

## TOWN OF COMOX

### BYLAW NO. 1881

#### **A BYLAW TO ESTABLISH RULES AND REGULATIONS FOR THE USE OF PARKS IN THE TOWN OF COMOX**

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WHEREAS Section 8 of the *Community Charter* empowers a Council, by bylaw, to regulate, prohibit and impose requirements in relation to public places;

AND WHEREAS certain outdoor recreational places within the Town of Comox are used, reserved or dedicated for the use and enjoyment of the general public;

AND WHEREAS the Council of the Town of Comox deems it wise to establish rules and regulations for the use of parks and public spaces;

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

#### **1. Title**

This bylaw may be cited for all purposes as the "Comox Parks Use Bylaw No. 1881, 2018".

#### **2. Definitions**

The following definitions apply to this Bylaw:

"Council" means the Council of the Town of Comox;

"Body of Water" means any stream, river, pond, lake, marsh or ocean;

"Bylaw Enforcement Officer" means

- (a) the person appointed by the Town of Comox to enforce bylaws; and
- (b) the Corporate Officer, Deputy Corporate Administrator or Parks Superintendent for the Town of Comox;

"Controlled Substance" means a "controlled substance" as defined and described in Schedules I - V of the Controlled Drugs and Substances Act R.S.C. 1996 c.C-19., as amended from time to time, but does not include a substance the trade or manufacture of which is permitted under that Act or the Town's Business Regulation Bylaw, as amended from time to time.

"Director" means the Recreation Director for the Town of Comox or his/her delegate;

"Highway" has the same definition as in the British Columbia *Motor Vehicle Act*, as amended from time to time;

“Liquor” means any alcoholic drink or drinkable liquid, produced by either distillation or fermentation, that is intoxicating;

“Mobile Vendor” means a person who, from a motor vehicle, trailer or cycle, as defined or licensed under the *Motor Vehicle Act*, as amended from time to time, offers for sale food or merchandise, or who advertises or takes orders for goods or services.

“Noxious” means injurious or harmful to the health of living things;

“Park” means,

- (a) any property or structure held by the Town for public use by Crown Lease or Crown Licence, by permit or lease from the Ministry of Transportation and Infrastructure, or by lease, statutory right-of-way or occupancy or access agreement with a private landowner; and
- (b) all play areas, playgrounds, play fields, trails, greenbelts, required buffer zones, public squares, open spaces, boulevards, beaches, beach accesses and other public places under the care, custody or jurisdiction of the Town of Comox for public recreation or community purposes;

“Parks Superintendent” means the Parks Superintendent for the Town of Comox or his/her delegate;

“Parks Use Permit” means a current and valid permit issued by the Parks Superintendent pursuant to Section 4 of this Bylaw for the purpose of undertaking activities listed in Section 3(5)(k) of this Bylaw;

“Refuse” means rubbish, trash or garbage;

“Structure” means anything built or constructed;

“Town” means the Town of Comox; and

“Vehicle” means a device or structure for transporting persons or things, except those devices designed to be propelled by human or battery power.

### **3. Regulations**

(1) No person shall be permitted to be in any park within the Town of Comox between the hours of 11:00 p.m. and 6:00 a.m. of the following day.

(2) Subsection 3(1) does not apply to

- (a) Comox Municipal Marina tenants while at the Comox Municipal Marina or Municipal Marina Parking Lot,

- (b) resident caretakers in any park, and
  - (c) users of trails, greenbelts, public squares, boulevards, beaches and beach accesses.
- (3) No person other than a Town employee or a person under the direction of a Town employee, shall be permitted to be in any park while it is temporarily closed to the public.
- (4) No person while in a park shall:
- (a) Light a fire, or throw, place or drop any lighted match, cigar, cigarette or other burning substance on the ground;
  - (b) Permit any animal, owned or harboured by the person, to enter any park except in accordance with the Comox Animal Control Bylaw, as amended from time to time, or unless otherwise permitted by Permit under this Bylaw;
  - (c) Permit any animal, owned or harboured by the person, to enter any body of water, except the ocean;
  - (d) Wilfully, negligently, or carelessly permit any animal, owned or harboured by the person, to break down, destroy or otherwise damage any tree, shrub or other plant material;
  - (e) Ride, lead or herd any animal, other than on trails, roads or lanes that have been designated for such use;
  - (f) Add, place, dump or leave any organic waste, noxious substance or refuse to any fountain or body of water;
  - (g) Defecate or urinate except in a facility designed for such use;
  - (h) Hit, propel, throw or direct an object in such a manner as to be dangerous, including but not limited to the hitting of golf balls, the shooting of arrows, or the launching of model rockets or airplanes;
  - (i) Engage in any conduct that may cause or is likely to cause injury, harm or danger to themselves or others;
  - (j) Use any structure or building for any other purpose than that of which the building or structure is intended;
  - (k) Use a tennis court for any sport or activity other than tennis;
  - (l) Use a pickleball court for any sport or activity other than pickleball;

