

# TOWN OF LADYSMITH

## BYLAW NO. 1933

### A BYLAW TO REGULATE PARKS USAGE IN THE TOWN OF LADYSMITH

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**WHEREAS** the Council may by bylaw, establish regulations, prohibitions and requirements with respect to the management, maintenance, improvement, operation and use of parks and trails and other land the Town holds for the purpose of parks;

**NOW THEREFORE** the Council of the Town of Ladysmith, in open meeting assembled, HEREBY ENACTS as follows:

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#### **Citation**

- 1 This Bylaw may be cited for all purposes as “Town of Ladysmith Parks Usage Bylaw, 2017, No. 1933”.

#### **Definitions and interpretation**

- 2 (1) In this bylaw:

“**bow**” has the same meaning as in the *Wildlife Act*,

“**camp**” includes sleeping or staying overnight with or without a shelter,

“**common facilities**” includes anything other than natural park features such as toilets, showers, shelters, water pumps, stairs, boardwalks, decks, congregate spaces, notices

or signs, bridges, trails, docks and wharves, kiosks, gates, fences, picnic tables, and benches,

**"cycle"** means a device having any number of wheels that is propelled by human power and on which a person may ride and includes a motor assisted cycle, skate board, roller skates or in-line roller skates but does not include a wheel chair,

**"Town"** means the Town of Ladysmith,

**"Director"** means the Director of Parks, Recreation and Culture or a person designated by the Director for a specific purpose or function under this Bylaw,

**"effective control"** means a situation where a dog is accompanying a person under circumstances where

- (a) the person can see the dog, and
- (b) when the person calls the dog, the dog returns to the person within three calls,

**"firearm"** has the same meaning as in the *Wildlife Act*,

**"graffiti"** has the same meaning as in the Property Maintenance Bylaw 2015, No. 1894, except that every reference to private property is deemed to be public property and every reference to the owner of private property is deemed to be a reference to the Director,

**"leash"** means a chain or other material, suitable for control of the type and size of animal,

**"liquor"** has the same meaning as in the *Liquor Control and Licensing Act*,

**"litter"** means any garbage, cans, bottles, papers, ashes, refuse, cuttings, trash or rubbish generated by a person while in a park and engaged in activities ordinarily connected with reasonable park use,

**"natural park feature"** includes any native or non-native tree, shrub, flower, berry, bough, grass or plant of any kind; soil, sand, gravel, rock, mineral, wood, fallen timber or other living or dead natural material,

**"park"** includes

- (a) a public park, play area, , playground, playing field, trail, public square, , open space, beach, road within a park and any other public place under the care, custody and management of the Director, and

- (b) a recreational or cultural facility owned, possessed or operated by the Town,

**"peace officer"** means a member of the Royal Canadian Mounted Police and includes a bylaw officer,

**"permit"** means a written authorization granted under section 14,

**"shelter"** includes a motor vehicle, recreational vehicle, trailer, tent, lean-to or any other shelter whether portable or fixed constructed of man-made or natural materials;

**"sign"** means any structure, painting, or device that identifies, describes, promotes, advertises, restricts, prohibits or directs,

**"special use"** means

- (a) any commercial or non-commercial service, activity or event that is intended to attract or requires participants or spectators and includes: a festival; competition; tournament; procession, drill, performance, concert,
- (b) any use of reservable common facilities in a park or on a trail,

- (c) any incursion onto park property for non-park purposes including scientific research, the collection of specimens for any purpose and access for water lines, structures, road, signs or fences,

“**traffic control device**” means a sign, signal, line, parking meter, marking, space, barrier, or device placed or erected in order to control vehicular or non-vehicular traffic flow on roads, parking lots, boat launch ramps, tunnels, trails and bridges,

“**trail**” means any maintained path or trail designated for recreational use within a park or any trail outside of a park that the Town possesses or controls for recreational purposes,

“**vehicle**” means a device in, on or by which a person or thing is or may be transported or drawn on a highway, but does not include a device designed to be moved by human power, a device used exclusively on stationary rails or tracks, a mobility scooter, or a wheelchair.

“**vessel**” includes any ship, boat, seaplane, parasail, sail board, kite board, canoe, kayak, row boat, paddle boat or other device designed to be used for navigation on, in or under water.

