

# CITY OF SALMON ARM

## BYLAW NO. 4609

### A bylaw to regulate, prohibit and impose requirements in relation to the use of public parks and open spaces

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**WHEREAS** pursuant to sections 8(3)(b) and (h) of the *Community Charter [SBC 2003] Ch. 26*, a Council may, by bylaw, regulate, prohibit and impose requirements in relation to public places, and the protection and enhancement of the well-being of its community in relation to nuisances, disturbances and other objectionable situations;

**AND WHEREAS** Council wishes to regulate, prohibit and impose requirements in relation to City parks and open spaces;

**NOW THEREFORE** the Council of the City of Salmon Arm in open meeting assembled enacts as follows:

#### 1. DEFINITIONS

In this bylaw:

**“animal”** means any cat, cattle, horse, llama, alpaca, sheep, swine, goat, domestic rabbit, guinea pig or poultry;

**“boulevard”** means that portion of a highway between the curb lines, the lateral lines or the shoulder of a roadway and the adjacent parcel line, and includes curbs, sidewalks or ditches;

**“Bylaw Enforcement Officer”** means a member of the Royal Canadian Mounted Police, the Park Manager, or an individual designated as a Bylaw Enforcement Officer by Council or the Chief Administrative Officer (C.A.O.) for the purpose of enforcing this Bylaw;

**“campsite”** means any place of temporary abode where camping equipment (including portable cooking equipment, sleeping bags or rolls, mattresses, backpacks, packsacks, tents, tarps or lean-tos) is used;

**“City”** means the City of Salmon Arm;

**“designated smoking area”** means an area designated by the Park Manager where smoking is permitted.

**“dog”** means any canine apparently over the age of six months and including male and female of the species but not a certified service dog;

**“dog park”** means an area signed by the City as allowing dogs and that allows for the exercising or companionship of dogs on or off leash (as signed);

**“dusk”** means the time one half hour after sunset, just before darkness;

**“hazardous materials”** means broken glass, hypodermic needles, or other material with edges sharp enough to break or puncture skin;

**“highway”** includes every road, street, lane, bridge, viaduct or right of way designed, constructed and maintained for use by the general public for the passage of any vehicles or on foot, and any other way constructed and maintained and open to public use, other than a private right of way on private property, but within the bounds of a park, does not include public pathways, walkways, sidewalks, carriage ways, or a road right of way;

**“open spaces”** includes:

- a) 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 or improvement, which land or improvement is available for public use, access or both, and includes without limitation areas around civic buildings, or areas developed for public recreational use on an undeveloped highway; and
- b) unoccupied areas of Crown Land contiguous to a watercourse.

**“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, gazetting, a trust, a right of reverter, a condition on title, a statutory or other restrictive covenant, subdivision dedication or otherwise, and includes areas of land owned, controlled or possessed by the City that are identified as “park” by signs posted by the City;

**“Parks Manager”** means the individual appointed by the City’s CAO, or any person designated by the CAO to act in the Park Manager’s place;

**“person”** includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law;

**“public utility”** means a system, work, building, plant, equipment or resources owned by a municipality, regional district, the Province of British Columbia, the Government of Canada, Crown Corporation or other government agency for the provision of water, sewer, drainage, gas, electricity, transportation, communication services, fire hall, or public works;

**“smoke” or “smoking”** means to inhale, exhale, burn or carry a lit cigarette, cigar, cigarillo, pipe, electronic cigarette, or other smoking equipment, that burns or vaporizes, tobacco, cannabis or any other substances;

**“Temporary Shelter”** means a tent, lean to or other form of shelter that is temporary and portable in nature that is constructed from nylon, plastic, cardboard or other similar non-rigid material;

**“traffic control device”** means a sign, signal, line, meter, marking, place, barrier or device not inconsistent with the *Motor Vehicle Act [SBC 1996] Ch. 318*, placed or erected by authority of the City or a person authorized by Council under an enactment to exercise that authority;

**“unhoused person”** means a person who has neither a fixed address nor a predictable safe residence to return to on a daily basis;

“**vehicle**” means a conveyance for the carriage or transport of an individual, goods or materials, whether self-propelled or drawn or pulled by animals or any mechanical or muscular device or other motive power, and includes trailers, bicycles, tricycles, or motor vehicles such as motorcycles or snowmobiles.

“**wildlife**” means the same as defined in the *Wildlife Act [SBC 1996] Ch. 488*.

