

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1604

A bylaw to regulate, prohibit and impose requirements in relation to public spaces

WHEREAS Section 8(3) of the Community Charter authorizes the Council of the City of Enderby to adopt bylaws to, regulate, prohibit and impose requirements in relation to public places;

NOW THEREFORE the Council of The Corporation of the City of Enderby, in open meeting assembled, enacts as follows:

1. CITATION

- a. This Bylaw shall be cited as "The Corporation of the City of Enderby Public Spaces Bylaw No. 1604, 2016".

2. DEFINITIONS AND INTERPRETATION

In this Bylaw:

- a. "**Bylaw Enforcement Officer**" means the persons duly appointed by Council as such;
- b. "**Camping equipment**" includes portable cooking equipment, sleeping bags or rolls, mattresses, backpacks, packsacks, tents, tarps or lean-tos;
- c. "**Campsite**" includes any place of temporary abode where camping equipment is used;
- d. "**Chattel**" means a moveable item of personal property including, without limitation, a vehicle, a leased or rented dumpster or container, merchandise, fuel, wares of any nature, or signage;
- e. "**Chief Administrative Officer**" means that person, or that person's deputy, appointed by City Council pursuant to Section 147 of the *Community Charter*;
- f. "**City**" means the Corporation of the City of Enderby;
- g. "**Controlled Substance**" means a controlled substance as defined or described in Schedules I, II or III of the Controlled Drugs and Substances Act, 1996 chapter 19, as amended from time to time, but does not include a controlled substance permitted under that Act;
- h. "**Commission**" means the Enderby & District Services Commission;

- i. **“Highway”** includes a public street, path, walkway, trail, lane, bridge, road, parking lot, thoroughfare and any other public way;
- j. **“Park”** means and includes property or space within the City used for public park and recreation purposes and includes all buildings and structures situated thereon;
- k. **“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;
- l. **“Public Space”** includes:
 - i. an area of land, including a Highway or Park, or 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 civic buildings, areas around civic buildings, and areas which are used, or may be used, as Highway or Park;
 - ii. unoccupied areas of Crown Land contiguous to a watercourse;
- n. **“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.

3. PROHIBITIONS

- 3.1 No Person shall use any Public Space in contravention of this bylaw or in contravention of a sign which has been posted prohibiting or regulating such use.
- 3.2 No Person shall deposit refuse upon a Public Space except in waste receptacles provided for such purposes (littering).
- 3.3 No Person shall deposit any off-site refuse of any kind upon private property or a Public Space unless a waste receptacle explicitly marked for that purpose is provided (illegal dumping).
- 3.4 No Person shall sell or display for sale any refreshment, article, merchandise, product, thing, service, or conduct any business in a Public Space without a permit issued by the City or Commission or the express written consent of the City or Commission.
- 3.5 No Person shall make or cause to be made a fire in a Public Space without a Special Burning Permit.

- 3.6 No Person shall conduct any event, procession, march, drill, performance, ceremony, concert, gathering or meeting in a Public Space without the express written consent of the City or Commission.
- 3.7 No Person shall feed any animal or fowl in a Public Space and shall not tease, molest, or injure any animal or fowl or throw any substance at or near such creatures in such a way to cause them alarm or injury.
- 3.8 Notwithstanding what is expressly permitted within the Motor Vehicle Act, no Owner of a horse shall permit such horse to enter upon or be in a Public Space unless otherwise signed and when permitted, such horse must be ridden or handled by an Owner capable of controlling the horse at all times, and the Owner must also immediately remove any deposited horse excrement.
- 3.9 No Person shall enter or be in a Park except during the hours of operation established by this bylaw without the express written consent of the City or Commission to do so. The hours of operation for Parks shall be 6:00 a.m. to 11:00 p.m. daily, unless indicated otherwise by a sign.
- 3.10 No Person or registered owner of a Vehicle shall permit such Vehicle to enter or remain in a Park while such Park is closed, between the hours of 11:00 p.m. and 6:00 a.m. the following day, unless:
- a. the opening and closing times of the Park or parking lot have been changed by the City or Commission;
 - b. the Park or parking lot is signed otherwise; or
 - c. That person or registered owner of such Vehicle has the express written consent of the City.

Any Vehicle in a Park must also have a valid license and insurance.

- 3.11 No Person shall post, paint or distribute advertisements of any kind in a Public Space without the express written consent of the City or Commission.
- 3.12 Except for conveyances for the handicapped, children's carriages and strollers, no Person shall ride or drive any Vehicle or other mode of conveyance outside of designated access roads, lanes or parking lots, without the express written consent of the City or Commission. Self propelled vehicles limited to bicycles, trailers pulled by bicycles, roller blades and skateboards are permitted provided they are used on designated pathways or roads, are operated in a safe manner, and comply with any other applicable regulations.

