

CITY OF WEST KELOWNA

BYLAW NO. 0184

A Bylaw to Regulate, Prohibit and Impose Requirements in
Relation to City of West Kelowna Parks and Public Spaces

CONSOLIDATED FOR CONVENIENCE TO INCLUDE

BYLAW 0184.01, 0184.02, 0184.03

WHEREAS Council may, by Bylaw, pursuant to Section 8 of the *Community Charter*, regulate, prohibit and impose requirements in relation to the management of services in Parks and Public Spaces;

NOW THEREFORE the Council of the City of West Kelowna, in open meeting assembled, enacts as follows:

PART 1 – TITLE:

This Bylaw may be cited for all purposes as the “City of West Kelowna Parks and Public Spaces Bylaw No. 0184, 2015”

PART 2 - DEFINITIONS AND INTERPRETATION:

In this Bylaw the following words and terms may have the meaning hereby assigned to them.

‘**At Large**’ means any dog in a Park or Public Space or on private property other than the Owner’s property and not securely leashed and under the control of the Owner.

‘**Boulevard**’ means the area of a highway between the edge of pavement, sidewalk, and/or curb of the roadway and the adjacent property line, but excludes a sidewalk.

‘**Bylaw Enforcement Officer**’ means a Bylaw Enforcement Officer appointed by Council.

‘**Chattel(s)**’ means a moveable item of personal property, including but not limited to, watercraft, vehicles and camping equipment.

‘**City**’ means the City of West Kelowna.

‘**Council**’ means the Council of the City of West Kelowna.

‘**Designated Area**’ means an area of a Park or Public Space designated by the City, for a specific purpose or use.

‘Driveway’ means any way or thoroughfare set apart and improved for the use of pedestrians, vehicular or animal traffic, within any Park or Public Space.

‘Dusk’ means 30 (thirty) minutes later than the official sunset time for Kelowna, BC as recorded by the Ministry of Water, Land and Air Protection.

‘General Manager’ means the General Manager of Engineering and Public Works for the City of West Kelowna.

‘Geocache’ or ‘cache’ means a container, usually containing a logbook and small trading items, tucked away for others to find.

‘Geocaching’ means an outdoor activity in which participants use a global positioning system receiver or mobile device and other navigational techniques to hide and seek containers called Geocaches or caches.

‘Litter’ includes household, commercial or other garbage, trash, refuse, cans, bottles, papers, ashes, cuttings, yard debris or other waste of any kind within a Park or Public Space.

‘Loiter’ means to linger apparently without a discernible purpose.

Bylaw No. 0184.01 adopted November 24th, 2015 deleted the definition of Nuisance in its entirety and replaced it with the following definition of Nuisance:

‘Nuisance’ means any activity or action(s) which interferes with the use and enjoyment, comfort, safety or convenience of a Park or Public space by other persons.

‘Owner’ in respect of any animal, means a person who keeps, harbours, or has temporary or permanent possession of an animal, and, in case of a minor, Owner means the person responsible for the custody of the minor.

‘Park’ means any real property or property subject to a right of occupation by the City for the purpose of pleasure, recreation or community uses of the public, including parks, playgrounds, sport courts, natural and landscaped areas, sports fields, trails, walkways and other public places and all improvements and may include beaches, and other public places adjacent to lakes or streams including foreshore or land covered by water; but does not include the travelled portion of a highway.

‘Permit’ means the written permission under this Bylaw, authorizing access, activity, use or conduct in or on any Park or Public Space.

‘Physical game’ includes but is not limited to organized baseball, softball, football, soccer, rugby, cricket, lacrosse and hockey.

‘Planting(s)’ means annuals, perennials, trees, shrubs, bushes or hedges installed or growing as a natural or improved landscape treatment.

‘Prohibited Animal’ means any animal prohibited under *BC Wildlife Act*.

‘Public Hazard Closure’ means an order from the City that a Park or Public Space be closed because of a threat to the Park or Public Space or the public.

