

CITY OF NANAIMO

BYLAW NO.7073.07

A BYLAW TO AMEND THE CITY OF NANAIMO "PARKS, RECREATION AND CULTURE REGULATION BYLAW 2008 No. 7073"

The Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as "PARKS, RECREATION AND CULTURE REGULATION AMENDMENT BYLAW 2018 NO. 7073.07".

2. Amendments

"PARKS, RECREATION AND CULTURE REGULATION BYLAW 2008 NO. 7073" is hereby amended as follows:

(1) Add Section 2 "Authority" to follow Section 1 "Title" as follows:

"2. Authority

2.1 The Director is hereby authorized to appoint or designate person, including Bylaw Enforcement Officers, Peace Officers, and the RCMP, to act on the Director's behalf."

(2) Add Section 3 "Administration" to follow the Section 2 "Authority" as follows:

"3. Administration

3.1 The Director is the official charged with administration of this Bylaw.

3.2 Nothing in this Bylaw prohibits any person from performing his or her duties as an agent or employee of the City, and a person who does something prohibited by this Bylaw as part of that person's duties as an employee or agent of the City does not contravene this Bylaw

3.3 The Director is hereby authorized to order the placing or erection of signs in parks at such places as the Director may designate in order to regulate the use of a park, or any portion of a park, and in order to give effect to the

provisions of this Bylaw and other applicable Bylaw of the City.”

(3) Renumber Section 2 “Interpretation” to Section 4.

(4) Add the following definitions under Section 4 “Interpretation”:

“Environmentally Sensitive Area”	means an area as defined in the City of Nanaimo “Official Community Plan 2017 No. 6500”
“Homeless Person”	means a person with no fixed address and no access to public shelter facilities
“ <i>Motor Vehicle Act</i> ”	means the <i>Motor Vehicle Act</i> , [RSBC 19961], C. 318
“Recreational Vehicle”	means a motor vehicle designed or used primarily for accommodation during travel or recreation, but does not include a motor vehicle that has attached to it a structure (a) designed or used primarily for accommodation during travel or recreation, and (b) designed or intended to be detachable
“Temporary Shelter”	means a structure, improvement, shield or cover used or intended to be used to house or protect people or things, and includes a tent, tarp, lean-to or other shelter made of cardboard, tarpaulin, canvas, nylon, polyester, plastics, metal, logs, brush, branches, or other materials or things
“Unmanned Aerial Vehicle” (“UAV”)	means any remotely piloted aircraft, including model aircraft, with a weight of more than 250g and up to 35kg, including but not limited to drones, quadcopters, and any power-driven aircraft designed to fly without a person on board

(5) Replace the following definitions in Section 4. “Interpretation”:

“Overnight Abode”	means taking up overnight lodging for the purposes of sleeping, staying, dwelling, or residing, including in a Temporary Shelter
“Public Beach”	means any beach area adjacent to a lake or ocean located within a Park and includes the shore between the water and the cultivated or developed land which can be comprised of, but not limited to, sand, pebbles, rocks, gravel, groundcover and includes the shore between the water and includes the cultivated or developed land below the walkway at Departure Bay Beach to the low water mark

"Smoke or Smoking"	means the inhaling, exhaling, burning or carrying of a lighted or activated cigarette, cigar, pipe, e-cigarette, vapour equipment, or other lighted smoking equipment, including the burning or lighting or activating of tobacco, marihuana, or other weed or substance, or e-vapours
"Traffic Control Device"	means any sign, signal, line, parking meter, spitter machine, marking, space, barrier, or device placed or erected by the Director of Engineering and Public Works pursuant to the City of Nanaimo "Traffic and Highways Regulation Bylaw 1993 No. 5000"

- (6) Delete Section 3 to Section 3.28 Prohibited Acts in it's entirely and replace with the following:

"5. Prohibited Acts

No person shall do any of the following things in a park:

5.1 Conduct themselves in any disorderly manner including:

- (a) using or operating any device or behaving in a manner as to disturb, interfere with, intimidate or obstruct the free use and enjoyment of the park by other persons.
- (b) interfering with or disturbing the conduct of any game, sport or activity.
- (c) interfering with any City employee or agent in the performance of their duties.
- (d) participating in any activity in an area of a park where prohibited by signs.
- (e) participating or engaging in an activity in a park or an area of a park that is not designated for that activity, or in which that activity is prohibited.

5.2 Put at risk personal safety of any person by:

- (a) violating the direction of any person in charge of any organized activity that is authorized by a Park Licence Use Agreement.
- (b) using any equipment, materials or items in any pool or bathing beach which are dangerous, hazardous or likely to injure a person using the pool or bathing beach.

- (c) operating a UAV from or anywhere within a park, whether or not the operator of that UAV is also located in the park, unless within an area and a time designated for this use, or as authorized by an unmanned aerial vehicle permit issued by the Director.

