



Council Report

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Date: November 4, 2025
To: Anthony Haddad, City Manager
From: Julie Czeck, GM Public Safety & Partnerships and Deanne Burleigh, Bylaw Services Manager
Subject: **Safe Public Places Bylaw No. 2025-35**

STAFF RECOMMENDATION

THAT Council give first reading to “Safe Public Places Bylaw No. 2025-35”, a bylaw that adds language to prohibit harassment of another person while in a public place;

AND THAT Council give first reading to “Municipal Ticketing Information Amendment Bylaw No. 2025-36”, a bylaw that imposes a fine for infractions noted in Sections 5, 6 and 7 of the “Safe Public Places Bylaw No.2025-35” and specifically imposes a fine for harassing another person;

AND THAT Council give first reading to “Bylaw Notice Enforcement Amendment Bylaw No.2025-37”, a bylaw that imposes a fine for infractions noted in Sections 5, 6 and 7 of the “Safe Public Places Bylaw No.2025-35” and specifically imposes a fine for harassing another person;

AND THAT Council refer the Safe Public Places Bylaw No. 2025-35, Municipal Ticketing Information Amendment Bylaw No. 2025-36 and Bylaw Notice Enforcement Amendment Bylaw No.2025-37 to the Public Safety Advisory Committee and Accessibility Committee for their information and comments prior to further readings.

EXECUTIVE SUMMARY

The process to amend these bylaws followed a presentation made by the South Okanagan Immigrant and Community Services (SOICS) at the February 20, 2024 Committee of the Whole and their request to seek Council’s continued support for their work on anti-racism initiatives and the creation of an anti-harassment bylaw.

Safe Public Places Bylaw No.2023-06 is being replaced by Safe Public Places Bylaw No. 2025-35 and is now broadly broken into 3 sections; i) prohibitions on solicitation; ii) prohibitions on obstructing or impeding the use of a public space; and iii) prohibitions on public nuisance and “unsafe uses” which includes a section defining discriminatory harassment.

The new bylaw retains many of the previous provisions while adding revisions to both strengthen enforceability and align with current Case Law.

STRATEGIC PRIORITY OBJECTIVE

Safe & Resilient: The City of Penticton will enhance and protect the safety of all residents and visitors to Penticton.

Livable & Accessible: The City of Penticton will proactively plan for deliberate growth, focusing on creating an inclusive, healthy, and vibrant community.

BACKGROUND

At the Regular Council meeting of February 20, 2024, Council passed the following resolution:

11.1 Business Arising from Committee of the Whole of Council

54/2024

It was MOVED and SECONDED

THAT Council direct staff to draft an amendment to our bylaws or create a bylaw to restrict harassment of a person in a public space similar to the Public Behaviors Bylaw 54M2006 of the City of Calgary.

CARRIED UNANIMOUSLY

This resolution followed a presentation by SOICS during the Committee of the Whole, which brought forward community concerns about racism and discriminatory harassment in public spaces across the South Okanagan. SOICS shared data and lived experiences from racialized residents and newcomers who had been subjected to discriminatory harassment. They requested that Council explore a bylaw similar to Calgary's Public Behaviours Bylaw to help address these incidents and demonstrate the City's commitment to fostering safe, inclusive public spaces. Since the presentation was made in 2024, the City's Social Development team have been meeting regularly with SOICS to discuss ways in which the City can support their anti-racism and anti-harassment initiatives. Staff have also met regularly with the Bylaw department and the RCMP.

Staff aimed to address the need for a regulatory mechanism to address harassment and discrimination in public spaces (from here forward referred to as discriminatory harassment), including the consideration of a bylaw with enforceable provisions.

The City has been actively exploring a regulatory approach to address harassment and discrimination in public spaces. This work has taken time due to several important considerations. Staff conducted a detailed review of existing bylaws and legal frameworks to ensure any proposed changes would be effective, enforceable, and consistent with Charter rights. A thoughtful and collaborative approach was prioritized to ensure the solution is both meaningful and sustainable. While limited staff capacity and competing priorities contributed to the extended timeline, this initiative remained a priority.

To inform the proposed bylaw changes, staff conducted a cross-jurisdictional review of municipal approaches across Canada. While no comparable bylaws were found in B.C., examples from Alberta and Saskatchewan were examined, including consultations with the City of Calgary and the Town of Outlook. In Alberta, bylaw officers are often designated as provincial peace officers, enabling them to enforce both municipal and certain provincial laws within a tiered policing model. However, most enforcement tickets are still issued by police. In Saskatchewan, anti-bullying bylaws that target youth serve primarily as preventative tools enforced by the RCMP.

In BC, municipalities have authority under the *Community Charter* to regulate, prohibit and impose requirements in relation to “public places” pursuant to section 8(3)(b), which includes authority in relation to persons, property, things and activities that are in, on or near public places, pursuant to section 62. Pursuant to section 8(3)(h), municipalities also have the authority to regulate, prohibit and impose requirements in relation to the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64. Of particular relevance in section 64 is the authority in respect of nuisances, noise or any other matter that is liable to disturb the public, and indecency and profane, blasphemous or grossly insulting language.