Bylaw No. 0184.03, adopted October 9, 2018, deleted the definition of ‘Public Space’ in its entirety and replaced it with the following:

‘Public Space’ means any real property or portions of real property owned or leased by the City to which the public is ordinarily invited or permitted to be in or on, and includes, but is not limited to, the surface of Okanagan Lake and the lake foreshore, public parkades or public parking lots, the grounds of public facilities or buildings, public transit exchanges, transit shelters or bus stops, including boulevards within 50 m of any public transit exchange, transit shelter or bus stop.

Bylaw No. 0184.03, adopted October 9, 2018, deleted the definition of ‘Smoke or Smoking’ in its entirety and replaced it with the following:

‘Smoke or Smoking’ means to inhale, exhale, burn or carry a lighted cigarette, cigar, pipe, hookah pipe, electronic cigarette, or other smoking equipment, that burns or vaporizes tobacco, cannabis or any other substance.

‘Vehicle’ means and includes all conveyances for the carriage or transport of persons, passengers, goods or materials whether self-propelled, drawn, or pulled by animals or any mechanical, muscular device or other mode of power whatsoever, and shall include but is not limited to motor vehicles, segways, trailers, skateboards, long-boards, bicycles and tricycles.

‘Walkway’ means an established path or trail within a Park or Public Space, used by pedestrians or cyclists or both which may include any bridge or structure with which it is contiguous.

‘Watercraft’ means any motorized boat, or any other non-motorized craft used or capable of being used for navigation on water.

PART 3 – PROHIBITIONS:

3.1 Park or Public Space Entry

- a) Any person who violates any provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw or who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, or who does any act which constitutes an offence against the Bylaw may be ordered to leave the Park or Public Space for a period of 48 hours.
- b) No person may return to or enter any Park or Public Space once that person has been ordered to leave for a period of up to 48 hours and each violation may be considered a separate offence.
- c) No person or vehicle may use any land in a Park in contravention of this Bylaw or in contravention to a sign which has been posted prohibiting or regulating such use.
- d) No person or vehicle may enter or be in a Park except during the hours of operation established by this Bylaw unless they have a valid permit. The hours of operation for City Parks are 6:00 am to dusk daily, unless indicated otherwise.

- e) No person may enter or be in a Park or Public Space which is subject to a Public Hazard Closure.
- f) No person may use any Parkland in order to gain vehicular access through a Park to private property for any reason unless they have obtained a Parks Access Permit.

3.2 Wildlife, Domestic and Prohibited Animals

- a) No person may interfere with or feed birds or wildlife in a Park or Public Space.
- b) Except where a Park or Public Space or a portion of a Park or Public Space has been designated as a 'Dog Off-Leash Park', no person may allow a dog in his care to be at large in a Park or Public Space.
- c) Except where a Park, or portion thereof, has been designated as a Park which allows dogs, no person may allow his/her dog to be in a Park.
- d) Where dogs are permitted within a Park or Public Space, they must be harnessed with a leash no longer than two metres in length.
- e) An owner must immediately remove and dispose of, in a sanitary manner, feces left by their dog in a Park or Public Space.
- f) No person being the owner of a pet or domestic animal may allow such animal to enter upon any beach area or to swim in a body of water adjacent to a Park, except where designated.
- g) Notwithstanding the provision of section 3.2 d) of this Bylaw, a dog owner may be permitted to bring a dog to a special event, run or walk in a Park that is not designated either a 'Dog Off-Leash Park' or a 'Dog On-Leash Park', only if approved under the conditions of a Permit.
- h) No owner of a prohibited animal may permit such animal to enter or be in a Park or Public Space.

3.3 Damage

- a) No person may damage, destroy, deface or vandalize a Park or Public Space.

Bylaw 0184.02, adopted November 28, 2017, amended bylaw 0184 by deleting S. 3.3b) in its entirety and replacing it with the following:

- b) No person may cut, break, pull up, injure, dismantle, remove, damage, destroy, deface or vandalize or in part any vegetation, building facilities or structures in a Park or Public Space.
 - i) Notwithstanding 3.3b), bitterroot harvesting is permitted in Mt. Boucherie Park.
- c) No person may remove, damage, destroy, deface or vandalize any signs or regulations posted in or on a Park or Public Space.