- 3.13 No Person shall grease, wash, clean or repair any Vehicle in a Public Space, except where an emergency exists or the permission of the City or Commission has been obtained.
- 3.14 No Person shall be permitted in any Public Space to possess open liquor at any time without the express written consent of the City.
- 3.15 No Person shall take up temporary or permanent abode in or on any Public Space.
- 3.16 No Person shall erect, construct or build any tent, building, shelter, trailer, pavilion or other construction whatsoever, or penetrate the ground with any object including stakes or posts, in a Public Space without the express written consent of the City.
- 3.17 No Person shall establish or set up a Campsite in a Public Space without the express written consent of the City.
- 3.18 No Person commits an offence under section 3.17 by bringing Camping Equipment into a Park that is used for picnicking or while the Person takes temporary, but not permanent, respite in a Park.
- 3.19 No Person shall urinate or defecate in or on any Public Space except in a suitable toilet facility.
- 3.20 No Person shall be permitted in any Public Space to possess paraphernalia used for the purposes of storing, transporting, selling, or using illegal drugs.
- 3.21 No Person shall return to or enter any Public Space once that Person has been ordered to leave for a period of up to 48 hours pursuant to Section 4.5 of this Bylaw, and each violation shall be considered a separate offence.
- 3.22 No person shall smoke tobacco, or hold lighted tobacco:
- a. In any public building or structure of a Public Space that is fully or substantially enclosed;
 - b. In a Public Space that is within 6 metres of a doorway, window or air intake of a place which i) is ordinarily open to the public, ii) is a work place, or iii) is a prescribed place as defined within the Tobacco Control Regulation.
- 3.23 No Person shall use a barbecue in a Public Space except:
- a. With the express written consent of the City; or

- b. A portable barbecue may be used on a City beach or park for cooking food, provided that the barbecue is: CSA/ULC approved, powered by propane gas, used under constant supervision, and kept a minimum of 1 meter away from the nearest structure, property line, tree or other combustible material. A gas-powered campfire or open flame is not permitted. The use of all portable barbecues must comply with all applicable regulations.
- 3.24 No Person shall damage, vandalize, or apply graffiti to public property or publicly owned assets, including but not limited to assets such as structures, fences, railings, utilities, turf, trees, shrubs, hedges, plants, flowers, vegetation, hard surfaces, park ornaments, public art, or signs. Graffiti may be applied within designated areas such as the Barnes Park Skateboard Park.
- 3.25 No Person shall operate an unmanned aircraft, drone or a model aircraft in a Park or Public Space without the express written consent of the City or Commission and when permitted, such aircraft, drone or model aircraft shall be operated in accordance with applicable provincial and federal regulations.
- 3.26 No Person shall use or access an electrical service or any other utility in a Public Space without the express written consent of the City or Commission.
- 3.27 No Person shall plug, tamper with or in any way damage any plumbing, lighting, heating, or other fixture.
- 3.28 No Person shall conduct oneself in an offensive or disorderly manner.
- 3.29 No Person shall excavate in a Public Space without the express written consent of the City or Commission.
- 3.30 No Person shall plant trees or shrubs in any Public Space without the express written consent of the City or Commission.
- 3.31 No Person shall obstruct, interfere with, impede, hinder or prevent a Bylaw Enforcement Officer, officer, employee of the City or other Person engaged by the City from performing any duties or exercising any authority under this bylaw.

4. USES

- 4.1 Notwithstanding the other sections of this Bylaw, the City or Commission may designate certain areas of a Public Space for a specific use and may prescribe certain rules and regulations for that use and may prescribe specific times for such use.
- 4.2 The City or Commission may issue written permission for any procession, march, drill, performance, ceremony, concert, gathering or meeting and may charge rent for the use of any Public Space or portion thereof.

- 4.3 Notwithstanding anything contained in this bylaw or any other bylaw of the City to the contrary, the officers, officials and employees and contractors of the City, while exercising their duties, shall be exempt from the provisions hereof.
- 4.4 The City or Commission may alter the hours of operation of Parks outlined in Section 3.9 of this Bylaw. The Chief Administrative Officer or a Bylaw Enforcement Officer is authorized to alter the hours of operation of Parks on a temporary basis for safety, emergencies or weather related events.
- 4.5 Any Person who violates any provision of this bylaw or who suffers or permits any act or thing to be done in contravention of 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, may be ordered to leave from a Public Space by any member of the Royal Canadian Mounted Police or Bylaw Enforcement Officer appointed for a period of up to 48 hours.

5. SEIZURE AND DETENTION

- 5.1 The Chief Administrative Officer, a peace officer or Bylaw Enforcement Officer appointed by Council, or City staff or a contractor acting under the direction of the Chief Administrative Officer, may remove any Chattels, left or stored in a Public Space in a manner contrary to the provisions of this bylaw, and take such Chattels to a place of safekeeping until it is returned to the owner after they have paid the applicable storage fee, or the Chattels have been disposed of in accordance with section 5.2 of this bylaw.
- 5.2 Upon the expiration of 30 days from any removal or detention, the City may dispose of the seized items as it deems necessary.

6. OFFENCES AND PENALTY

- 6.1 Every person who contravenes or violates any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any provision of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw, commits an offence and, upon conviction, shall be liable to a fine or penalty not to exceed \$10,000, and a jail term of not more than 6 months.
- 6.2 Each day the offence continues is considered a separate offence.
- 6.3 This Bylaw is enforceable through the City of Enderby Municipal Ticketing Information (MTI) System Bylaw No. 1518, 2013 and the City of Enderby Bylaw Notice Enforcement Bylaw No. 1581, 2015 and any amendments thereto.

6.4 Notwithstanding any other penalty, the City may recover from a person who contravenes this Bylaw any costs associated with repairing or restoring the Public Space to its previous condition, plus a 20% administration fee.

7. SEVERABILITY

7.1 If a section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portions of this bylaw.

8. EFFECTIVE DATE

8.1 This bylaw shall come into full force and effect as and from the date of adoption.

READ a FIRST time this 18th day of July, 2016.

READ a SECOND time this 18th day of July, 2016.

READ a THIRD time this 18th day of July, 2016.

ADOPTED this day of , 2016.

MAYOR

CHIEF ADMINISTRATIVE OFFICER