## 2. APPLICATION

- 2.1 This bylaw applies to all parks and open spaces in the City, as defined in this Bylaw.
- 2.2 This Bylaw shall regulate and control the use of all parks and open spaces within the City.
- 2.3 This bylaw does **not** apply to:
  - a) a provincially designated arterial highway, as defined in the *Highway Act [SBC 1979] Ch. 167*;
  - b) land held by the Province as a park or public open space;
  - c) any highway developed for public movement under the control and possession of the City; or
  - d) the operation of any emergency vehicles or vehicles belonging to a public utility in a park or open spaces.

## 3. PARKS MANAGEMENT

- 3.1 Council delegates their powers under section 15 of the *Community Charter [SBC 2003] Ch. 26*, (to provide for a system of licences, permits or approvals, including prohibiting any activity or thing until a licence, permit or approval has been granted, or to establish hours of operation of parks and open spaces) to the Parks Manager.
- 3.2 The Parks Manager may or may not:
  - a) require any applicant seeking to obtain a permit or approval for the use of a park or open spaces, to complete the required form or application for use, and provide the information requested on the form;
  - b) designate certain areas of a park or open spaces for a specific use and may prescribe certain rules and regulations for the use and may prescribe such times desired by the Parks Manager for such use;
  - c) issue a permit or approval for any event, procession, march, performance, ceremony, concert, gathering or meeting and may charge rent for the use of any park, open spaces or portion thereof as set down in the current City Fee for Services Bylaw No. 2498, as amended from time to time;
  - d) issue a special event or special occasion permit for such use, and such persons and vehicles as the Parks Manager permits, to enter or be in a specific park or open spaces while or during such times as the park is closed, such permit shall be displayed or produced upon request to any Bylaw Enforcement Officer or RCMP Officer.
- 3.3 The Parks Manager may by written Order, temporarily close a park or open space or any part thereof to the public use.

- 3.4 A person that is subject to a decision of, or Order from, the Parks Manager under this Bylaw may have Council reconsider the decision or Order.
- 3.5 A person wishing reconsideration under Section 3.4 of this Bylaw shall apply in writing to the City's Corporate Officer, within seven (7) days of receipt of the decision or Order of the Parks Manager, and shall include in the application:
- a) the name and signature of the person to whom the Order or decision applies;
  - b) the address of the park or open space property to which the Order or decision applies;
  - c) the reason for the request for reconsideration; and
  - d) the relief or remedy being sought.
- 3.6 The person seeking reconsideration shall be notified of the date and time that Council will reconsider the decision or Order, by the Corporate Officer, no less than five (5) days prior to the Council meeting.
- 3.7 In reconsidering the matter, Council may confirm, set aside, replace or otherwise modify the decision or Order of the Parks Manager.

#### **4 PARKS SPECIFIC REGULATIONS**

- 4.1 No person shall:
- a) smoke in a park, except in a designated smoking area indicated by the Parks Manager and where signage allowing smoking indicates;
  - b) deface, remove or otherwise damage any tree, shrub or other plant material growing in any park or open space, or deface, remove or damage any affixed accessory placed or erected therein;
  - c) permit any animal under their control to damage any property in a park or open space;
  - d) deposit any refuse, waste or any offensive matter in any park or open space, except in garbage receptacles expressly provided for the purpose of disposal;
  - e) remove any material, except with the written permission from the Parks Manager, from any park or open space;
  - f) hinder or interrupt, or cause or procure to be hindered or interrupted, any City employees or agents in the exercise of any of the duties, powers and authorities conferred upon them;
  - g) discharge any water from any reservoir, pond, lake, fire hydrant or water main in any park or open space;
  - h) deposit any injurious, noxious or offensive matter in any water source in any park or open space;
  - i) commit any damage to water pipes or appurtenances thereto in any park or open space;
  - j) feed, leave food out for the purpose of feeding wildlife, injure, molest or disturb any wildlife in any park or open space;
  - k) allow any dog or animal to run at large in any park or open spaces, except for a dog in a designated dog park in accordance with the following:
    - i) Dogs only shall be permitted to enter those parks listed on Appendix "A" and only while on a leash and in the actual custody and control of the owner, agent or servant, except where excluded by posted notice.