- d) No person may drain or redirect any water from a private parcel of land onto or into a Park or Public Space.

3.4 Litter

- a) No person may deposit or leave litter in or upon a Park or Public Space except in the receptacles provided for such purpose.
- b) No person may deposit any household, commercial or other garbage in a Park or Public Space.

3.5 Nuisances and Dangers

- a) No person may swing a golf club, propel a golf ball or plastic golf ball of any kind in any manner in a Park or Public Space.
- b) No person may carry or discharge firearms, air guns, air rifles, air pistols, spring guns, bows or other weapons in a Park or Public Space.
- c) No person may fire or explode any combustible or explosive material, including fireworks, in a Park or Public Space without a Permit.
- d) No person may create a nuisance or disturbance within a Park or Public Space by participating in a fight or other physical confrontation between consenting or non-consenting persons.
- e) No person may engage in lewd or sexual acts in a Park or Public Space.
- f) No person may urinate or defecate in or on any Park or any Public Space except in a public or private toilet facility.
- g) No person may operate by remote control any motor driven boat, car, aircraft, glider, drone or similar device within a Park or Public Space without a Permit.
- h) Except for conveyances for the handicapped, children's carriages and strollers, no person may ride or drive any vehicle or other mode of conveyance outside of designated access roads, lanes or parking lots, without a Permit. Self-propelled vehicles limited to bicycles, trailers pulled by bicycles, roller blades and skate boards are permitted provided they are used on designated pathway or roads and are operated in a safe manner.

Bylaw No. 0184.01 adopted November 24th, 2015, deleted section 3.5 i) in its entirety and replaced it with the following Section 3.5 i):

- i) No person may cause a nuisance within a Park or Public Space which may include but are not limited to the use of profane language, obscene or grossly insulting language, panhandling, spitting, exhibiting disruptive behavior, loitering, accosting, frightening, annoying or otherwise disturbing other persons.

- j) No person may remove, disturb, relocate, damage or destroy any buoys, rafts, signs or other apparatus from any beach, boat launch or dock nor may any person place any buoys, rafts, signs or other apparatus in any water fronting a beach, boat launch or dock within a park unless authority has been granted by the City.

3.6 Use of Structures

- a) No person may use any structure in a Park or Public Space unless the structure has been designed for such use.
- b) No person may erect in a Park or Public Space, a tent, building, shelter or other structure whatsoever without obtaining a Permit from the City or unless otherwise posted.
- c) Section 3.6 b) does not apply to small personal shelters which are in a Park or Public Space from 6:00 a.m. to dusk. Such shelters must not be anchored with any form of stake or peg driven into the ground in any turf area.
- d) No person may use or access an electrical service or any other utility in a Park or Public Space without written permission from the City.

3.7 Physical Games, Organized Sports or Activities

- a) A Permit must be obtained by the Organizer before a tournament, organized sport or series of physical games is held in a Park or Public Space.
- b) No person may play a physical game or activity in a Park or Public Space contrary to the rules and regulations posted in the Park or Public Space or attached to a permit to regulate such game or activity.
- c) No person may use a tennis or pickle ball court for any sport or activity other than tennis or pickle ball.
- d) No person may play on a tennis or pickle ball court unless wearing non-marking rubber-soled shoes without heels.
- e) Geocaches placed in Parks may be removed if they do not meet the following conditions:
 - i) All caches must be marked 'geocache' on the outside of the container if practical, and the owner's name and contact information must be inside the container;
 - ii) Caches must not be placed in areas that may put participants at risk of injury;
 - iii) Caches must not be buried or result in the disturbance of vegetation, wildlife, wildlife nests or burrow, or cultural heritage sites and features;
 - iv) Cache placement must not interfere with other approved recreational activities; and
 - v) Caches in Parks are not considered permanent and may not be permanently attached to any structure or natural feature.

