

TOWN OF OSOYOOS
Parks and Community Facilities Regulations
BYLAW NO. 1278

A BYLAW to establish rules and regulations governing the management, operation, control and use of real and personal property held by the municipality for pleasure, recreation or community uses of the public.

WHEREAS the Community Charter empowers Council to make rules and regulations governing the management and use of Parks and Public Facilities acquired or held by the Town for its purposes;

AND WHEREAS the general welfare of the community is enhanced by the regulation and use of the Town's Parks and community facilities;

NOW THEREFORE the Council of the Town of Osoyoos in open meeting assembled enacts as follows:

CITATION

1. This Bylaw may be cited as "Parks and Community Facilities Regulations Bylaw No. 1278, 2011"

DEFINITIONS

2. In this Bylaw unless explicitly defined in another way:

"Boat" means all vessels whether propelled by mechanical means such as engines or by human power and shall include but not be limited to motorboats, sailboats, canoes, kayaks, gondolas, rafts, personal watercrafts, zodiacs and pontoons.

"CAO" means the Chief Administrative Officer of the Town of Osoyoos or person delegated by him to act on his behalf.

"Community Facility" means a building, lands, or recreation facility including but not limited to, recreation centres, arenas, picnic shelters and other recreation facilities located in a Park or on any other land which the Town owns or controls by means of a lease, licence or other legal instrument, that is intended for athletic, social or recreational use by members of or visitors to the community.

"Council" means the Council of the Town of Osoyoos.

"Homeless Person" means a person who has neither a fixed address nor a predictable safe residence to return to on a daily basis.

"Organized Activity" means any activity which is pre-planned, involves a group larger than 50 people and which limits general public access to a portion of the Park or Community Facility or any activity that involves instruction or training.

“Organized Sport” means any game or sport which is played by three or more persons who play and/or practice together regularly as a team in a league or association.

“Park” means a park or parkland as defined in the Local Government Act or any other land used for leisure or recreation which the Town owns or controls by means of a lease, licence or other legal instrument, within the jurisdiction of the Town and includes public beach areas.

“Person” shall when necessary, mean and include persons of either sex, associations, corporations or bodies politic, co-partnerships whether acting by a servant, agent, or employee and the heirs, executors, administrators, successors, and assigns or other legal representatives of such person to whom the context can apply according to the law.

“Smoke or Smoking” shall mean the lighting up and use of a cigarette, cigar, pipe, or smoking material of any kind that creates smoke that is taken orally, and includes the carrying of a lighted cigarette, cigar, pipe or other smoking material or equipment.

“Town” means the Town of Osoyoos.

“Trail” means any footpath, pathway, trail or pedestrian access route owned and maintained by the Town within the Town of Osoyoos.

“Vehicles” means and includes all conveyances for the carriage or transport of persons, passengers, goods or materials, whether drawn by animals or propelled by any mechanical device or other motive power whatsoever, and shall include trailers, boats, boat trailers, bicycles, motorcycles, tricycles, rollerblades, and skateboards.

EXEMPTIONS

3. Notwithstanding anything contained in this Bylaw or any other Bylaw of the Town to the contrary, all officers, officials, employees and agents of the Town, and emergency first responders including police, ambulance and fire, while acting in the exercise and within the scope of their duties, shall be exempt from the provisions of this Bylaw.

GENERAL REGULATIONS

4. Advertising

No person shall within a Park or Community Facility:

- a) deliver, distribute, post, paint or affix any advertisement, promotional material, poster, bill or advertising within a Park or at a Community Facility without the prior written permission of the CAO.
- b) use or permit the use of any advertising vehicle within a Park or at a Community Facility without the prior written permission of the CAO.

