

CITY OF NANAIMO

BYLAW NO. 7340

A BYLAW TO REGULATE PARKS, RECREATION AND CULTURE SERVICES AND
FACILITIES CITY OF NANAIMO

WHEREAS the Council may acquire, accept and hold any property in the municipality for pleasure, recreation or community uses of the public, and may make rules and regulations governing the management, maintenance, improvement, operation, control and use of such property;

THEREFORE BE IT RESOLVED that 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 Bylaw 2022 No. 7340".

2. Administration

2.1 The General Manager, Parks, Recreation and Culture is the official charged with administration of this Bylaw.

2.2 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

2.3 The General Manager, Parks, Recreation and Culture, or their designate, is hereby authorized to order the placing or erection of signs in parks at such places as the General Manager, Parks, Recreation and Culture 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 Bylaws of the City.

PART I - INTERPRETATION

3. Interpretation

In this Bylaw unless the context requires otherwise:

"Activity Centre"	<p>means:</p> <ul style="list-style-type: none">(a) Beban Park Recreation Centre and Beban Pool, 2300 Bowen Road(b) Bowen Park Recreation Complex, 500 Bowen Road(c) Centennial Building, 2300 Bowen Road(d) Cliff McNabb Arena, 2300 Bowen Road(e) Departure Bay Activity Centre, 1415 Wingrove Street(f) Frank Crane Arena, 2300 Bowen Road(g) Kin Hut Activity, 2730 Departure Bay Road(h) Kinsmen Outdoor Pool, 500 Bowen Road(i) Nanaimo Aquatic Centre, 741 Third Street(j) Nanaimo Art Gallery, 150 Commercial Street(k) Nanaimo Ice Centre, 750 Third Street(l) Nanaimo Museum, 100 Museum Way(m) Oliver Woods Community Centre, 6000 Oliver Road(n) Rotary Field House, 850 Third Street(o) Serauxmen Stadium, 745 Third Street(p) The OV Arts Centre, 25 Victoria Road(q) The Port Theatre, 125 Front Street(r) Vancouver Island Military Museum, 100 Cameron Way
"Agent"	means a person who is a volunteer or contractor of the City authorized by the City to perform services on behalf of the City.
"City"	means the City of Nanaimo.
"Cooking Fire"	means a fire ignited in a barbeque device fuelled only by gas or propane.
"Cycle"	means a device having any number of wheels, which is propelled by human power or electric power and upon which a person may ride.

"Environmentally Sensitive Area"	means an area as defined in the City of Nanaimo "Official Community Plan 2017 No. 6500" as amended or replaced from time to time.
"General Manager"	Means the General Manager of Parks, Recreation and Culture and includes any person designated by the General Manager of Parks, Recreation and Culture to act on their behalf.
"Homeless Person"	Means a person with no fixed address and no access to public shelter facilities.
"Highway"	<p>(a) includes every highway within the meaning of the <i>Highway Act</i>, and every road, street, lane or right-of-way designed or intended for, or used by the general public for the passage of vehicles within a park; and,</p> <p>(b) for the purposes of this Bylaw, <i>highway</i> does not include sidewalks or other places or passages owned, possessed or operated by the City of Nanaimo for the exclusive use of pedestrians, cycles, skateboards, roller blades and scooters.</p>
"Liquor"	<p>(a) fermented, spirituous and malt liquors; and,</p> <p>(b) combinations of liquors; and,</p> <p>(c) drinks and drinkable liquids that are intoxicating, including beer, or a substance that, by being dissolved or diluted is capable of being made a drinkable liquid that is intoxicating and that is declared by order of the Lieutenant Governor in Council to be liquor.</p>
"Litter"	means any filth, garbage, rubbish, offensive matter or discarded material of any kind.
"Lodging"	means erecting a structure, improvement or shelter of some kind and includes a tent, lean-to or other shelter made of cardboard or tarpaulin.
"Motor Vehicle Act"	means the Motor Vehicle Act, [RSBC 19961], C. 318
"Off Road Vehicle"	means any off road motorcycle, all terrain vehicle, snowmobile, tracked vehicle, dune buggy, go cart, golf cart or any similar vehicles, but excludes a motorized wheelchair or medic chair.