3.8 Assembly

- a) No person may conduct any procession, march, drill, performance, ceremony, concert or other special event in a Park or Public Space without first obtaining a Permit for such purpose from the City.
- b) No person may obstruct or interfere with any person who is lawfully using any Park or Public Space, except that where a person holds a Permit for an exclusive specific use for all or part of a Park or Public Space, that person may inform others of their exclusive occupancy and use of that portion of the Park or Public Space which is subject to the Permit by displaying their Permit.
- c) No authority is granted or transferred to the Permit holder to physically restrict access to or remove from the permitted area any individual who is not the Permit holder or a member of their party.

3.9 Use of Watercraft

- a) Except as otherwise posted and in accordance with any posted conditions, no person may dock, tie up, beach or anchor a watercraft in any way to a wharf, dock, beach, sign, buoy, tree or other structure or thing located within or forming part of a Park.
- b) No person may operate a motorized watercraft within a designated swimming area.
- c) No person may use a non-motorized watercraft in a manner that endangers, disturbs or interferes with the use of the beach and swimming area by members of the public.
- d) No person may launch or load a watercraft unless in a designated area.

3.10 Liquor, Smoking and Drug Paraphernalia

- a) No person may consume or possess any liquor in a Park or Public Space except in premises where the liquor is consumed or possessed pursuant to and in compliance with a license issued under the *Liquor Control and Licensing Act* and a Permit issued by the City.
- b) No person may smoke in any Park or Public Space other than a space temporarily designated for such use.

Bylaw No. 0184.03, adopted October 9, 2018, Inserted 3.10(c) below and renumbered the previous 3.10(c) as 3.10(d):

- c) No person may smoke cannabis anywhere except on a private parcel.
- d) No person may be permitted in any Park or Public Space to possess paraphernalia used for the purposes of storing, transporting or using illegal drugs.

3.11 Fire Prevention

- a) No person may make an open fire in a Park or Public Space.

- b) No person may throw or place upon the ground in a Park or Public Space a lighted match, burning cigarette or cigar, lawn candle, open flame lantern or other burning material except as provided in 3.11 d)
- c) No commercial style briquette fuelled barbeques will be allowed without obtaining a Permit for such, from the City.
- d) No personal barbeques, except those fuelled by propane, will be allowed in a Park or Public Space.

3.12 Commercial Activities

- a) No person may sell or expose for sale any refreshment, article, merchandise or thing in a Park except as authorized by a Permit.
- b) No person may conduct business or provide a commercial service in a Park except as authorized by a Permit.
- c) No person may post, paint or distribute any advertisements of any kind in a Park without prior written approval from the City.

3.13 Vehicles in Parks

- a) No person may grease, wash, clean or repair any vehicle in a Park except where repairs are necessitated because of the breakdown of a vehicle in or adjacent to a Park.
- b) No person may, in any Park, park a vehicle or allow a vehicle to stand or remain in a Park during the hours that the Park is closed.
- c) No person may, in a Park, drive or propel any vehicle in a manner that is unsafe or a nuisance or danger to other persons or animals or property within the Park.
- d) No person may, in a Park, fail to bring his vehicle to a stop upon the direction of a Bylaw Enforcement Officer or any person authorized by the City to supervise traffic within a Park.
- e) No person may, in a Park, drive or propel any vehicle in any direction on any driveway contrary to a sign erected pursuant to the provisions of this Bylaw.
- f) No person may, in a Park, use, stop on, occupy or travel along or upon any driveway in such manner as to obstruct or interfere with any person lawfully using the same.
- g) No person may, in a Park, park a vehicle in any area except in areas designated for such purpose.
- h) Vehicles left in a Park after closing will be locked in, unless otherwise posted. Owners or operators of vehicles locked in after closing may wait until the next scheduled opening to remove their vehicle or they may call the designated Contractor (as posted) to open the gate and release the vehicle. The Contractor will set the fee for releasing the vehicle from the closed Park. If the same vehicle has not been removed prior to the next scheduled closing time, it will be removed at the owner's expense.