The primary purpose of Safe Public Places Bylaw No. 2025-35 is to prevent and address public nuisances on public property. Harassment, especially when rooted in racism or discrimination, undermines individuals’ safety, dignity, and sense of belonging and community cohesion in public spaces. Such behavior not only harms those directly targeted but also discourages broader community participation. By explicitly prohibiting discriminatory harassment, the City of Penticton affirms that racism and hate have no place in its public realm and commits to ensuring inclusive, safe access for all.

While the original *Safe Public Places Bylaw* already included language prohibiting harassment, this change strengthens the City’s ability to respond in public places by introducing a specific enforcement mechanism, namely, the authority for RCMP to issue tickets for such behaviour under the Municipal Ticket Information (MTI) system or the Bylaw Notice Enforcement Bylaw (BNEB).

RCMP have the authority to enforce the Criminal Code as well as issue tickets under either the Municipal Ticketing Information Bylaw or under the Bylaw Notice Enforcement Bylaw. Staff are recommending that complaints of discriminatory harassment as defined in the Safe Public Places Bylaw No. 2025-35 be referred to and assessed by the RCMP, who would, through investigation, determine whether such harassment constitutes criminal harassment, or alternatively, a form of public nuisance.

The bylaw provides a clear framework to address instances of discriminatory harassment that may constitute a public nuisance or interfere with the safe use of public areas and that do not meet the threshold for charge approval for a Criminal Code offence. This bylaw will not provide authority to arrest a person breaching it, or force them to leave an area, and it does not apply to private residences or spaces. Enforcement will be in accordance with existing procedures under which the Bylaw Department operates. The \$500 fine established through amendments to the Municipal Ticketing Information Bylaw and the Bylaw Notice Enforcement Bylaw will serve as a deterrent and a tool for addressing violations.

Fulsome review of the Safe Public Places Bylaw

The proposed changes to include discriminatory harassment served as the impetus to conduct a fulsome review of the Safe Public Places Bylaw and include revisions to strengthen enforceability and reduce risks associated with potential constitutional challenges to outdated provisions. The proposed changes to the Safe Public Places Bylaw include three broad sections:

- i. Prohibitions on solicitation as obstructing or impeding movement within a public space (Section 5);
- ii. Prohibitions on obstruction or impeding the use of public spaces (Section 6);
- iii. Prohibitions on public nuisance and “unsafe uses” (Section 7) which includes discriminatory harassment (Section 7.1(b)).

Changes to Strengthen Enforceability

The Safe Public Places Bylaw retains many of the previous provisions and adds the following revisions that strengthen enforceability:

1. A succinct definition of discriminatory harassment that identifies the behaviours, separate and distinct from the criminal code definition, that would be subject to enforcement under this bylaw as a prohibited form of public nuisance, with an associated \$500 fine and as noted above, staff are recommending that the RCMP would be the enforcement body for this particular section of the bylaw.
2. A revised definition of disorderly conduct: “means conduct which would cause a public disturbance or constitute a public nuisance and includes engaging in any activity or behaviour that could reasonably be expected to obstruct or impede other members of the public from using a public place, or a portion or feature of a public place, for its intended purpose”. This definition is clear and concise and allows the Bylaw officers (and/or the RCMP) to identify the elements of the offence and if deemed appropriate under the specific circumstances, issue a ticket.
3. The new Section 6 (Obstruct or Impede the Use of a Public Place) takes items that had been elsewhere in the original bylaw and moved them to this section strengthening enforceability by defining them as a form of obstruction rather than a public nuisance or unsafe behaviour. (Example: loitering in a public washroom as a form of “obstruction of intended use” will make it easier to enforce and reduce risks associated with potential constitutional challenges associated with outdated provisions).
4. Section 7 (Safe Use of Public Spaces and Public Nuisances) clearly reflects enforceable actions and behaviours that are not permitted in public spaces in Penticton and includes: disorderly conduct (discussed above); discriminatory harassment (discussed above); urinating or defecating in a public place; hazardous or unsafe activities; vandalism; abandoning or discarding items or personal property in a public place; consumption of liquor in a public place (other than a designated area); displaying or using drug paraphernalia or a controlled substance and endangering life, safety, health or property.

Bylaw Enforcement Officers would be primarily responsible for enforcement for all these infractions with the exceptions of:

- Discriminatory harassment (previously discussed);
- Displaying or using drug paraphernalia or a controlled substance (controlled substances are illegal to possess therefore Bylaw Officers cannot take possession of them during an interaction leaving all enforcement to the RCMP); and
- Endangering life, safety, health or property (most behaviours endangering life will require an RCMP response).