- ii) The person in actual custody or control of a dog in parks or open spaces shall remove from said parks and dispose in a receptacle provided for the purpose of disposal, all faeces dropped from a dog.
- iii) A person must not take a dog into a park or open spaces if a City sign expressly prohibits dogs from entering the area.
- l) use any change house or dressing room in any park or open space for any purpose other than that for which they were intended;
- m) play any organized and scheduled game in any park or open space, except in such portions thereof as may be set apart for that purpose by the City or when a permit has been issued for any such activity;
- n) sell in any park or open space any article or service, except those services authorized pursuant to a permit or approval issued by the Parks Manager;
- o) hold or attempt to hold any show, concert, exhibition, organized sports event or other similar activity in any park or open space without first obtaining a permit;
- p) light or cause any campfire, candles, or open flames (propane cooking devices are allowed) in any park or open space;
- q) use fireworks or any combustible material in any park or open space except as authorized by a permit;
- r) place or erect any structure, sign, bulletin board or advertising device whatever, or distribute or post, paint or affix any advertisement, bills or other article of an advertising nature in any park or open space except as authorized by a permit;
- s) possess open liquor at any time in any park or open space, except where the said liquor is possessed pursuant to and in compliance with a licence issued under the *Liquor Control and Licensing Act [SBC 2015] Ch. 19* or the *Liquor Control and Licensing Regulation [B.C. Reg. 241/2016]*;
- t) operate a motorized vehicle, including a motorcycle or snowmobile, in a park or open space, other than on a highway that has been opened to traffic by bylaw or has not been closed to traffic by bylaw, except to the extent an area of the park or open space is designated for that purpose by a traffic control device;
- u) operate a motorized vehicle at speeds in excess of twenty (20) kilometres per hour within any highway contained in a park unless the City has otherwise signed a higher speed limit;
- v) cause to be made noise, vibration, odour, dust, illumination or undertake any activity that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public in a park or open space;
- w) use any motorized boat in the waters of any designated swimming area in a park;
- x) deface, cut, remove, destroy or damage a structure, building or other thing or any real or personal property in a park or open space, or destroy, deface or damage a traffic control device located in a park or open space;
- y) permit a horse to enter into, a park or open space, except on an equestrian trail or other designated area where a City sign expressly authorizes horses, unless with permission of the Parks Manager;
- z) discard any hazardous material in a park or open space except in authorized receptacles for hazardous materials;
- aa) play or operate electronic equipment or an instrument or other apparatus for the amplification of sound in a park or open space in a manner that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the public;

- ab) dive or jump from a diving tower, pier or wharf in a park except from a diving board, platform or diving tower constructed by the City for that purpose and where this is permitted by a City sign;
  - ac) carry or discharge in a park or open space a firearm, including an air gun, air rifle, air pistol, spring gun, except for a Police Officer;
  - ad) urinate or defecate in a park or open space except in a toilet facility provided by or on behalf of the City.
- 4.2 The Parks Manager or any other authorized representative of the City shall have the power to enforce the maintenance and order in parks and other open spaces, and to remove or have removed any person or persons who may contravene or refuse to comply with any of the regulations or provisions herein contained.

## **5 HOURS OF OPERATION**

- 5.1 Unless otherwise authorized under this Bylaw, or as authorized by a permit issued by the Parks Manager, or where members of the public are transiting through a park or open space on a trail or pathway, no person shall be in any park or open spaces at any time between sunset on any one day, and sunrise on the following day.
- 5.2 A Bylaw Enforcement Officer may direct a person to leave a park or open space if that person is acting in contravention of this Bylaw.
- 5.3 Every person directed to leave a park or open space by a Bylaw Enforcement Officer must proceed immediately to the nearest exit point.

## **6 STRUCTURES IN PARKS AND OPEN SPACES**

- 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, provided that the unhoused person:
- a) does not erect the Temporary Shelter until sunset 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) 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;
  - e) does not leave the Temporary Shelter unattended; and
  - f) complies with all other provisions of this Bylaw.
- 6.3 No person shall deposit, place, leave, or abandon a chattel or other item of personal property in a park or open space in a manner that causes an obstruction of the park or open space.

- 6.4 A Bylaw Enforcement Officer may by written Order, in addition to any other authority granted under this Bylaw, remove or cause to be removed from any park or open space, any Temporary Shelter that is not in compliance with this Bylaw.

## 7 OFFENCES & PENALTIES

- 7.1 Every person who violates a provision of this Bylaw or who suffers or permits an act or thing to be done in contravention or in violation of any of the provisions of this Bylaw or who neglects to do, or refrains from doing anything required to be done by any other provisions of this Bylaw, is guilty of an offence and of a separate offence each day the violation is caused or allowed to continue against this bylaw.
- 7.2 Every person who violates any provision of this Bylaw, or who allows or permits any act of thing to be done in violation of this Bylaw, is guilty of an offence against this Bylaw, and is liable to a fine of up to \$1,000 if issued a ticket under the Ticket Information Utilization Bylaw No. 2760, as amended from time to time.
- 7.3 In addition to penalties set out in Section 7.2, a court may also make orders in accordance with section 263 of the *Community Charter*, as amended.
- 7.4 Nothing in this bylaw limits the City from utilizing any other remedy that would otherwise be available to the City at law, including remedies available through prosecution or civil remedies, including injunction.