- (m) Ride or operate any device designed to be propelled by human or battery power, except on trails or paved pathways and at speeds of less than ten kilometres per hour; or
  - (n) Interfere with any Town employee in the performance of his or her duties.
- (5) No person while in a park, other than a Town employee or a person under the direction of a Town employee, shall:
- (a) Destroy damage, climb, break, remove or injure any tree, shrub, plant, turf or flower;
  - (b) Deface, destroy, vandalize, damage, break, alter or remove any sign, notice or structure;
  - (c) Place, dump or leave any foreign material, including but not limited to sand, gravel, earth, leaves or branches;
  - (d) Remove any gravel, top soil, rock, or sand without the written permission of the Parks Superintendent;
  - (e) Deposit chemicals or pesticides;
  - (f) Deposit refuse other than into a refuse receptacle provided for such purpose;
  - (g) Deposit in a park or public place any refuse produced outside a park or public place;
  - (h) Drive, park or stand any vehicle in or on any area other than an established parking area, unless such vehicle is an emergency or Town vehicle, or authorized by the Town;
  - (i) Attempt to molest, disturb, frighten, injure, catch, trap or snare any wildlife.
  - (j) Disturb the peace or enjoyment of the park or public place by any other person or interfere with the exclusive use of any park or public place granted by the Town; or
  - (k) Without having first obtained a valid Parks Use Permit issued by the Town pursuant to this Bylaw,
    - (i) operate any amplification system or loud speaker;
    - (ii) build or cause to be built any structure;
    - (iii) post, paint or distribute any written information;

- (iv) enjoy the exclusive right to the use of all, or any portion of the park or public place;
- (v) carry on any commercial activity;
- (vi) erect, or occupy any camper, tent or other form of temporary shelter;
- (vii) take part in any procession, march, drill, performance, ceremony, concert, gathering or meeting;
- (viii) discharge any firearm, or set fire to or explode any combustible or explosive material; or
- (ix) sell, consume or possess any liquor.

#### **4. Parks Use Permit**

- (1) Each applicant for a Parks Use Permit must, for each event, accurately complete the prescribed form of application and submit to the Town.
- (2) Each applicant for a Parks Use Permit must pay to the Town an amount, as specified in Schedule “A”.
- (3) Any individual or organization requiring three or more permits for any one park in any calendar year may apply for a single Multi Use Permit.
- (4) No person shall undertake any of the activities listed in Section 3(5)(k) of this Bylaw without having possession of a valid Parks Use Permit.
- (5) The Parks Superintendent or Director may refuse to issue or renew a Parks Use Permit if the applicant or holder of a Permit has previously failed to comply with any condition as set out in the Permit or this Bylaw, or has any outstanding fines levied in accordance with this Bylaw.
- (6) Any person wishing to appeal the decision of the Parks Superintendent or Director regarding a Park Use Permit may do so in writing to the Town of Comox Council.
- (7) A Parks Use Permit is not transferable.

#### **5. Conditions of Parks Use Permit**

- (1) A Parks Use Permit is subject to certain conditions, which are attached to and form part of the Parks Use Permit.

- (2) Pursuant to Section 15(1)(d) of the *Community Charter*, authority is hereby delegated to the Parks Superintendent to establish conditions related to the following:
  - (a) time of activity,
  - (b) type of activity, or
  - (c) place of activity.
- (3) Mobile Vendors obtaining a Parks Use Permit shall:
  - (a) ensure that Mobile Vending trucks and trailers are no more than
    - (i) 2.5 metres wide, and
    - (ii) 8 metres long;
  - (b) establish in a permitted location, as specified in Schedule “B”;
  - (c) obtain Commercial General Liability insurance with a company satisfactory to the Town that meets the following minimum requirements:
    - (i) name the Town as an additional insured;
    - (ii) be written on a comprehensive basis with inclusive limits of not less than \$2,000,000;
    - (iii) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
    - (iv) be primary and non-contributing with respect to any policies carried by the Town and include a clause that any coverage carried by the Town is excess coverage;
    - (v) not be cancelled without the insurer providing the Town with 30 clear days written notice stating when such cancellation is to be effective; and
    - (vi) include a Cross Liability and a Separation of Insureds Clause
  - (d) enter into a Mobile Vending Agreement between the Mobile Vendor and the Town;
- (4) The holder of a Parks Use Permit is permitted to undertake the activities as outlined in the Permit in compliance with the requirements of this Bylaw and the conditions that form part of the Permit.