Staff would like to highlight that the old version of the bylaw included references to the seizure of things unlawfully occupying a portion of a highway or public place. The proposed changes remove this wording and replace it with Section 7.1 (f): While in or on a public place, a person must not abandon or discard any items or personal property in a public place.

This new wording reinforces and supports the existing processes in place at Bylaw Services Department to remove abandoned or discarded property from a public place.

5. The Bylaw Notice Enforcement Amendment Bylaw No.2025-37 will include Sections 5, 6 and 7 of the Safe Public Places Bylaw No.2025-37 authorizing Bylaw Officers and RCMP the ability to issue Bylaw Enforcement Notices for offences if the circumstances warrant issuance of a ticket. This will be in addition to the current enforcement option of issuing an infraction under the Municipal Ticketing Information Amendment Bylaw No.2025-36.

Changes to Minimize Challenges

The revised bylaw incorporates the following revisions that align with the current legal environment and serve to reduce risks associated with potential constitutional challenges to outdated provisions:

1. Temporary overnight shelters were incorporated into 2 sections (4.2(b) and 6.1(a)) of the bylaw to align with the new Parks Bylaw and existing Case Law, permitting a temporary overnight shelter in a public place after it is closed to the public.
2. The prohibition of solicitation has been framed in the amended bylaw to limit obstruction and interference with the safe and efficient movement of pedestrian and vehicular traffic in, on or through a public space specifically to address recent constitutional challenges.
3. The amended bylaw does not permit solicitation within 5 meters of identified spaces (reduced from 10 meters) to address constitutional challenges where restricted areas were so expansive that they eliminated large areas of a City. The exception to this is the 1 meter distance from the entrance to a retail store.

FINANCIAL IMPLICATIONS

The implementation of the *Safe Public Places Bylaw No. 2025-35* and the corresponding *MTI Bylaw No. 2025-36* and *Bylaw Notice Enforcement Bylaw No. 2025-37* includes the introduction of:

- i. Fines under the Bylaw Notice Enforcement Bylaw for Sections 5.1 a, b, c, 5.2, 5.3, 5.4, 6.1 a, b, c, 6.2, 7.1 a, b, c, d, e, f and g. Enforcement will be carried out within existing Bylaw Services Department capacity, and no additional staffing or resources are required at this time.
- ii. Specifically, a \$500 fine for individuals found to be engaged in discriminatory harassment of others in public spaces (Section 7.1(b)). Enforcement will be carried out within existing RCMP service capacity, and no additional staffing or resources are required at this time.

Any financial implications from these fines will be monitored and either amended through a quarterly report or incorporated into a future financial plan.

ANALYSIS

The proposed *Safe Public Places Bylaw No. 2025-35* is intended to extend the City's commitment to equity and inclusion into public spaces. Using the authority granted under the *Community Charter*, the bylaw aims

to prevent and abate behaviours that constitute public nuisance, including harassment and discriminatory conduct that interferes with individuals’ ability to safely and fully enjoy public spaces. By explicitly identifying and prohibiting conduct such as grossly insulting or degrading language, the bylaw provides a mechanism to address racism and discrimination as community well-being issues in public spaces. It is important to note that this bylaw does not apply to incidents occurring within private residences, as its scope is limited to conduct in, on, or near public places as defined under the *Community Charter*.

This approach reinforces the City’s broader efforts to create a respectful and inclusive environment for all residents and visitors and signals that discriminatory behaviour will not be tolerated in any context—whether internal or public.

These changes also strengthen enforceability by retaining the previous provisions that are enforceable within the jurisdiction of the City and adding clarity in definition and description of actions and behaviours that are prohibited within the City of Penticton. The addition of the amendment to the Bylaw Notice Enforcement Bylaw to include Bylaw Offence Notices for infractions of the Safe Public Places Bylaw No. 2025-35 gives an enforcement option that had not been included previously. Staff highlight that the response to all infractions will begin with education and information with a view to gaining voluntary compliance. The ability to issue Bylaw Offence Notices will be an added tool in the toolbox when the circumstances demonstrate a need for its use.

Finally, this work acknowledges the current legal environment and reduce risks associated with potential constitutional challenges to outdated provisions by aligning the bylaw with current case law and court decisions in other jurisdictions. This strengthens the bylaw overall and provides clarity to both public and staff on what is permitted behaviour and permitted use in public spaces.

ATTACHMENTS

Attachment A –Safe Public Places Bylaw No. 2025-35

Attachment B –Municipal Ticket Information Amendment Bylaw No. 2025-36

Attachment C –Bylaw Notice Enforcement Amendment Bylaw No. 2025-37

Respectfully submitted,

Julie Czeck, GM Public Safety & Partnerships

Deanne Burleigh, Bylaw Services Manager

Concurrence

<p>General Manager of Corporate Services</p> <p><i>AMC</i></p>	<p>City Manager</p> <p><i>ABH</i></p>
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