



# City of Port Moody

## Report/Recommendation to Council

Date: June 14, 2021  
Submitted by: General Manager of Community Development  
Subject: Facilitating Peaceful Public Assembly

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### Purpose

To recommend the best approach the City can take to facilitate peaceful assembly and to present for Council consideration a new Parks and Community Facilities Rules and Regulations Bylaw that aligns with a facilitative approach to peaceful public assembly in compliance with current bylaw standards.

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### Recommended Resolution(s)

**THAT City of Port Moody Parks and Community Facilities Rules and Regulations Bylaw, 2021, No. 3321 be read a first, second, and third time as recommended in the report dated June 14, 2021 from the General Manager of Community Development regarding Facilitating Peaceful Assembly;**

**AND THAT the Guide to Peaceful Public Assembly for the City of Port Moody be endorsed with staff authorized to update the Guide from time to time to stay current with best practices and legislation, and to provide further clarity as topics arise;**

**AND THAT staff be authorized to waive applicable permit fees in facilitating peaceful public assembly activities in the City of Port Moody.**

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### Background

As a result of recent public assembly activities in Port Moody, staff have become aware that the current permitting system enforced by the City under the existing Parks and Community Facilities Rules and Regulations Bylaw may be vulnerable to legal challenge in instances of assembly and political gatherings.

As such, staff completed an analysis of relevant legislation and a scan of municipal bylaws enacted in other municipalities to recommend the best course of action for Port Moody to follow.

### Discussion

Staff's review investigated the City's ability to protect peaceful assembly in the City's public spaces while ensuring the accommodation of all park patrons, regardless of race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex,

sexual orientation, gender identity or expression, or age, as it relates to park use under the City's Parks and Community Facilities Rules and Regulations Bylaw.

A literature review on public assembly found some relevance to the research topic, but very little of the research had direct application relating to municipal bylaws regarding public assembly. To supplement the literature review, staff completed the following broad-based, exploratory research of available municipal bylaws and Provincial and Federal legislation on the protection of human rights and freedoms and the pathway forward:

- a review of the available bylaws relating to public assembly and the enforcement of reasonable behaviour in a public place;
- a review of applicable Provincial and Federal legislation governing citizens' rights and freedoms;
- relevant case law;
- a review of publications on hate speech and freedom of expression; and
- national trends of non-violent hate crime as identified by Statistics Canada.

Based on this review, staff initially considered recommending an approach of encouraging groups to use spaces determined as 'optimal spaces' based on criteria established by a cross-organization City team that considered visibility, access to the site, site safety, site amenities, and the unique interests of the assembling group. With these criteria in mind, during the COVID-19 pandemic, and in support of physical distancing guidelines by the Provincial Health Officer, staff commented to a group inquiring about peaceful assembly that Rocky Point Park may not be an optimal location as maintaining physical distancing during the pandemic has been challenging due to the volume of visitors to this park. Alternate locations were suggested. Even though staff did not intend to be limiting, the group construed the comments as preventative rather than facilitative.

Therefore, in consultation with the Civil Liberties Association and the City's legal counsel, staff concluded that the City's best course of action is not to designate a specific location or locations for peaceful public assembly, despite good intentions, because imposing a location has the potential of being viewed as preventative. Even though this expression would be unintentional by the City, this could be construed as unequitable, and limiting freedom of speech and the right to peaceful public assembly.

Further, booking parks or other publicly accessible spaces for peaceful assembly is not recommended because allowing exclusive use of a space could prevent a group wishing to present a counter-opinion from being in attendance and could appear to be limiting dialogue on the subject. It is also important that, in facilitating peaceful public assembly, the City's permitting processes do not inadvertently appear to take a position on a topic. In addition, charging fees associated with peaceful public assembly is also not recommended as a fee could imply exclusive use and/or be limiting gatherings to groups that can afford permit fees.

Staff's research found the most appropriate role for the City to take is to be facilitative. Staff recommend the following adjustments to City processes and regulations be taken to strengthen the City's facilitative approach:

- update the Parks and Community Facilities Rules and Regulations Bylaw to read as facilitative, and acknowledge the right to peaceful public assembly (**Attachment 1**);
- publish a Guide to Peaceful Public Assembly in the City of Port Moody that includes information on the process to notify the City of planned assembly, the responsibilities of the assembling group, safety items, and other considerations (**Attachment 2**);
- provide information on repercussions of engaging in behaviour that infringes on human rights and safety under the *BC Human Rights Code*, which will result in the gathering being stopped on those grounds;
- not charge fees associated with peaceful assembly; and
- not take bookings for exclusive use of a City space for a peaceful public assembly.

As the Parks and Community Facilities Rules and Regulations Bylaw was more than 10 years old and written in a format that does not conform to current Bylaw standards, staff recommend that Bylaw No. 2894 be repealed and replaced with draft City of Port Moody Parks and Community Facilities Rules and Regulations Bylaw, 2021, No. 3321, which includes only the following changes:

- housekeeping amendments such as staff title changes, definition corrections, and formatting;
- Council direction to reduce the group gathering size from 50 to 30 people as the limit to gather in any park unless authorized by written consent of the General Manager of Community Services; and
- inclusion of peaceful assembly as a permitted use.

## Other Option(s)

THAT staff be directed to take an alternate approach to facilitating peaceful assembly.

## Financial Implications

No financial implications have been identified at this time.

## Communications and Civic Engagement Initiatives

If the Guide to Peaceful Public Assembly is endorsed by Council, the information contained in the guide will be posted to the City's website for easy access by members of the public.

## Council Strategic Plan Objectives

The recommendations in this report align with the Council Strategic Plan Objective of Service Excellence – consider cultural differences and accessibility when providing services.

## Attachment(s)

1. Draft City of Port Moody Parks and Community Facilities Rules and Regulations Bylaw, 2021, No. 3321.
2. Guide to Peaceful Public Assembly in the City of Port Moody.

## Report Author

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General Manager of Community Development

## Report Approval Details

Document Title:	Facilitating Peaceful Public Assembly.docx
Attachments:	- Attachment 1 - Draft City of Port Moody Parks and Community Facilities Rules and Regulations Bylaw, 2021, No. 3321.pdf - Attachment 2 - Guide to Peaceful Public Assembly.pdf
Final Approval Date:	Sep 13, 2021

This report and all of its attachments were approved and signed as outlined below:

Dorothy Shermer, Corporate Officer - Sep 10, 2021 - 3:48 PM

Natasha Vander Wal for Rosemary Lodge, Manager of Communications and Engagement -  
Sep 13, 2021 - 9:43 AM

Paul Rockwood, General Manager of Finance and Technology - Sep 13, 2021 - 9:45 AM

Tim Savoie, City Manager - Sep 13, 2021 - 10:58 AM