- (2) The intent of this bylaw is to permit the reasonable use of parks by the public within the context of operating parks that are intended to provide the benefits of outdoor recreation and enjoyment for the general community and preservation and protection of natural park features.

### **Application**

3 The following persons are exempt from this Bylaw:

- (a) Town employees while carrying out their assigned duties;
- (b) volunteers working under the direct supervision of a Town employee;
- (c) Town contractors and agents while carrying out their duties when such exemption is provided in their terms of engagement.

### **Interference with officials**

4 A person must not interfere with, hinder or obstruct the Director, a peace officer or Town employee in the exercise or performance of his or her powers, duties or functions under this Bylaw.

### **Prohibitions**

5 No person shall

- (a) use a park contrary to any of the prohibitions or restrictions set out in this bylaw;  
or
- (b) use a park for a commercial purpose or a special use unless authorized by a permit.
- (c) erect, construct or cause to be erected or constructed or placed in, on or under any place within a park any home, building, shelter, or other construction including utility services unless authorized by a permit.

### **Hours of use**

- 6 (1) All parks are closed to use except during posted open hours in accordance with Schedule C.
- (2) No person shall enter or remain in a park when the park is closed to use.

### **Animals**

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- 7 (1) A person shall not ride, lead, or have charge of any horse or other riding animal in a park except:
- (a) in areas designated for such activities by a sign or traffic control device,
  - (b) as permitted by the Director, or
  - (c) as directed by a peace officer in an emergency situation.
- (2) No person shall cause or allow any animal owned or under the control of that person to be, or remain, at large in a park or unless authorized by a sign or a permit.
- (3) No person shall molest, disturb, frighten, harass, injure, kill, catch, or trap any animal in a park or unless permitted by the Director.
- (4) A person who enters or is within a park with a dog shall
- (a) keep the dog under effective control at all times,
  - (b) ensure the dog is firmly held on a leash not exceeding 2.4 m in length, or a retractable lead not exceeding 8 m in length when fully extended,
  - (c) restrain or remove the dog from a park when requested by an animal control officer, peace officer or the Director,
  - (d) carry at all times and use as required by this Bylaw or any other bylaw, a leash and collar for each dog, and
  - (e) ensure that the dog does not defecate within the Park unless the excrement deposited by that dog is immediately removed and disposed of in a lawful manner.
- (5) Despite subsection (4)(b), the owner of a dog may allow the dog to be in an off leash area of a park included in Schedule A without being firmly held if
- (a) the dog is in the area during the times listed in Column 2 of the table in Schedule A opposite the name of the park in Column 1,
  - (b) the dog is under the effective control of a competent person,
  - (c) the off leash area is not being used under a permit issued by the Director, and
  - (d) the off leash area has not been closed by the Director.
- (6) No person shall cause or allow a dog to enter or be in any playground, the playing area of any sports field, or within Transfer Beach Park below deKoninck Way including the amphitheatre and beach within the park.

### **Camping**

- 8 No person shall use a park for the purpose of camping except as authorized by a permit.

### **Fires and burning substances**

- 9 (1) A person shall not kindle, build, light, maintain, or use any fire at any location in a park other than a fire in a fire ring or receptacle provided for that purpose as authorized by a sign or a permit.
- (2) A person shall not throw or place upon the ground or otherwise dispose of in a park any lighted material, cigar, cigarette or other burning substance.
- (3) A person shall not kindle, build, light, maintain, or use any fire at any location in a

park in a manner that contravenes:

- a) fire restrictions that are in effect under the *Wildfire Act* (British Columbia); or
  - b) any other applicable Town bylaw.
- (4) The prohibition in subsection (3) does not apply to a person using a portable hibachi, barbecue, or propane stove in an area of a park where a sign or permit allows such use and the person complies with any conditions or restrictions on the sign or in the permit.
- (5) No person shall within a park leave a fire unattended or leave a stove, barbecue or other flame producing cooking device of any kind unattended while it is lit or turned on.
- (6) No person shall burn any prohibited material, as specified under the Fire Prevention Bylaw 2013, No. 1815, in a park.

### **Firearms and bows**

- 10 No person shall carry or discharge
- (a) a firearm, or
  - (b) a bow
- in a park unless authorized by a permit.