- (5) Failure to comply with any condition set out in the Parks Use Permit shall render the Permit subject to immediate cancellation by the Parks Superintendent or Director without prior notice.

## 6. Offences

- (1) Any person who contravenes any provision of this Bylaw is guilty of an offence and shall, upon summary conviction thereof, be liable to a minimum penalty of \$500.00 and a maximum fine of \$10,000.00.
- (2) Each day that an offence continues shall constitute a separate offence against this Bylaw.

## 7. Enforcement

- (1) This Bylaw is designated under the provisions of Section 264 of the *Community Charter* as a Bylaw that may be enforced by means of a ticket in the form prescribed, and in accordance with this Bylaw.
- (2) Bylaw Enforcement Officers and members of the RCMP are designated to enforce this Bylaw pursuant to Section 264(1)(b) of the *Community Charter*.
- (3) Pursuant to Section 269(1) of the *Community Charter*, authorization is hereby delegated to the Bylaw Enforcement Officer, Corporate Officer or Deputy Corporate Administrator to refer tickets issued with respect to this bylaw to the Provincial Court for a hearing.

## 8. Penalties

- (1) A Bylaw Enforcement Officer may direct a person to leave any park if that person is acting in contravention of this Bylaw, other municipal legislation, or any federal or provincial legislation, including using or possessing controlled substances, alcohol or other intoxicants.
- (2) A person directed to leave any park must do so immediately and shall not return within the following 24 (twenty-four) hours, or such longer period of time, up to seven consecutive days, as specified by a Bylaw Enforcement Officer.
- (3) No person shall interfere with a Bylaw Enforcement Officer in the exercise of their powers and duties pursuant to this Bylaw.
- (4) Pursuant to Section 264(1)(c) of the *Community Charter*, the words or expressions set forth below in Column 1 designate the offence committed under

the Bylaw section numbers appearing in Column 2 opposite the respective words or expressions.

- (5) Pursuant to Section 265(1)(a) of the *Community Charter*, the fine amount set forth below in Column 3 is the fine amount that corresponds to the section number and words or expressions set out in Columns 1 and 2 opposite the fine amount.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Offence</b>	<b>Bylaw Section</b>	<b>Fine Amount</b>
Present in park when closed	3(1)	\$50.00
Present in park when temporarily closed	3(3)	\$200.00
Light fire or place burning substance	3(4)(a)	\$200.00
Permit animal in water	3(4)(c)	\$100.00
Permit animal to damage plant material	3(4)(d)	\$200.00
Ride, lead or herd animal off path	3(4)(e)	\$100.00
Add noxious substance to water	3(4)(f)	\$200.00
Defecate or urinate outside of proper facility	3(4)(g)	\$100.00
Hit, propel or throw object in dangerous manner	3(4)(h)	\$200.00
Conduct that may cause injury or harm	3(4)(i)	\$100.00
Inappropriate use of a facility	3(4)(j)	\$50.00
Unlawful use of tennis court	3(4)(k)	\$50.00
Unlawful use of pickleball court	3(4)(l)	\$50.00
Unlawful operation of human or battery powered device	3(4)(m)	\$50.00
Interfere with Town employees in performance of duty	3(4)(n)	\$100.00
Damage, climb or remove natural vegetation	3(5)(a)	\$100.00
Deface or damage structure	3(5)(b)	\$200.00
Dump or leave foreign material	3(5)(c)	\$200.00
Unlawful removal of material	3(5)(d)	\$200.00
Deposit chemicals or pesticides	3(5)(e)	\$200.00
Deposit refuse other than in refuse receptacle	3(5)(f)	\$200.00
Deposit refuse from outside park	3(5)(g)	\$200.00
Drive or park in non-designated area	3(5)(h)	\$100.00
Disturb or catch wildlife	3(5)(i)	\$100.00
Disturb peace or enjoyment	3(5)(j)	\$100.00



Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
Undertake activity without permit	3(5)(k)	\$200.00

### 9. Severability

The provisions of this Bylaw are severable and the invalidity of any part of this Bylaw shall not affect the validity of the remainder of this bylaw.

### 10. Repeal

Comox Parks and Public Places Bylaw, 2014, as amended, is repealed.

### 11. Adoption

(1) READ A FIRST, SECOND and THIRD time this 4<sup>th</sup> day of April, 2018

(2) ADOPTED this 18<sup>th</sup> day of April, 2018

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CORPORATE OFFICER

**SCHEDULE “A”**

**Parks Use Permit Fees**

	<b>Permit Fee</b>	<b>Damage Deposit</b>
Mobile Vendor – Truck / Trailer	\$50 / day \$500 / month \$2,500 / year	\$500 for monthly and annual permits
Mobile Vendor – Cart	\$15 / day \$150 / month \$750 / year	\$150 for monthly and annual permits