5.3 Permit any animal under their ownership or custody to:

- (a) run at large unless in a designated off leash area that is designated by signage.
- (b) feed upon any vegetation.
- (c) be on a public beach during the months of May through September inclusive.
- (d) be on the deck of a wading pool or a spray pool.

5.4 Enter, occupy or remain in a park:

- (a) Contrary to Schedule "A" of this bylaw unless permitted to do so pursuant to Section 7 of this Bylaw.
- (b) for the purposes of taking up permanent, temporary, or overnight abode, unless permitted to do so pursuant to Section 7 of this Bylaw.
- (c) by crossing any area where signs have been erected pursuant to this Bylaw forbidding such entering or crossing.
- (d) when directed to leave a park by a Bylaw Officer, Peace Officer or any City employee or its agents.
- (e) in any vehicle for the purposes of taking up permanent, temporary, or overnight abode, unless parking for Newcastle Island attendance or with the written permission of the Director.

5.5 Operate or ride a cycle without wearing an approved bicycle helmet that meets the standards and specifications prescribed pursuant to the *Motor Vehicle Act*. This applies to a parent or guardian of a person under the age of sixteen (16) who knowingly permits or authorizes the person to operate or ride as a passenger on a cycle within a park without wearing an approved bicycle safety helmet.

- 5.6 Cycle, skateboard, roller blade or use any similar means of conveyance on any portion of a highway, trail or passageway owned or operated by the City of Nanaimo Parks, Recreation and Culture unless within an area of a park designated for such purpose, or where permitted to do so by a traffic control device or signs installed by the City, the Province, or the Federal Government.
- 5.7 Destroy, damage, break, remove or injure any shrub, plant, turf, flower or other vegetation.
- 5.8 Destroy, damage, cut down, top, deface or remove any trees.
- 5.9 Plant any tree, sapling, shrub, flower, or other vegetation.
- 5.10 Destroy, damage, deface or remove any building, fence, bench, sign, ornament, structure, log, wood, branches, or other material or thing.
- 5.11 Build, place or erect any building or structure of any kind.
- 5.12 Foul, pollute, or deposit any injurious, noxious or offensive substance, object, or matter in any fountain, lake, pool, pond, stream or other body of water.
- 5.13 Litter.
- 5.14 Place, erect, deliver, distribute, post, paint or affix by any means any sign, advertisement, handbill, poster, advertising card or device of any kind whatsoever except as provided for under the City's Traffic and Highways Bylaw or in locations designated and authorized by the Director.
- 5.15 Set fire to or discharge any fireworks or other explosive material of any kind except in accordance with the City of Nanaimo "Fireworks Regulation Bylaw 2007 No. 7049."
- 5.16 Ignite any fire, or cause, or permit, any fire to be ignited or to burn in the open air or in any device, except a cooking fire that is permitted in locations identified by traffic control devices and is permitted by the City of Nanaimo "Fire Protection and Life Safety Bylaw 2011 No. 7108" and is not ignited during a declared fire hazard or Provincial fire ban.
- 5.17 Discard or place on the ground, or on or in any combustible material, any lighted item including a match, cigarette, cigar, pipe, e-cigarette, vapour equipment or

other lighted smoking equipment, burning tobacco, marihuana, or other weed or substances.

- 5.18 Consume or possess any open alcohol or liquor at any time, except where the said alcohol or liquor is consumed or possessed pursuant to, and in compliance with, a license under the Liquor Control and Licensing Act and is authorized, in writing, by the Director.
- 5.19 Have a procession, performance, show, exhibition, organized sports or other event, ceremony, concert, political or other demonstration, gathering, or meeting, in or on, any park without Park Licence Use Agreement or authorization, in writing, by the Director.
- 5.20 Sell, barter, offer or advertise for sale any refreshments, service, article, commodity, or product without a Park Licence Use Agreement.
- 5.21 Undertake any activity or action that is contrary to any sign or traffic control device erected in a park.
- 5.22 Use any change house, dressing room, structure or building for any other purpose than that of which the building or structure is intended.
- 5.23 Leave, discard, store or abandon personal belongings or chattels of any kind.
- 5.24 Drive, operate or park any vehicle, except a currently licensed vehicle, in any area of a park, except on a highway or a designated area provided for the parking of vehicles.
- 5.25 Drive, operate or park any off road vehicle.
- 5.26 Operate any motorboat on Westwood Lake unless authorized to do so by the Director.
- 5.27 Smoke anywhere on all City managed recreation properties including: trails, plazas, parks, beaches, and recreation facilities; except in designated smoking areas.
- 5.28 Smoke contrary to any posted signs.
- 5.29 Be in possession of, or leave, store, or abandon, any shopping cart within a park.
- 5.30 Operate any chainsaw or vegetation cutting, mowing or trimming equipment within a park unless permitted to do so by the Director.

