbia heard our concerns with respect to public consumption. Although the BCACP supports decriminalization, we heard feedback from our communities about the need to ensure police have appropriate tools to address areas of concern, which prompted the BC Association of Chiefs of Police to advocate Health Canada to add additional exceptions to the exemption. There is a clear need to ensure



British Columbia Association of CHIEFS OF POLICE

everyone feels safe in public places, while also ensuring people who use drugs are provided with alternate pathways of care,” said Vancouver Police Department Deputy Chief Fiona Wilson, Vice-President of the BCACP and Co-Chair of the CACP Drug Advisory Committee.

The BC Association of Chiefs of Police stands united in its dedication to addressing the crisis of public consumption of illicit drugs with Health Canada and the Province of British Columbia. We will continue to work tirelessly to ensure that our communities receive the highest level of public safety, while also supporting those who use drugs – with the goal of reducing overdose deaths.

A blue ink signature of Supt. Todd Preston, consisting of stylized initials.

Supt. Todd Preston
President
BC Association of Chiefs of Police

A black ink signature of Deputy Chief Fiona Wilson, written in a cursive style.

Deputy Chief Fiona Wilson
Vice-President
BC Association of Chiefs of Police

For media inquiries, please contact:

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About the BC Association of Chiefs of Police (BCACP)

The BC Association of Chiefs of Police (BCACP) is a non-profit organization dedicated to promoting effective law enforcement and public safety in British Columbia. The BCACP represents police chiefs and senior law enforcement officials from municipal, provincial, and federal agencies across the province. The association strives to enhance collaboration, knowledge sharing, and professional development among its members to address the evolving challenges in policing and ensure the safety and well-being of the communities they serve.

- Skip to main content
- Skip to footer

British Columbia News

B.C. secures measures to ensure families feel safe accessing public spaces

<https://news.gov.bc.ca/29524>

To help ensure kids and families feel safe in their communities, the Province has received approval from the federal government to prohibit the possession of illegal drugs at playgrounds, spray pools, wading pools and skate parks.

Effective Monday, Sept. 18, 2023, possession of illicit drugs within 15 metres of any play structure in a playground, a spray or wading pool, or a skate park will be prohibited. B.C. had made a request to Health Canada for an amendment to the decriminalization policy to add these spaces to existing exclusions on possession, including on the premises of K-12 schools and licensed child care facilities. The federal minister of mental health and addictions and associate minister of health has approved B.C.'s request.

"Our government is committed to breaking down barriers and connecting people to the supports they need," said Jennifer Whiteside, B.C.'s Minister of Mental Health and Addictions. "We requested this amendment from Health Canada to ensure that families feel safe in their community while continuing to use every tool available to fight the toxic-drug crisis and save lives."

With this amendment, police officers may enforce the Controlled Drugs and Substances Act when individuals are found to be in possession of illegal drugs in these child-focused spaces. Intoxication remains illegal in all public places.

"Everyone, especially children, should feel safe in their communities," said Minister Ya'ara Saks, federal Minister of Mental Health and Addictions and Associate Minister of Health. "This cannot be forgotten as we continue to work relentlessly to reduce substance use related harms. This amendment ensures that law enforcement has the tools needed to address public drug-use concerns, while continuing to provide support for some of the most vulnerable people in our community who use drugs. Our government recognizes the tremendous work B.C. has been doing across the full continuum of care to address the overdose crisis and we will continue to work with them to save lives."

The Province has also recently completed consultations on public drug use with key stakeholders, and is planning to introduce provincial legislation to further regulate public drug use this fall.

The B.C. government is also releasing data on mental-health and substance-use services in the province. This new data snapshot will show how the ministry is expanding mental-health and addictions care to help people connect services, including early intervention, harm reduction, treatment and recovery, and after-care supports.

The data snapshot includes information about the impacts of decriminalization, including law-enforcement data, research on the emotional well-being of people living with addiction, and connecting people to services, including treatment. It also reflects the work accomplished to date as part of A Pathway to Hope, issued in 2019, a strategy that lays out government's 10-year vision for mental-health and substance-use care. The Province has released a report to highlight progress to date on key priorities and action areas.

Since decriminalization came into effect, the provincial and federal governments have continued to work closely to monitor this exemption to ensure it is meeting the desired outcomes and that any potential unintended consequences are promptly addressed.

Decriminalization is just one tool in the Province's toolbox in the fight against the toxic drug crisis.

The B.C. government is working to build an integrated system of mental-health and addictions care that works for everyone. This includes adding hundreds of new treatment beds, expanding services for youth, and increasing access to programs that reduce harm and help keep people safe, such as drug-checking measures.

Quotes:

Marianne Alto, mayor of Victoria –

"Decriminalization is one part of a complex response to the toxic-drug crisis. As the longer-term effects of decriminalization are assessed, and more addictions and mental-health services are established, it's important to consider and take steps that specifically protect children. Prohibiting possession of illegal substances at child-focused areas is one such step."

