
CITY OF KELOWNA

MEMORANDUM

Date: July 30th, 2001
File No.: 3900-20
To: City Manager (RB)
From: Transportation Manager (RW)
Subject: Draft Traffic Bylaw No. 8120
Prepared By: Urban Systems Ltd.

RECOMMENDATION

THAT Traffic Bylaw No. 8120 be amended at first reading as outlined in the report from the Transportation Manager dated July 30, 2001;

AND THAT Traffic Bylaw No. 8120 be advanced for second and third reading consideration.

BACKGROUND

The Traffic Bylaw is the legal document which houses all local Bylaws which regulate traffic and the use of highways within the City of Kelowna. The current document (Traffic Bylaw No. 4495-78) has been in place since 1978 and is in need of substantial updating (it has been amended 23 times) to reflect more current definitions and regulations.

On June 4th, 2001, this draft Traffic Bylaw was advanced to City Council for initial consideration. At that time, while initial consideration was supported, Council directed staff to investigate and report back on two issues, as follows:

Panhandling

Considerable media attention was generated based on the inclusion of Section 8.1.2 in the Draft Bylaw, which states as follows:

Sitting or Lying on Sidewalks. A person must not obstruct a sidewalk by squatting, kneeling, sitting or lying down on it at anytime if the sidewalk is:

- (a) Located in the area that is bound by Abbott Street, Richter Street, Clement Avenue and Highway 97; or*
- (b) Abutting or adjacent to those parts of Abbott Street, Richter Street, Clement Avenue or Highway 97.*

In-Line Skating

Council debated the merits of regulating in-line skating, as it was worded below:

In-line skates, roller skates. *A person using in-line skates or roller skates on a highway:*

- (a) shall have the same rights and duties as the operator of a cycle;*
- (b) shall be on a bicycle lane, if there is a bicycle lane adjacent to the roadway,*
- (c) shall, subject to paragraph (b), be as near as practicable to the right side of the highway;*
- (d) shall not be on a sidewalk unless directed by a traffic control device;*
- (e) shall not be abreast of another person or cycle on a highway;*
- (f) shall only cross a highway at an intersection using the pedestrian crosswalk and obeying pedestrian crossing signals where applicable;*
- (g) shall not be attached by the arm and hand of the operator or otherwise to a vehicle on a highway; and*
- (h) shall not be on a highway between one-half hour after sunset and one-half hour before sunrise unless equipped with lights and/or reflective clothing visible from the front and rear.*

DISCUSSION***Panhandling***

The issue of panhandling may seem somewhat out of context when considering a traffic regulation bylaw. The provisions of Section 8.1.2 in this draft document were included on the basis of the impact of sidewalk obstructions to pedestrian mobility caused by loitering. However, the old provision was limited to the downtown area which may have created the impression that it was aimed at panhandling specifically. It is proposed that the section be amended to read as follows in order to remove this uncertainty as to its intention:

8.1.2 *Sitting or Lying on Sidewalks.* *A person must not obstruct a sidewalk by squatting, kneeling, sitting, or lying down on it at anytime if the sidewalk abuts a property that is zoned commercial or industrial.*

In-Line Skating

In 1998, the Transportation Association of Canada initiated a three phase study on the issue of regulating in-line skating within urban municipalities. While not yet complete (Phase 3 still pending), the study has concluded that a ban on the use of in-line skates on sidewalks and roadways would not be practical, and the study is working towards the development of guidelines and the enactment of legislation to accommodate this activity.

As a result of this lack of a definitive and unified national or provincial direction in this issue, a wide range of methods of regulating this activity are in effect across municipalities. Everything from a complete ban to a full acceptance has been experienced in other jurisdictions.

While the experience varies, note that regulating the use of in-line skates as an alternative means of transportation offers the following benefits:

- It supports the City's TDM Program by reducing automobile use and offering an additional transportation option to the Community
- It directs the activity to desired locations in order to minimize (not necessarily eliminate) potential conflicts
- It avoids creating an enforcement problem

The recommended approach to regulating this activity, as noted above, follows the regulatory model established for the use of bicycles in the City and Province, which in basic terms limits their use to:

- Bicycle lanes where they exist
- As near as possible to the right side of the roadway
- Not on sidewalks except where specified
- All applicable cyclist regulations apply

The use of this form of regulatory approach is consistent with the most recent intelligence in the industry, and remains the recommended practice to follow until additional guidance is delivered at the national level from TAC.

During the Council deliberations on this issue on June 4th, 2001, some concern was expressed relating to the relative safety implications of on-street in-line skating adjacent to angled parking (such as on Bernard Avenue). While no specific evidence has been discovered which suggests a quantifiable reduction in safety of in-line skating adjacent to angled parking, intuitively one could assume that due to the reduced visibility of a motorist backing out of such a parking stall configuration, it is quite possibly less safe than a similar maneuver at a parallel parking stall configuration. Exposure to this potential conflict exists for cyclists as well, and although less than ideal, regulatory agencies are forced to rely on some degree of judgement being exercised by the users as to which facility is most appropriate for their preferred mobility habits and skill level. In this regard, as numerous other options exists, it would not unreasonable to assume that those users who are uncomfortable with the existing configuration of Bernard Avenue make use of an alternate corridor or mode choice for mobility.

Alternatively, a ban of in-line skating activity could be considered for Bernard Avenue (and other angled parking locations), or mandatory sidewalk use, however, neither approach is recommended due to conflicts with high levels of pedestrian activity and/or difficulties with enforcement.

Section 5.1.2

Finally in addition section 5.1.2 has been removed on the advice of the Attorney General's office from which we must receive approval for the fines set under the MTI system. Mr. Tucker advised us when we sent the MTI bylaw for preliminary approval that the City does not have to authority to regulate or fine for passing of vehicles in school zone.

For Council's information Section 5.1.2 read as follows:

- 5.1.2 ***Passing – School/Park/Crosswalk.** No person being the operator of a **motor vehicle** shall overtake and pass another **vehicle** in a school or park zone, as designated by a **traffic control device**, or at a **crosswalk**.*

CONSULTATION

In 2000, copies of this draft Traffic Bylaw were made available for public review at all public library locations as well as on the City website. Based on Council's direction on June 4th, the draft Bylaw was again made available for review by the public on the City's website. Since then, no relevant comments have been received. Upon receipt of fourth reading, a media release strategy will be developed to ensure that the community is aware of any new regulations which are to be enforced as well as numerous existing regulations.

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