- 5.31 Wash, clean or repair a vehicle in a park, except where a vehicle is parked in a park and, while parked, an emergency repair to that vehicle is necessary.
- 5.32 Urinate or defecate in or on any park except in a provided public or private toilet.
- 5.33 Use or access an electrical service or any other utility in a Park without written permission of the Director.
- 5.34 Operate any amplifying system or loudspeaker without the written permission of the Director.
- 5.35 Deposit any yard waste, soil, wood, rocks, garbage or filth, discarded materials or rubbish of any kind.”

(7) Delete Section 4 “Removed, Detained or Impounded” in its entirety and replace with the following:

“6. Removed, Detained or Impounded

- 6.1 The Director has authority to impound, detain or remove any personal belongings, chattels or structures that are found in a Park and may store or dispose of such items at the Director’s discretion.
- 6.2 All personal belongings, chattels, or structures that are removed, detained or impounded, may at the discretion of the Director, be immediately disposed of as garbage, or may be stored for a period of thirty (30) days.
- 6.3 If the person entitled to possession of the impounded items has failed to recover them and pay the fees set out in this section, in the time allowed, and it appears to the Director that the items have a market value, the items may then be sold, by public auction, to the highest bidder. If the Director is of the opinion that the items have no market value, then those items may be discarded as garbage if in the time allowed the person entitled to them has not recovered those items and paid the fees set out in this section.
- 6.4 All personal belongings, chattels, or structures that have been detained, removed or impounded and stored may be recovered by the owner upon full payment of the following fees:
 - (a) impound fee \$25.00
 - (b) storage fee \$10.00 per day”

- (8) Delete Section 5. "Administration" in its entirety.
- (9) Delete Section 6 "Application" in its entirety.
- (10) Delete Section 7. "Signage" in its entirety and replace with the following:

"7. Temporary Shelter

- 7.1 Notwithstanding Section 5.4(a) and 5.4(b) of this Bylaw, where there is no shelter accommodation available in the City, a homeless person may, without written permission of the Director, erect and occupy a temporary shelter in a City park, provided:
 - (a) the temporary shelter is erected and occupied, and temporary overnight accommodation is undertaken, only between the hours of 7:00pm (1900 hrs) one day and 9:00am (0900 hrs) the following day; and
 - (b) the temporary shelter be entirely dismantled and removed from the Park by 9:00 am (0900 hrs) each day; and
 - (c) notwithstanding Section 7(1)(a), a temporary shelter cannot be erected or occupied, and temporary overnight accommodation must not take place in those parks and public spaces listed in Schedule "D" of this Bylaw.
- 7.2 Where any temporary shelter has not been removed from the park as required or has been located in an area identified in Schedule "D" or Section (7)(1) of this Bylaw, the City or its agents may remove, detain or impound the temporary shelter and may, at the discretion of the Director, immediately dispose of the shelter or store the shelter pursuant to Section (6) of this Bylaw.
- 7.3 All belongings or incidental materials found to be associated with a temporary shelter must be removed at the same time and in the same manner as the temporary shelter and if not removed, the City or its agents may remove, detain or impound the belongings or incidental materials and may, at the discretion of the Director, immediately dispose of the belongings or incidental materials or store the belongings and incidental materials pursuant to Section (6) of this Bylaw."

- (11) Delete Section 8. "Offence" in its entirety and replace with the following:

"8. Offence

- 8.1 A person or property owner who contravenes, violates or fails to comply with any provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000 and not less than the fines prescribed in Schedule "C" of this Bylaw, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* [SBC 2003], C. 26, or the Offence Act [RSBC 1996], C. 338 as amended from time to time.
- 8.2 Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence."

- (12) Delete Section 9.1 and replace with the following:

"9.1 No Person shall use a Park or portion of a Park for a special purpose except on the terms and conditions specified by a Park Licence Use Agreement issued by the Director."

- (13) Delete Section 11 "Remainder of Bylaw to be Maintained Intact" and replace with the following:

"11. Schedules

Council authorizes that Schedule "A", "B", "C", and "D" may be omitted and established by resolution where the schedule can be more conveniently contained in a resolution."

- (14) Inserting a new Section 12 as follows:

"12. Remainder of Bylaw to be Maintained Intact

In the event that any portion of this Bylaw is declared ultra vires by a Court of competent jurisdiction, then such portion shall be deemed to be severed from the bylaw to the intent that the remainder of the bylaw shall continue in full force and effect."

- (15) Renumbering Section 12. "Repeal" to Section 13.

- (16) Delete the introductory sentence in Schedule "A" and replace with the following:

“The hours of operation for Parks shall be the following, unless changed at the discretion of the Director for operational purposes.”