5. Animals

- a) No person as owner or having the control of any animal, reptile or fowl shall suffer or permit such animal, reptile or fowl to enter or feed upon any Park or driveway and the owner or other person having the custody of any such animal, reptile or fowl who suffers or permits the same to enter or feed in or on any such Park or driveway shall be deemed to be guilty of an infraction of this Bylaw.
- b) No person shall pester, disturb, frighten, injure, kill, trap, or snare any bird or animal without the written permission of the CAO.
- c) No person shall permit any horse to walk or run over any grass area, flower bed, footpath or other location with the exception of bridle trails specifically provided therefor;
- d) No person who owns, possesses, harbours or has the control of any animal or fowl shall permit such animal or fowl to enter into the water of a reservoir, lake, pond, pool, fountain, stream or other receptacle for water within any Park or at a Community Facility unless otherwise posted;
- e) No person shall permit the swimming of any animal in a designated swimming area, or the fouling of any waters therein or immediately adjacent thereto;
- f) No person shall bring to any Park, beach, or the water adjacent thereto any dog, or be accompanied by or harbour a dog on any Park, beach, or in or on any waters adjacent thereto unless otherwise posted.
- g) No person shall ride, drive or herd horses or other livestock within any Park or at a Community Facility;

6. Damage

No person shall within a Park or at a Community Facility:

- a) remove, cut, break, injure or in any way destroy or damage any tree, shrub, plant turf, sod, or flower;
- b) cut or remove any tree, timber or firewood;
- c) pick or gather any flower in or on any Park;
- d) damage or deface any building, structure, fence, sign, seat, bench, equipment, or ornament;
- e) damage, deface, clutter or block any boulevard, driveway, roadway, trail, path or lane;
- f) injure, deface or destroy any notice, sign, rule or regulation erected, posted or affixed to any building, structure, fence, seat or bench by order or permission of the Town, or CAO;
- g) climb, walk or sit upon any wall, fence or other structure in or upon any Park or Community Facility or boulevard unless it is designed and intended for such purpose;

- h) cross, travel on, use or walk upon any grassed plot or land where signs have been posted forbidding such use;
- i) drive any vehicle over any grass area or flower bed;
- j) drive any vehicle on any footpath or promenade without written permission of the CAO;
- k) foul, litter or pollute, in any way, any fountain, stream, pool, pond, or lake;
- l) deposit or leave or cause to be deposited or left any matter or thing or break any glass bottle or container on or in any Park or beach;
- m) deposit any waste, offensive material or other substance of any kind into or upon any tree, shrub, plant, turf, sod, flower, building, structure, fence, sign, seat, bench, ornament, grassed plot, fountain, stream, pool, pond, lake or other surface within the limits of any Park or at a Community Facility except in the receptacles provided for such purpose;
- n) throw or deposit any injurious nuisance, or offensive matter into the water in any reservoir, lake, pond, pool or other receptacle of water connected with any Park, or on the beaches, or upon the ice in case any such water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes or water, or encourage the same to be done;
- o) remove soil, earth, topsoil, dirt or other material from lands within any Park or at a Community Facility;
- p) wilfully, maliciously or carelessly let off, turn on, or discharge any water so that the water runs to waste and useless out of any tap, pipe, hydrant or other fixture within a Park or at a Community Facility;
- q) throw or place upon the ground any lighted match, cigar, cigarette or other burning substance;
- r) light a fire or place fuel on a fire or in or on any Park or beach, except in designated areas;
- s) wilfully, maliciously or carelessly damage or destroy the utility of any tennis court, greenspace, grounds, trail, or lawn.

7. Encroachments

- a) No person shall encroach upon any lands within a Park or upon a Community Facility for his own purposes;
- b) No person shall erect, construct, build, occupy or cause to be erected, constructed, built or occupied, in any Park or at any Community Facility or on any boulevard any tent, building, structure, shelter, pavilion or any other construction whatsoever except with the prior written permission of the CAO;

- c) The Town may remove or cause to be removed from any Park or any Community Facility any encroachment, temporary abode, tent, building, shelter, pavilion, structure, obstruction or vehicle or other construction whatsoever located within a Park or at a Community Facility contrary to the provisions of this Bylaw at the expense of the responsible person;

8. **Temporary Overnight Shelter**

- a) Notwithstanding subsection 7 b) of this Bylaw, subsection 8 b i) applies.
- b) A homeless person must not place, secure, erect, use, or maintain in place, in a Park, a structure, improvement or overhead shelter, including a tent, lean-to, or other form of overhead shelter constructed from a tarpaulin, plastic, cardboard or other rigid or non-rigid material:
 - i) subject to subsection 8 b) ii), except between the hours of 7:00 o'clock PM of one day and 7:00 o'clock AM of the next day when Daylight Savings time is not in effect; and between the hours of 8:00 o'clock PM of one day and 7:00 o'clock AM of the next day when Daylight Savings time is in effect;
 - ii) at any time, in a playground, sports field, footpath, a road within a Park, environmentally sensitive area, or any area within a Park that has been designated for an event or activity under a valid and subsisting permit issued under the authority of this Bylaw.