### **Garbage**

- 11 (1) No person shall deposit or leave any litter or other waste anywhere in a park except in a waste receptacle provided by the Town for that purpose.
- (2) Except for the disposal of litter into waste receptacles as set out in subsection (1), no person shall dispose of any refuse or other waste in a park.
- (3) No person shall transport household, yard or commercial waste into a park for the purpose of disposal.

### **Liquor**

- 12 No person shall possess or consume liquor in a park
- a) except where the liquor is possessed and consumed pursuant to and in compliance with, a license issued under the *Liquor Control and Licensing Act*; and
  - b) the person has obtained all required permits for the consumption of liquor, including a permit under this Bylaw.

### **Park maintenance**

- 13 (1) The Director is authorized to close any park or portion of a park for the purpose of undertaking works to construct, improve, restore or repair any natural park feature or common facility.
- (2) No person shall enter or use a park or portion of a park that has been closed under subsection (1) when a sign setting out the closure has been posted at the entrance to the park.

### **Park permits**

- 14 (1) No person shall conduct, promote, carry out or undertake any activity within a park that constitutes a special use unless they first apply for and obtain a permit under this section.
- (2) The Director may undertake one or more of the following actions upon receipt of an application for a permit

- 
- (a) grant the application;
  - (b) refuse the application;
  - (c) consult with any person or body in relation to the application;
  - (d) impose terms and conditions as set out in subsection (4) for obtaining and holding the permit; and
  - (e) refer the application to the Council for determination.
- (3) A person must pay the applicable permit fee, pay a damage deposit and provide proof of liability insurance if required as a condition of the permit.
- (4) The Director may impose one or more of the following terms and conditions when issuing a permit:
- (a) specifying the location and times during which the special use may be carried out;
  - (b) requiring the applicant supply additional services necessary for the special use, including but not limited to, sanitary, health, emergency, security, traffic control and police services;
  - (c) restricting the number of persons who may attend or participate in the special use;
  - (d) restricting the use of generators, amplification and public address systems, the playing of live or recorded music, and the placement of temporary structures associated with the special use;
  - (e) requiring the applicant provide a damage deposit;
  - (f) requiring the applicant provide proof of liability insurance in an amount and in a form approved by the Director; and
  - (g) specifying terms and conditions considered necessary for the protection of the park or trail, other users of the park or trail, participants in the special use and for the prevention of nuisances or disturbances to the surrounding area.
- (5) The Director may refuse to issue a permit if
- (a) the proposed special use does not conform to Town park use policies or to any Park Management Plan that is in place for that park;
  - (b) the proposed special use may cause damage to a park, any natural park feature, or any common facility or structure within a park;
  - (c) the applicant does not agree to indemnify and save harmless the Town from and against any damages or claims that arise from the special use;
  - (d) the applicant refuses or fails to obtain liability insurance as set out in (4)(f) above;
  - (e) the applicant fails or refuses to provide written agreement to abide by the terms and conditions of the permit; or
  - (f) the applicant fails or refuses to remit a damage deposit as required in (4)(e) above.
- (6) If the Director refuses an application for a permit under this section, the person seeking permission may request that Council reconsider the Director's refusal.
- (7) A request for reconsideration under subsection (6) must be submitted in writing to the Corporate Officer within seven days of the Director's refusal.
- (8) If the holder of a permit fails to comply with this Bylaw or the terms and conditions of the permit, in addition to any other enforcement action or penalties, the Director may do one or more of the following

- (a) suspend or revoke the permit;
- (b) require the permit holder to pay the Town's costs in undertaking any remedial work necessary to repair any damage to the park or common facilities or a natural park feature; and
- (c) withhold the damage deposit paid by the permit holder and apply the damage deposit towards the costs incurred by the Town in performing the remedial work.

#### **Traffic control devices, park rules and signage**

- 15 (1) The Director may erect a sign or other traffic control device specifying an area in which specific activities are permitted, prohibited or restricted in a park.
- (2) Every person must observe and obey every prohibition and restriction announced by the sign or traffic control device erected under subsection (1).

#### **Smoking**

- 16 A person shall not smoke, or use an electronic cigarette or similar device, within a park.

#### **Storage**

- 17 No person shall leave, abandon or store any thing in a park including, but not limited to, vehicles, vessels, chattels or waste materials of any kind, except with written permission of the Director.