"Overnight Abode"	means taking up overnight lodging for the purposes of sleeping, staying, dwelling, or residing, including in a Temporary Shelter.
"Park"	means play areas, play lots, playgrounds, play fields, trails, public squares, open spaces and other places including recreation or cultural facilities which are owned, possessed or operated by the City of Nanaimo and which are used, reserved or dedicated for public Parks, Recreation and Culture purposes.
"Park Licence Use Agreement"	means a written agreement between the City and a person establishing the terms and conditions of use of a Park which is issued by the General Manager of Parks, Recreation and Culture.
"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
"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
"Sign"	means any structure, painting, or device that identifies, describes, promotes, advertises or directs.
"Special Use"	means any commercial or non-commercial service, activity or event which attracts or requires participants or spectators, and includes, but is not restricted to, a festival, sport competition, tournament, wedding, group picnic, group celebration, group training or group lesson, trade or any other shows, processions, performances, exhibitions, ceremonies, concerts, political or other demonstrations, gatherings, meetings, festivals, rowing regalia, horse shows, dog shows, fishing derbies, orienteering, television or motion picture filming, special event, seminars, workshops, programs, organized socials, recreational events, conventions, sales, display or information kiosks, concessions, use of a horse drawn vehicle.
"Temporary Abode"	means taking up transitory, short-term or interim lodging for the purposes of sleeping, staying, dwelling or residing.

"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
"Traffic Control Device"	means any sign, signal, line, parking meter, spitter machine, marking, space, barrier, or device placed or erected pursuant to the City of Nanaimo "Traffic and Highways Regulation Bylaw 1993 No. 5000" as amended or replaced from time to time.
"Trail"	means any passage way where the public has access or is invited for the purpose of providing for pedestrian traffic, cycling, electric bicycles, wheelchairs or medic chairs.
"Vehicle"	means a device in, upon, or by which, a person or thing is, or may be, transported or drawn upon a highway or other land surface, except a device designed to be moved by human power, and excludes Off Road Vehicles.

PART II - PARK REGULATIONS

4. Prohibited Acts

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

4.1 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.

4.2 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.

- 4.3 Enter, occupy or remain in a park:
- (a) contrary to Schedule "A" of this bylaw unless permitted to do so pursuant to Section 6 of this Bylaw.
 - (b) for the purposes of taking up permanent, temporary, or overnight abode, unless permitted to do so pursuant to Section 6 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 General Manager.
- 4.4 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.
- 4.5 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.
- 4.6 Destroy, damage, break, remove or injure any shrub, plant, turf, flower or other vegetation.
- 4.7 Destroy, damage, cut down, top, deface or remove any trees.
- 4.8 Plant any tree, sapling, shrub, flower, or other vegetation.
- 4.9 Destroy, damage, deface or remove any building, fence, bench, sign, ornament, structure, log, wood, branches, or other material or thing.
- 4.10 Build, place or erect any building or structure of any kind.
- 4.11 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.
- 4.12 Litter.

- 4.13 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 of Nanaimo "Traffic and Highways Regulation Bylaw 1993 No. 5000" as amended or replaced from time to time, or in locations designated and authorized by the General Manager.
- 4.14 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" as amended or replaced from time to time.
- 4.15 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" as amended or replaced from time to time, and is not ignited during a declared fire hazard or Provincial fire ban.
- 4.16 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, cannabis, or other weed or substances.
- 4.17 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 General Manager.
- 4.18 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 General Manager.
- 4.19 Sell, barter, offer or advertise for sale any refreshments, service, article, commodity, or product without a Park Licence Use Agreement.
- 4.20 Undertake any activity or action that is contrary to any sign or traffic control device erected in a park.
- 4.21 Use any change house, dressing room, structure or building for any other purpose than that of which the building or structure is intended.
- 4.22 Leave, discard, store or abandon personal belongings or chattels of any kind.
- 4.23 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.
- 4.24 Drive, operate or park any off road vehicle.
- 4.25 Operate any motorboat on Westwood Lake unless authorized to do so by the General Manager.

- 4.26 Operate any chainsaw or vegetation cutting, mowing or trimming equipment within a park unless permitted to do so by the General Manager.
- 4.27 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.
- 4.28 Urinate or defecate in or on any park except in a provided public or private toilet.
- 4.29 Use or access an electrical service or any other utility in a park without written permission of the General Manager.
- 4.30 Operate any amplifying system or loudspeaker without the written permission of the General Manager.
- 4.31 Deposit any yard waste, soil, wood, rocks, garbage or filth, discarded materials or rubbish of any kind.