9. **Hours of Operation**

No person shall:

- a) enter, occupy, or be present in any Park between the hours of 11:00 o'clock in the PM and 6:00 o'clock in the AM on the following morning; provided, however, that the Council may at its discretion, grant written permission to any person or persons to occupy a specific Park during the hours of closure aforesaid, for such limited time as it may determine.
- b) at any time, camp within a motorhome, recreational vehicle, or vehicle of any type used for the purposes of contained living or camping in the Parks during the hours the Parks are closed.

10. **Interference**

No person shall:

- a) hinder or interrupt or cause to be hindered or interrupted, the Council or its engineers, surveyors, managers, lifeguards, contractors, servants, workmen or any of them in the exercise of any of the powers and authorities vested in the Council by authority of the *Local Government Act*, *Community Charter*, or in this Bylaw authorized or contained or while overseeing activities in any Park or Community Facility;
- b) disobey a lawful command or obstruct any Bylaw Enforcement Officer;

- c) in any way interfere with or obstruct the use or enjoyment of the Park or Community Facility by any other person.

11. Nuisance

No person shall within a Park or at a Community Facility:

- a) behave in a disorderly or offensive manner;
- b) molest or injure any other person;
- c) pester, interfere with or become a nuisance to the general public;
- d) undress or dress, except in the places specifically provided for such purpose, or wear any bathing suit to any extent transparent, or any bathing suit not entirely modest in make and style on any such bathing beach, and no person improperly clad shall be allowed the use of any Park or Community Facility.
- e) create any undue disturbance, congregation or alarm that will cause or tend to cause panic, excitement, or any hazard, annoyance or interference with other persons or the general public present at or immediately adjacent to any Park or Community Facility.
- f) make a public address or demonstration or do any other thing likely to cause a public gathering or attract public attention without the prior written permission of the CAO in accordance with the Town's Good Neighbour Bylaw;
- g) operate any amplifying system or loud speaker in any Park without the written permission of the CAO in accordance with the Town's Good Neighbour Bylaw.

12. Loitering and Congregating

No person shall within a Park or at a Community Facility:

- a) loiter in any bathhouse, or conduct himself in such manner as to be objectionable to other persons or the public in or immediately adjacent to any such bathhouse, bathing beach, or Community Facility;
- b) permit a public gathering of more than 25 people except when organized and controlled by the Town to be held in any Park, playground or Community Facility, unless authorized by written consent of the CAO;
- c) hold a picnic in excess of 25 or more persons, without the written consent of the CAO;
- d) enter a Park or Community Facility which has been closed to public access by the CAO.
- e) take part in any procession, march, drill, performance, ceremony, concert, gathering, or meeting in or on any Park unless the written permission of the CAO has been first obtained;

13. Liquor

- a) No person shall possess liquor within a Park or at a Community Facility at any time, except where the liquor is possessed pursuant to and in compliance with a licence under the *Liquor Control and Licensing Act*.

14. Games

- a) No person shall play at any game that interferes with other patrons' enjoyment of any Park except upon or in such portion thereof as may be especially allotted, designed and provided respectively, for any purpose, and under such rules and regulations and at such times as shall be prescribed by the Council and, without limiting the generality of the foregoing, no person shall:
 - i) play golf or strike a golf ball;
 - ii) fly any motor driven airplane;
 - iii) shoot an arrow or practice archery;
 - iv) take part in any ball game;

except in areas designated or permitted

15. Swimming and Bathing Beach Restrictions

No person shall:

- a) enter in any water in or adjoining any Park or bathing beach without being properly clothed in a bathing suit, or where such person is suffering from any contagious or communicable disease;
- b) bathe in any lake, pond, pool, fountain or other body of water using soap or other products manufactured for the purposes of cleansing the hair and/or skin;
- c) disobey any command or order of any person having the superintendence, management or control of any such Park or bathing beach or the command of any lifeguard or other person in charge of or superintending any bathing beach;
- d) bring to any bathing beach or the water adjacent thereto, any underwater spear or shooting device;
- e) fish from or adjacent to any bathing beach, or cast or haul in any net or other fishing contrivance therein or therefrom between May 1st and October 1st in each year.
- f) use any boat, or other contrivance or thing in the immediate vicinity of any bathing beach that will endanger, disturb or otherwise interfere with the free use of the water for bathing and swimming purposes;

16. Sale of Goods and Services

- a) No person shall sell or expose for sale any refreshments or any article or thing or offer any service for a fee within a Park or at a Community Facility without holding a valid business licence to vend as issued by the Town in accordance with the Town's Business Licence Bylaw.

- b) Subsection 16 a) shall not apply to events organized by the Osoyoos Festival Society or other group who has written authority from the Town to hold an event with vendors so long as the vendor is registered with the Osoyoos Festival Society or group in possession of written authority to hold an event with vendors.

17. Vehicles

- a) No person shall park a vehicle at a Park or Community Facility other than in a designated area and in accordance with posted signs or as otherwise directed by a supervisor responsible for such Park or Community Facility;
- b) No person shall drive or propel or permit to be driven or propelled, any vehicle within a Park or at a Community Facility except upon a driveway, roadway, path, lane, or parking area designed for vehicular traffic.
- c) No person shall use a vehicle to occupy or travel on any driveway, roadway, trail, path, lane or boulevard within a Park or at a Community Facility where signs have been posted prohibiting such use, occupation or travel;
- d) No person shall drive a vehicle within a Park or at a Community Facility at a rate of speed greater than the posted speed limit;
- e) No person shall use, occupy or travel along or upon any Park or property adjacent to a Community Facility in such manner as to obstruct or to cause an obstruction, or to interfere with any person or traffic lawfully using the same; or encumber or obstruct, or cause to be encumbered or obstructed in any manner whatsoever, any Park without written permission of the CAO; and any person receiving any such permission shall at all times be subject to the conditions thereby imposed and the provisions of this Bylaw in every other respect and the onus shall at all times be on the person receiving such permission to duly carry out all such conditions thereby imposed, and to save harmless and protect the Town from and against any and all claims, demands, suits or compensation of whatsoever kind arising, either directly or indirectly out of the permission thereby granted, and shall likewise be subject to such further conditions, regulations and orders as may be imposed by the Council.
- f) In addition to any other penalty provided for in this Bylaw, any vehicle found within a Park or Community Facility in contravention of this Bylaw is subject to seizure and removal from the Park or Community Facility at the expense of the owner or operator of the vehicle.

18. Other Regulated Activities

- a) Tournaments – no tournament or series of games shall be played in any Community Facility, Park or on any court, greenspace, grounds or lawn by any person, group of persons, organization or club, without the written permission of the CAO.
- b) Bathhouses – no male person shall enter any portion of any bathhouse set apart for the use of female persons and no female person shall enter any portion of any bathhouse set apart for the use of male persons.

- c) No person shall play on any tennis court or bowling green unless wearing rubber-soled shoes and otherwise suitably equipped with the requisite appliances for games authorized for these areas; and only at such times, or during the seasons, and under such rules and regulations as shall be prescribed by Council.
- d) No person shall smoke on or in any park or trail unless a designated smoking area has been established for the purpose of a special event with the area being determined by and with the agreement of both the Town and the event organizer.

LOSS OF ACCESS RIGHTS

- 19. Where the CAO, or his designate or a Bylaw Enforcement Officer or Peace Officer is of the opinion that a person or group within a Park or Community Facility is contravening any provision of this Bylaw, or any other enactment, that person or group:
 - a) must cease contravening the provisions of the Bylaw, or other enactment,
 - b) may be required by the CAO, Bylaw Enforcement Officer or Peace Officer to leave the Park or Community Facility;
 - c) may, on written notice from the CAO, forfeit their right of access to the Park and Community Facilities for a period of time stipulated in writing by the CAO.

