

Fire Pit Enforcement Options

Recommendation:

That the March 23, 2015, Community Services report CR_1864, be received for information.

Report Summary

This report provides a number of potential options to deal with the impacts of backyard fire pits on communities.

Previous Council/Committee Action

At the November 13, 2014, Community Services Committee meeting, the following motion was passed:

That Administration provide a report on mechanisms that could be used to protect citizens from extreme nuisance, negative and unhealthy effects of fire pit smoke from neighbouring properties.

Report

- In late 2014, Administration provided a report to Community Services Committee outlining current steps to control the impact of backyard fire pits on communities. Committee directed Administration to provide a report on mechanisms to protect citizens from extreme nuisance impacts of neighbourhood fire pits and to prepare a bylaw amendment regarding provincial health advisories and fire pit use. On February 10, 2015, Administration brought forward amended Bylaw 17031, which failed to pass at City Council.

Option I: Existing Mechanisms

- Administration reviewed the current bylaw, as well as existing mechanisms and operational procedures, and identified that many of the current efforts to deal with citizen complaints both from an enforcement and non-enforcement approach can be used to deal with extreme nuisance cases. For example, in extreme non-compliance situations, rather than issue the standard fine amount of \$250, officers can opt to use a mandatory court requirement. This requires mandatory court attendance by the defendant and, if convicted, the judge has discretion to levy fines up to \$10,000. This option is already utilized by staff to deal with other bylaw violations that are chronic in nature, where there is a significant history of causing a nuisance or in extreme cases where it is in the public interest to have the defendant appear in court. In addition to issuing \$250 fines and/or mandatory court requirements, the bylaw also allows for repeat offenders to be fined \$500 for subsequent offences. This mechanism supports the Enforcement Officers' ability to identify the more severe cases and use a proportional approach to the severity of the offense.

Fire Pit Enforcement Options

- The use of 'Community Mediation' is also an existing mechanism that can be used in extreme cases and can be beneficial to resolve concerns outside of the bylaw requirements. This is a free service whereby trained facilitators work with neighbours to resolve the problem and reach an agreement to set out longer term remedies and solutions.
- Statistically, outdoor fire violations occur predominately during the late afternoon or evening and most offences involve first time offences where compliance is achieved upon initial contact. In 2014, approximately 200 to 300 complaints relating to fire pits were registered of which only 11 offences involved repeated calls for service.
- One existing option for extreme nuisance fire pit cases is advising citizens to seek legal advice or counsel on available private civil remedies.

Option II: Creation of a Subjective Nuisance Bylaw Provision within the Community Standards Bylaw

- An option to assist in resolving extreme nuisance type concerns could be to amend the Community Standards Bylaw to incorporate a new subjective offence section arising from unreasonable use of outdoor fires. This amendment may address concerns relating to people who are more susceptible to smoke or for those few cases where normal enforcement actions are inadequate.
- As an example, a person negatively affected by smoke could bring forward a complaint alleging the nuisance nature of the fire pit and then articulate the adverse effect on them. The onus would be on the citizen to show or detail the negative impact and how this is caused or related to the activity of the person responsible for the neighbouring fire. If Administration determines that the situation is resulting in an extreme or unreasonable nuisance condition, the bylaw could allow Administration to impose conditions on the ability of the offending person to have outdoor fires such as restrict burning frequency, time of day or week, or location of outdoor fire on the property.
- If conditions are not complied with, a violation penalty could be imposed. The person subject to the fire pit conditions would also have the option to appeal conditions to a review board or committee.
- Administration would need direction to bring back a report to further explore this bylaw provision. A more detailed review of potential risks, impacts, and costs for this option would be included for Committee's consideration.

Option III: Enhanced Response Services

- The enhanced response service option supports an approach that increases complaint response time, allows for more timely service delivery, faster mediation support, and a proactive approach. Additional enforcement staff would better address citizen concerns and respond to complaints associated with issues where there is an extreme or significant health related concern.
- Enforcement staff would be dedicated to monitoring and controlling the negative aspects associated with open fires and focus on mitigating community and

Fire Pit Enforcement Options

individual health impacts. In addition, broader environmental concerns, and other lifestyle nuisances relating to excessive smoke, could also be addressed.

Options one and two have no cost implications, however option three has a resource and funding requirement, which would need to be determined.

Others Reviewing this Report

K. Rozmahel, General Manager, Corporate Services