#### **Vehicle and cycle control**

- 18 (1) No person shall within a park
- (a) operate a vehicle or cycle below the natural boundary or high tide mark off a designated road way, or in such a manner as to disturb a natural park feature;
  - (b) operate a vehicle or cycle except on a public road or trail designated for such use by a sign unless the use has been authorized by a permit;
  - (c) operate or cause to be operated, pushed or towed, an off road vehicle, as defined in the *Off Road Vehicle Act*, unless such use is authorized by a sign or a permit;
  - (d) stop, park or station a vehicle on any public road or right-of-way in such a manner
    - i. as to impede the flow of traffic on a public road,
    - ii. as to interfere with or damage a natural park feature, or
    - iii. that restricts or inhibits public recreational use of a park;
  - (e) park or leave a vehicle in a park or in a parking lot within a park during the times when the park is closed to use;
  - (f) clean, repair or carry out maintenance on a vehicle within a park;
  - (g) park, stop or station a vehicle or cycle in an area prohibited by, or contrary to, a sign or traffic control device; or
  - (h) park a vehicle within a park for a purpose other than visiting the park.
- (2) Unless otherwise posted, no person shall operate a vehicle in a park or on a trail at a greater speed than 10 kilometers per hour.
- (3) The Director or a peace officer may impound and remove any
- a) vehicle or cycle that is parked or stationed in violation of this bylaw,
  - b) thing that is left, stored or abandoned in a park contrary to section 17, or
  - c) other thing found in a park that is causing a nuisance or obstruction.

- (4) Any vehicle or other thing impounded under subsection (3) is to be dealt with according to the provisions contained in the Streets and Traffic Bylaw 1998, No. 1309.
- (5) No person, except the holder of a permit granting an exemption, shall within a park
  - (a) park a vehicle anywhere except in a designated parking area;
  - (b) park or station a vehicle in such a manner as to impede the proper use of a road or parking area; or
  - (c) park or station a vehicle, cycle or vessel in contravention of a sign or traffic control device.

### **Vessels**

#### **19** No person shall in a park

- (a) launch or remove a vessel from a body of water except:
  - (i) from a designated boat launch ramp, or
  - (ii) by physically carrying, and not dragging, the vessel to and from the water;
- (b) be off a designated roadway or interfere with natural park features in order to launch a vessel;
- (c) operate a vessel within an area designated by signs or buoys for swimming or along the waterfront in a way that will endanger, disturb or otherwise interfere with the free use of the water for the purpose of bathing and swimming except in the immediate vicinity of a boat launch and for the purpose of approaching or moving away from the boat launch on a line perpendicular to shore;
- (d) operate a vessel in a manner that impedes or endangers pedestrian movement along a beach or foreshore;
- (e) moor a vessel to dry land; or
- (f) moor a vessel to a wharf, dock, piling or post contrary to a sign.

### **Damage to parks and trails**

- #### **20**
- (1) No person shall remove, destroy, cut or damage any natural park feature, or any building, structure, or common facility in a park except as authorized by a permit.
  - (2) No person shall cut down, prune or remove any tree or any part of a tree in a park except as authorized by a permit.
  - (3) No person shall construct or otherwise create or alter any trail within a park except as authorized by the Director.
  - (4) No person shall travel in an undeveloped area within a park except on a trail, roadway or other area that is designated for travel by signs; or in a map or brochure published by the Town.
  - (6) No person shall erect, build, place or install any permanent or temporary structure or facility within a park unless authorized in writing by the Director.
  - (7) No person shall discharge water from any tap, pipe, hose or other fixture within a park so that the water is wasted.
  - (8) No person shall place graffiti or cause graffiti to be placed anywhere within a park or trail.
  - (9) A person who damages, removes, cuts or destroys a natural park feature, common facility, or a building or structure in a park without the written permission of the

Town, may be required to replace that natural park feature, common facility, building or structure with one of similar value, or to pay an equivalent amount to the Town, upon demand issued under the authority of the Director or Council.

### **Public Conduct**

- 21 (1) A person must not do any of the following activities in a park:
- (a) behave in a disorderly or offensive manner;
  - (b) molest or injure another person or their property;
  - (c) obstruct the free use and enjoyment of the park by another person;
  - (d) paint advertisements;
  - (e) distribute handbills for commercial purposes;
  - (g) place posters;
  - (h) disturb, injure, catch or attempt to catch an animal; or
  - (i) hinder, interfere with or obstruct the holder of a permit under this Bylaw from lawfully conducting the activities authorized by the permit.
- (2) No person in a park except the holder of a permit granting specific exemption shall make or cause to be made any noise which would violate the Noise Suppression Bylaw 2003, No. 1478.