Ken Sim, mayor of Vancouver –

"We are pleased to see Health Canada is responding to the hard work done by the Province in taking action by amending the B.C. personal drug possession exemption. By making these spaces – playgrounds, splash parks, and skate parks – exceptions to the decriminalization pilot, Health Canada is helping to ensure those sites remain places where families, and especially children, will be able to safely enjoy our communities. This is a positive step forward, helping to find balance for our communities, including families, seniors, children, and the needs of our most vulnerable residents. The City of Vancouver will continue to work with our senior government partners to ensure those who suffer from substance-use disorder have the services they need. We thank both the Province and the BC Association of Chiefs of Police for joint advocacy with the City of Vancouver to address this important issue."

Bob Wells, mayor of Courtenay –

"Playgrounds, spray parks, wading pools, and skate parks should be safe spaces for kids and families. While the City of Courtenay supports decriminalization to address the heartbreaking and preventable deaths caused by the toxic-drug crisis, there also needs to be protections in place for children and youth. This is a public health emergency which is harming people from all walks of life. In addition to these important measures to help keep substances away from kids, we urgently need multi-layered solutions, including expanding treatment, safer supply, supervised consumption, and supports for people affected by substance use who desperately need help."

Deputy Chief Fiona Wilson, vice-president, BC Association of Chiefs of Police –

"Senior police leaders from across British Columbia are grateful to Health Canada and the Province of British Columbia for hearing our concerns with respect to public consumption. Although police leaders support decriminalization, we heard feedback from our communities about the need to ensure police have appropriate tools to address areas of concern, which prompted the BC Association of Chiefs of Police to advocate Health Canada to add additional exceptions to the exemption. There is a clear need to ensure everyone feels safe in public places, while also ensuring people who use drugs are provided with alternate pathways of care."

Quick Facts:

- In May 2022, the federal government approved B.C.'s exemption request under the Controlled Drugs and Substances Act so that adults (18 and older) are not subject to criminal penalties if found in possession of up to 2.5 grams of certain illegal drugs for personal use from Jan. 31, 2023 to Jan. 30, 2026.
- Instead, they are offered information about local health and social services, as well as local treatment and recovery options, if requested.

Learn More:

The data snapshot can be found here: <https://MentalHealthAndAddictionsCare.gov.bc.ca>

[/https://MentalHealthAndAddictionsCare.gov.bc.ca](https://MentalHealthAndAddictionsCare.gov.bc.ca) Page No. 57 of 58

(<https://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/mental-health-and-addictions-strategy>)

Read the full exemption: <https://www.canada.ca/en/health-canada/services/health-concerns/controlled-substances-precursor-chemicals/policy-regulations/policy-documents/exemption-personal-possession-small-amounts-certain-illegal-drugs-british-columbia.html> (<https://www.canada.ca/en/health-canada/services/health-concerns/controlled-substances-precursor-chemicals/policy-regulations/policy-documents/exemption-personal-possession-small-amounts-certain-illegal-drugs-british-columbia.html>)

Learn more about A Pathway to Hope: <https://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/mental-health-and-addictions-strategy> (<https://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/mental-health-and-addictions-strategy>)

Learn about mental-health and substance-use supports in B.C.: <https://wellbeing.gov.bc.ca>

(<https://wellbeing.gov.bc.ca/>)

Ministry of Mental Health and Addictions

Communications

250 880-7117

Translations

- SafeFamilies_Chinese(simplified).pdf ([https://bcgovnews.azureedge.net/translations/releases/2023MMHA0065-001456/SafeFamilies_Chinese\(simplified\).pdf](https://bcgovnews.azureedge.net/translations/releases/2023MMHA0065-001456/SafeFamilies_Chinese(simplified).pdf))
- SafeFamilies_Chinese(traditional).pdf ([https://bcgovnews.azureedge.net/translations/releases/2023MMHA0065-001456/SafeFamilies_Chinese\(traditional\).pdf](https://bcgovnews.azureedge.net/translations/releases/2023MMHA0065-001456/SafeFamilies_Chinese(traditional).pdf))
- SafeFamilies_French.pdf (https://bcgovnews.azureedge.net/translations/releases/2023MMHA0065-001456/SafeFamilies_French.pdf)
- SafeFamilies_Punjabi.pdf (https://bcgovnews.azureedge.net/translations/releases/2023MMHA0065-001456/SafeFamilies_Punjabi.pdf)

Acknowledgment

The B.C. Public Service acknowledges the territories of First Nations around B.C. and is grateful to carry out our work on these lands. We acknowledge the rights, interests, priorities, and concerns of all Indigenous Peoples - First Nations, Métis, and Inuit - respecting and acknowledging their distinct cultures, histories, rights, laws, and governments.