5. Removed, Detained or Impounded

- 5.1 The General Manager 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 General Manager's discretion.
- 5.2 All personal belongings, chattels, or structures that are removed, detained or impounded, may at the discretion of the General Manager, be immediately disposed of as garbage, or may be stored for a period of thirty (30) days.
- 5.3 If the person entitled to possession of the impounded items has failed to recover them and pay the fees set out in the Fees and Charges Bylaw, in the time allowed, and it appears to the General Manager that the items have a market value, the items may then be sold, by public auction, to the highest bidder. If the General Manager 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.
- 5.4 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 fees as outlined in the Fees and Charges Bylaw:

6. Temporary Shelter

- 6.1 Notwithstanding Section 4.3(a) and 4.3(b) of this Bylaw, where there is no shelter accommodation available in the City, a homeless person may, without written permission of the General Manager, 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 6.1(a), a temporary shelter cannot be erected or occupied, and temporary overnight accommodation must not take place in those parks, or, on or within 20 metres of the Parks Amenity Areas as listed in Schedule "B" of this Bylaw.
- 6.2 Where any temporary shelter has not been removed from the park as required or has been located in an area identified in Schedule "B" or Section 6.1 of this Bylaw, the City or its agents may remove, detain or impound the temporary shelter and may, at the discretion of the General Manager, immediately dispose of the shelter or store the shelter pursuant to Section 5 of this Bylaw.
- 6.3 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 5 of this Bylaw.

PART III - ENFORCEMENT

7. Offence

- 7.1 Any Person who causes, permits or allows anything to be done in contravention or violation of this Bylaw, or who neglects or fails to do anything required to be done pursuant to this Bylaw, commits an offence against this Bylaw and is liable upon summary conviction to pay a fine of not more than \$50,000, plus the costs of prosecution, and any other penalty or remedy available under the *Community Charter and Offence Act*."
- 7.2 Where an offence under this bylaw is of a continuing nature, each day that the offence continues, or is permitted to exist, shall constitute a separate offence.
- 7.3 Section 7.1 shall not prevent the City, or an authorized person on behalf of the City, issuing and enforcing a ticket under the City's Bylaw Offence Notice Enforcement Bylaw."

PART IV - AGREEMENTS

8. Park Licence Use Agreement

- 8.1 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 General Manager.

9. Fees and Charges

The fees for the use of Parks shall be as set out in the City's Fees and Charges Bylaw.

PART V - GENERAL

10. 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.

11. Repeal

"Parks, Recreation and Culture Regulation Bylaw 2008 No. 7073" and all amendments thereto are hereby repealed.

PASSED FIRST READING: 2022-MAR-21
PASSED SECOND READING: 2022-MAR-21
PASSED THIRD READING: 2022-MAR-21
ADOPTED: _____

MAYOR

CORPORATE OFFICER

SCHEDULE "A"

HOURS OF OPERATION

The hours of operation for parks shall be the following, unless changed at the discretion of the General Manager for operational purposes.

LOCATION	HOURS OF OPERATION
<u>PARKS</u> Maffeo Sutton Diana Krall Plaza McGregor Park Georgia Park Queen Elizabeth Park E&N Trail Parkway Trail	24 hours per day
<u>LOUDON PARK</u>	6:00 a.m. to 6:00 p.m. from October 01 to March 01; and, 6:00 a.m to 10:00 p.m. from March 01 to September 30.
<u>ALL OTHERS</u>	6:00 a.m. to 9:00 p.m. from November 01 to March 01 6:00 a.m to 11:00 p.m. from March 01 to October 31
RECREATION CENTRES (Beban Park, Bowen Park, Oliver Woods, Nanaimo Aquatic Centre, Nanaimo Ice Centre)	24 hours per day as needed
ACTIVITY CENTRES	6:00 a.m. to 2:00 a.m.
NIGHT LIGHTED PLAY AREAS	6:00 a.m. to 11:00 p.m.

SCHEDULE “B”

Prohibited Parks and Parks Amenity Areas

PARKS

Maffeo Sutton Park;
Georgia Park;
Queen Elizabeth II Promenade;
McGregor Park;
Kinsmen Park and Departure Bay Seawall; and
City Hall and surrounding grounds.

PARKS AMENITY AREAS

No temporary overnight shelter on or within 20 metres of:

playgrounds, spray parks or pools;
bike parks, skateboard parks, tennis courts, or other sports courts;
sports fields, sports field buildings, stadiums or dugouts;
stages or bleachers;
washroom facilities, picnic shelters or gazebos; and
recreational facilities.

No temporary overnight shelter on:

pathways, bridges, docks or wharfs;
environmental sensitive areas;
sidewalks, medians, and boulevards;
public squares; and
horticultural display areas or ornamental gardens.