

To: His Worship Mayor Harrison and Council
Date: October 10, 2023
Subject: Parks & Open Spaces Bylaw No. 4609

MOTION FOR CONSIDERATION:

THAT: the Bylaw entitled City of Salmon Arm Parks and Open Spaces Bylaw No. 4609 be read a first, second and third time.

BACKGROUND:

Staff have been working on a draft of a Parks and Open Space Bylaw to repeal and replace the 1993 Parks Regulation Bylaw. The intent of the new Parks and Open Space Bylaw is to provide a significant update to the current bylaw to manage the City's parks and regulate conduct in parks and open spaces.

Bylaw 4609 provides for a typical definition of parks:

"park" includes an area of land or water in respect of which the City holds an interest for park or for park and recreational purposes, whether because of bylaw dedication,, and includes areas of land owned, controlled or possessed by the City that are identified as "park" by signs posted by the City;

And also includes a definition of open spaces:

"open spaces" includes any area of land, including an undeveloped highway right of way, and improvement on the land, in respect of which the City holds an interest so as to possess and control the land which is available for public use, and includes areas around civic buildings, or areas developed for public recreational use on an undeveloped highway.....

The Bylaw therefore applies to all lands and open spaces, including undeveloped road rights of way that the City owns, controls and manages to ensure a consistent application across the community, but excludes buildings. The only land areas that are not covered are road rights of way developed for public access, as these areas are managed by Traffic Bylaw 1976. Consequential amendments to Traffic Bylaw 1976 are being proposed to duplicate the relevant provisions from Bylaw 4609.

Like the existing Parks Regulation Bylaw, the new Bylaw delegates powers to a "Parks Manager," a staff position appointed by the CAO. The Parks Manager may designate rules for the use of parks, issue permits for special events and temporarily close a park. Any decisions of the Parks Manager are subject to reconsideration by Council upon the request of the person affected by the decision.

Section 4, like the existing Parks Regulation Bylaw, provides a lengthy list of activities deemed as inappropriate to occur in parks and open spaces.

Section 5 specifies that the hours of operation and use of parks and open spaces is limited to sunrise to sunset, except where permitted by the Parks Manager, which allows for appropriate night time uses as is necessary.

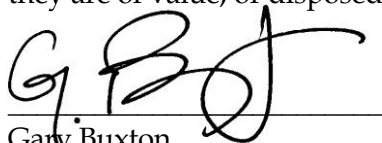
Section 6 represents a new addition to the Bylaw, and is intended to address Temporary structures, camping homeless encampments in parks and open spaces. The draft Bylaw includes the following provisions:

- 6.1 *Unless otherwise authorized by this Bylaw, no person shall at any time construct, install, erect, place or occupy in any park or open spaces, a Temporary Shelter, structure, pavilion, or other improvement or work of any nature, or sleep in a park or open space, without the prior written permission of the Parks Manager.*
- 6.2 *Notwithstanding Sections 5.1 and 6.1, **where there is no accessible overnight shelter accommodation available in the City**, an unhoused person may, without the prior written permission of the Parks Manager, erect and occupy a Temporary Shelter in a park or open space, between the hours of dusk on one day and 9:00 a.m. of the following day, provided that the unhoused person:*
- a) does not erect the Temporary Shelter until **dusk** on one day;*
 - b) dismantles and packs up the Temporary Shelter from the park or open space prior to **9:00 a.m.** of the following day;*
 - c) does not impede public use of, or access to, a park or open space;*
 - d) does not hinder or interrupt the ability of City staff or contractors to perform their work;*
 - e) ensures their use of the park or open space for Temporary Shelter purposes does not exceed a maximum footprint of 10 square metres (3.3m x 3.3m), with the Temporary Shelter and all belongings contained within that space;*
 - f) does not cause any campfire, lighting of candles, or open flames;*
 - g) does not sell goods or conduct business;*
 - h) does not leave the Temporary Shelter unattended; and*
 - i) complies with all other provisions of this Bylaw.*

The draft Bylaw therefore prohibits placing a Temporary Shelter in a park or an open space, unless the Parks Manager approves it. This allows the City to effectively prevent unhoused individuals camping in public parks. The City can effect this prohibition once there is an accessible homeless shelter in the community, which is planned for Fall 2023.

If at some point in the future, there is no accessible shelter available in the City, or the there are inadequate spaces at the shelter, then unhoused individuals would be able to erect Temporary Shelters in parks and open spaces, subject to the restrictions contained in Section 6.2. The main restriction proposed is that the Temporary Shelter can only be erected at sunset and must be removed by 9:00 a.m. the following day, preventing entrenched encampments.

Section 8 is also new and deals with “chattels” (legally understood as items of tangible movable or immovable property that are not attached to real estate) and personal property left or abandoned in parks and open spaces. The Bylaw requires that these be stored and then sold (if unclaimed) if they are of value, or disposed of if they have no value.



Gary Buxton

Director of Planning & Community Services