SEIZURE OR DETENTION

- 20. Camping equipment, vehicles, or other items in contravention of this Bylaw shall be dealt with as follows:
 - a) The CAO, Peace Officer, or Bylaw Enforcement Officer appointed by the Council, or Town staff or contractor acting under the direction of the CAO, may remove any camping equipment, vehicles, or other items left or stored in a Park or public space or Community Facility and any other items comprising a part of a campsite in a manner contrary to the provisions of this Bylaw and take such equipment to a place of safekeeping until it is returned to the owner or disposed of in accordance with Section 20 b) of this Bylaw.
 - b) For removal, detention and impounding of camping equipment, vehicles, or other items pursuant to section 20 a) of this Bylaw, the following fees are payable to the Town prior to the owner being entitled to the return of the equipment or vehicle:
 - i) for each occasion that the CAO, or staff or contractor acting under his direction, or Peace Officer or Bylaw Enforcement Officer, are engaged in the removal of the camping equipment, vehicle, or other items to the place of detention and safekeeping: \$35.00; and
 - ii) for each day the camping equipment, vehicle or other items are stored or detained: \$2.50 per day, to a maximum of \$75.00 for camping equipment and other items and no maximum for vehicles.
 - c) The owner of any camping equipment, vehicles, or other items removed and detained pursuant to Section 20 a) shall pay any applicable fees for the removal or detention prior to the Town releasing the camping equipment and items to the owner.

- d) If a vehicle is removed, detained or impounded and not claimed by its owner within 48 hours, written notice must be given by registered mail to the registered owner at his or her address as shown on the records of the Registrar of Motor Vehicles, advising the owner of the seizure and impoundment, the sum payable to release the vehicle and the date of advertising for sale by public auction if unclaimed.
- e) Upon the expiration of 30 days from any removal or detention under section 20 a) the Town may put the camping equipment, vehicle, or other items up for sale by public auction and recover any fees accrued pursuant to Section 20 b) from the proceeds of the sale, or may dispose of the seized items as deemed necessary. Before selling camping equipment, a vehicle, or other items at public auction, the Town must advertise the time and place of the proposed public auction in a newspaper circulating in the Town, giving at least seven days notice of such proposed sale.
- f) The proceeds of sale by public auction must be applied first to the cost of the sale, second to the fees, cost and expenses of the Town or its towing contractor, and the balance shall be held for the owner. If the balance remains unclaimed at the end of one year from the date of sale, such balance must be paid into the general revenue of the Town.
- g) Despite any provision in subsections 20 a) through f), the CAO, Bylaw Enforcement Officer, or Peace Officer may request vehicles be removed from Parks or community facilities by a properly licenced and authorized towing company for which applicable towing and storage fees shall be payable to that company under their standard operating practices.

ENFORCEMENT

21. A person who:

- a) violates any provision of this Bylaw, or does any act or thing which violates any provision of this Bylaw, or suffers or allows any other person to do any act or thing which violates any provision of this Bylaw;
- b) neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or
- c) fails to comply with an order, direction, or notice given under any provision of this Bylaw, or suffers or allows any other person to fail to comply with an order, direction, or notice given under any provision of this Bylaw

is guilty of an offence against this Bylaw, and may be enforced by means of a ticket in the form prescribed in the *Community Charter, Local Government Act and Regulations*.

PENALTY

- 22. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon summary conviction to a fine not more than ten thousand (\$10,000.00) dollars plus the cost of prosecution for each offence.
- 23. Each day that a contravention of the provisions of this Bylaw exists or is permitted to exist shall constitute a separate offence.

SEVERABILITY

24. If any section, subsection, sentence, clause or phrase of this Bylaw, which is for any reason held to be invalid by the decision of any Court of competent jurisdiction, may be severed from the balance of this Bylaw without affecting the validity of the remaining portions of the Bylaw.

REPEAL

25. Parks Regulations Bylaw No. 861, 1992 and all amendments thereto are hereby repealed.

Read a first time on the 21st day of March, 2011.

Read a second and third time as amended on the 2nd day of May, 2011.

Adopted on the 16th day of May, 2011.


MAYOR


CORPORATE ADMINISTRATIVE OFFICER