## 8 SEIZURE OF CHATTELS

- 8.1 The Parks Manager, a member of the Royal Canadian Mounted Police, or a Bylaw Enforcement Officer, may remove, seize, and impound, or cause the removal, seizure, or impoundment of, any chattel or other personal property that is causing an obstruction in a park or open space contrary to Section 6.4 of this Bylaw.
- 8.2 After the removal, seizure, or impoundment of the chattel or other personal property under Section 8.1, a person entitled to its possession may obtain its release by contacting the Parks Manager during regular business hours, and providing the Parks Manager with satisfactory evidence that the chattel or other personal property is the property of that person.
- 8.3 The Parks Manager may cause a chattel or other personal property that has been removed, seized, or impounded under Section 8.1 of this Bylaw to be sold, by public auction, to the highest bidder if:
- a) the person entitled to possession of the chattel or personal property has not claimed it under Section 8.2 within thirty (30) days following its removal, seizure, or impoundment; and
  - b) it appears to the Parks Manager that the chattel has market value.
- 8.4 The Parks Manager shall cause a chattel removed, seized, or impounded under this Bylaw to be disposed of as garbage if:
- a) the person entitled to possession of the chattel has not claimed it under Section 8.2 within thirty (30) days following its removal, seizure, or impoundment; and

- b) it appears to the Parks Manager that the chattel has no market value.
- 8.5 Where a chattel is sold at public auction under Section 8.3, the proceeds of such sale shall be applied by the City as follows:
- a) firstly, to pay the costs of the auction;
  - b) secondly, to pay all removal and storage costs incurred by the City in relation to the chattel or other personal property; and
  - c) thirdly, where any surplus remains, to pay such surplus to the person entitled if that person's identity and location are known.
- 8.6 Where a surplus referred to in Section 8.5(c) remains and the identity or location of the person entitled to it is unknown, the surplus shall be applied by the City as follows:
- a) the surplus shall be held for one (1) year following the date of the auction; and
  - b) if the surplus has not been claimed by the person entitled within one (1) year of the date of the auction, the surplus shall be paid into the general revenue of the City and shall be absolutely forfeited to the City.

## **9 SEVERABILITY**

If any part, section, sub-section, clause of this bylaw for any reason is held to be invalid by the decisions of a Court of competent jurisdiction, the invalid portion shall be severed and the decisions that it is invalid shall not affect the validity of the remaining portions of this bylaw.

## **10 ENACTMENT**

Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto as amended, revised, consolidated or replaced from time to time.

## **11 EFFECTIVE DATE**

- 11.1 Bylaw 2119 "Parks Regulation Bylaw" is repealed in its' entirety.
- 11.2 This bylaw shall come into full force and effective upon adoption of same.



**12 CITATION**

This bylaw may be cited as “**City of Salmon Arm Parks and Open Spaces Bylaw No. 4609**”

READ A FIRST TIME THIS 10 DAY OF OCTOBER 2023

READ A SECOND TIME THIS 10 DAY OF OCTOBER 2023

READ A THIRD TIME THIS 10 DAY OF OCTOBER 2023

ADOPTED BY COUNCIL THIS DAY OF 2023

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CORPORATE OFFICER

**APPENDIX A - Bylaw No. 4609**

Dogs shall be permitted to enter those parks listed below only while on a leash and in the actual custody and control of the owner, his agent or servant, except where excluded by posted notice.

**BLACKBURN PARK**

**CANOE BEACH PARK** (except that portion where off leash dogs are permitted by signage)

**FLETCHER PARK**

**JACKSON PARK**

**NORTH CANOE COMMUNITY PARK**

**KLAHANI PARK**

**McGUIRE PARK**

**MARINE PEACE PARK**

**FORESHORE TRAIL** consisting of the 10 m wide dedicated municipal walkway and municipal lands lying between the eastern terminus of Harbourfront Drive NE and 47 Avenue NE and adjacent to the Canadian Pacific Railway - on maximum 2 metre leash, except during the period of May 01 to June 30 of each year when dogs are prohibited.

**SHUSWAP MEMORIAL CEMETERY**