- (17) Delete Schedule “C” in its entirety and substituting the attached Schedule “C”.
- (18) Add the attached Schedule “D” – Prohibited Parks and Parks Amenity Areas.

PASSED FIRST READING: _____
PASSED SECOND READING: _____
PASSED THIRD READING: _____
ADOPTED: _____

MAYOR

CORPORATE
OFFICER

SCHEDULE "C"

FINE SCHEDULE

Fines for tickets issued pursuant to this Bylaw, shall be as follows:

DESCRIPTION OF OFFENCE	SECTION	FINE
Obstruct free use and enjoyment of park.	5.1(a)	\$150.00
Disturb game, sport or activity.	5.1(b)	\$150.00
Interfere with City employee	5.1(c)	\$150.00
Activity contrary to signs	5.1(d)	\$150.00
Activity not designated	5.1(e)	\$150.00
Fail to obey person in charge of activity	5.2(a)	\$150.00
Use hazardous device in pool/beach	5.2(b)	\$150.00
Operating UAV in park	5.2(c)	\$150.00
Permit animal to run at large	5.3(a)	\$150.00
Permit animal to feed on vegetation	5.3(b)	\$150.00
Permit animal on public beach	5.3(c)	\$150.00
Permit animal on pool deck	5.3(d)	\$150.00
Enter/Remain in park during restricted hours	5.4(a)	\$150.00
Occupy for lodging	5.4(b)	\$150.00
Cross area where sign prohibits.	5.4(c)	\$150.00
Remain when directed to leave	5.4(d)	\$150.00
Occupy vehicle for abode	5.4(e)	\$150.00
Ride or permit riding of a cycle without approved helmet.	5.5	\$150.00
Cycling/skating/skateboarding in prohibited area	5.6	\$150.00
Damage park vegetation	5.7	\$150.00
Damage or cut down tree	5.8	\$500.00
Plant any tree or other vegetation	5.9	\$150.00
Damage park property or thing	5.10	\$150.00
Build any structure	5.11	\$150.00
Pollute fountain, lake, pool, pond or stream	5.12	\$150.00
Litter	5.13	\$150.00
Distribute/affix signs/posters/device	5.14	\$150.00
Discharge/ignite fireworks or other explosive material	5.15	\$250.00
Cause fire to be ignited	5.16	\$150.00
Discard any lighted match, cigar, cigarette, or other substance	5.17	\$250.00
Consume or possess liquor in park	5.18	\$150.00
Show or performance without license	5.19	\$150.00
Sell service or commodity	5.20	\$150.00
Activity contrary to Sign or Traffic Control Device	5.21	\$150.00
Use building/structure contrary to purpose	5.22	\$150.00
Leave personal belongings	5.23	\$150.00
Drive/park vehicle where prohibited	5.24	\$150.00
Drive/park off road/all terrain vehicle	5.25	\$150.00
Operate any motorboat	5.26	\$150.00
Smoke on City recreation property	5.27	\$150.00
Smoke contrary to signs	5.28	\$150.00
Possess or abandon shopping cart	5.29	\$150.00

Operate chainsaw or equipment	5.30	\$150.00
Repair or wash vehicle	5.31	\$150.00
Urinate/defecate in park	5.32	\$150.00
Use electrical or utility service	5.33	\$150.00
Operate amplify system or loudspeaker	5.34	\$150.00
Deposit materials or waste	5.35	\$150.00
Erect shelter in prohibited park	7.1	\$150.00
Shelter erected during prohibited hours	7.1(a)	\$150.00
Fail to remove shelter	7.1(b)	\$150.00
Erect shelter in prohibited area	7.1(c)	\$150.00
Fail to remove belongings	7.3	\$150.00
Fail to obtain a Park License Agreement	9.1	\$150.00

SCHEDULE "D"
Prohibited Parks and Parks Amenity Areas

PARKS

Maffeo Sutton Park;
Swy-a-Lana Park;
Georgia Park;
Queen E Park;
Diana Krall Plaza;
McGregor Park;
Italian Fountain Park;
Pearson Park;
Catherine Gisborne Garden;
Nob Hill Park;
Dallas Square Cenotaph;
Caledonia Stadium;
Departure Bay and Kin Hut area;
City Hall and surrounding grounds; and
Comox Park

PARKS AMENITY AREAS

playgrounds, spray parks or pools;
horticultural display areas or ornamental gardens;
skateboard bowls, tennis courts, or other sports courts;
sports fields, sports field buildings, stadiums or dugouts;
stages or bleachers;
washroom facilities, picnic shelters or gazebos;
recreational facilities;
cemeteries;
golf courses;
pathways, bridges, docks or wharfs;
environmental sensitive areas; and
sidewalks and boulevards.