3.14 Trees

- a) While in a Park or Public Space no person may:
 - i) Remove, cut down, destroy or injure a tree or part of a tree located in a Park or Public Space except with the prior written approval of the City;
 - ii) Mark, cut, break, peel, deface or bury the roots of a tree or any part of a tree located in a Park or Public Space;
 - iii) Attach in any manner any object or thing to a tree or part of a tree located in a Park or Public Space except with prior written approval of the City.
- b) Protection of Trees
 - i) The City is authorized to request funds to secure the protection of a tree in a Park or Public space by posting a letter of credit in a form and content acceptable to the City, in an amount sufficient to cover the appraised value of the tree, as well as removal and replacement costs.
- c) Injury and removal of trees.
 - i) Any person who injures, destroys or removes a tree without prior written approval of the City may be subject to providing payment to the City in an amount sufficient to cover the appraised value of the tree, as well as removal and replacement costs and the costs of any specific arboricultural procedures to be undertaken to remedy the tree.
 - ii) The City is authorized to remove or cause to be removed healthy trees located in a Park or Public space.
 - iii) Approval for tree removal may be subject to conditions imposed by the City that include payment of tree value, removal and replacement costs and the replanting of a replacement tree by the applicant.
- d) Pruning of trees on private property.

The City is authorized to prune or cause to be pruned the branches from a tree originating on private property which extends over a Park or Public space, including the pruning of branches that are hazardous or create an unsafe condition.
- e) Decorative Lights

No person may attach decorative lights to a tree located in a Park or Public Space except with the prior written approval of the City.

3.15 Encroachment

Unless authorized by Permit, no person may encroach upon or take possession of a Park or Public Space by any means whatsoever, including the construction, installation or maintenance

of a fence or structure, the dumping or storage of materials or plantings, or planting, cultivating, grooming or landscaping.

PART 4 – IMPOUNDMENT:

- a) Where the City removes or causes to be removed a vehicle or thing/chattels from a Park or Public Space, such removal may be at the expense of the person who caused such structure, vehicle, sign or other thing to be within the Park or Public Space contrary to the provisions of this Bylaw.
- b) Any vehicle, structure or other thing removed pursuant to the provisions of this section may be moved to a place of safe keeping and the cost of storage at such place may be paid by the person claiming ownership of such object in addition to the cost of removal. If the owner of such vehicle, structure or thing has not claimed the same within 30 (thirty) days of its removal from the Park or Public Space it may be disposed of by sale or destruction as directed by the General Manager.
- c)
 - i) If a vehicle is removed and not reclaimed within 3 (three) days, and the vehicle bears a current licence plate, the registered owner may be given notice by registered mail of the location of such vehicle at the address of such registered owner as shown on the records of the Motor Vehicle Branch.
 - ii) If the registered owner fails to claim the vehicle within 30 (thirty) days and pay the cost of removal and storage, then the vehicle may be sold by public auction and any price obtained for such vehicle may be applied first to the cost of removal and storage and secondly the balance, if any, may be paid to the registered owner as shown on the records of the Motor Vehicle Branch.

PART 5 – DELEGATION OF AUTHORITY:

The General Manager, or his designate, is hereby authorized to issue Permits and administer the provisions of this Bylaw.

PART 6 – EXEMPTIONS:

Notwithstanding anything contained in this Bylaw, the officers, officials, employees and contractors of the City, while carrying out their duties, or performing their functions may be exempt from the provisions of this Bylaw.

PART 7 – PENALTY:

Every person who contravenes a provision of this Bylaw is liable, on summary conviction, to a fine not exceeding \$10,000.00.

PART 8 – SEVERABILITY:

If any section, subsection, clause, sub-clause or phrase of this Bylaw is for any reason held to be invalid, unlawful or unenforceable by the decision of any Court of competent jurisdiction, that

section, subsection, clause, sub-clause of phrase shall be struck from the Bylaw and its severance shall not affect the validity of the remaining portions of this Bylaw.

READ A FIRST SECOND AND THIRD TIME, AS AMENDED, THIS 8TH DAY OF
SEPTEMBER, 2015

ADOPTED THIS 29TH DAY OF SEPTEMBER, 2015

MAYOR

CORPORATE OFFICER