### **Fees and charges**

- 22 All fees associated with use of parks shall be set out in the Frank Jameson Community Centre and other Recreational Facilities Fees Bylaw.

### **Offences and penalties**

- 23 (1) A person who commits an offence is subject to the penalties imposed by this Bylaw, the Ticket Utilization Bylaw and the *Offence Act* if that person
- (a) contravenes a provision of this Bylaw,
  - (b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw, or
  - (c) neglects or refrains from doing anything required by a provision of this Bylaw.
- (2) Each day that a contravention of a provision of this Bylaw occurs or continues shall constitute a separate offence.
- (3) The maximum fine that may be imposed for a contravention of this Bylaw is \$10,000.

### **Bylaw offence notice**

- 24 (1) A Notice of Bylaw Infraction, as authorized under the *Community Charter*, may be delivered to person by a Peace Officer who has reason to believe that the other person has committed an offence under this Bylaw.
- (2) A Notice of Bylaw Infraction may be delivered by
- (a) leaving it on the vehicle with which the Notice is concerned, or
  - (b) giving it to the person who is believed to have committed an offence.
- (3) A Notice of Bylaw Infraction may indicate the alleged offence and the amount of the voluntary penalty, including a fine reduction for early payment, that may be paid to the Municipality in respect of the alleged offence.
- (4) A prosecution must not be started for the alleged offence described in a Notice of Bylaw Infraction if the voluntary penalty for that alleged offence is paid in accordance with this Bylaw before an information is sworn and a summons is issued.
- (5) The voluntary penalties referred to in subsection (3) are prescribed in Schedule B.

### **Severability**

25 If any provision of this bylaw is held to be beyond the power of the Town or otherwise invalid by any court of competent jurisdiction, then the provision may be severed from the bylaw without affecting the validity of the remainder of the bylaw.

**Repeal**

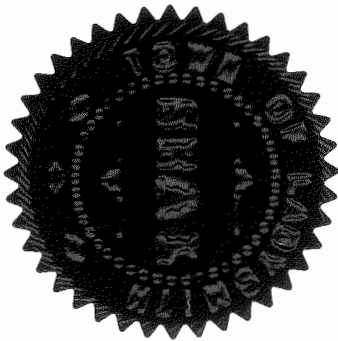
26 Parks Usage Bylaw 1995, No. 1158 and all amendments are repealed.

**READ A FIRST TIME** on the 17<sup>th</sup> day of July, 2017

**READ A SECOND TIME** on the 17<sup>th</sup> day of July, 2017

**READ A THIRD TIME** on the 17<sup>th</sup> day of July, 2017

**ADOPTED** on the 21<sup>st</sup> day of August, 2017



  
\_\_\_\_\_  
Mayor (A. Stone)

  
\_\_\_\_\_  
Corporate Officer (J. Winter)

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**SCHEDULE A**

## Dog Off Leash Areas and Times [Section 7(5)]

<b>Column 1 - Park</b>	<b>Column 2 - Times</b>
Transfer Beach Park (area defined by signs above deKoninck Way)	Year Round
Mackie Park	Year Round
Holland Creek Trail	Year Round
Gourlay-Janes Park	Year Round
Davis Road Fenced Dog Park	Year Round

**SCHEDULE B****FINE SCHEDULE [Section 24]**

The indicated penalties for alleged offenses committed against this Bylaw where a Notice of Bylaw Infraction is issued are as follows:

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>SECTION</b>	<b>SET FINE</b>	<b>FINE IF PAID WITHIN 30 DAYS</b>
1	Disobey sign/traffic control device	15(2)	\$100.00	\$50.00
2	Abandon vehicle in park	17	\$125.00	\$75.00
3	Unlawful stopping/parking	18(d)	\$75.00	\$25.00
4	Park during closed hours	18(e)	\$75.00	\$25.00
5	Park contrary to sign/traffic control device	18(g)	\$75.00	\$25.00
6	Park for improper purpose	18(h)	\$75.00	\$25.00
7	Park where prohibited	18(5)(a)	\$75.00	\$25.00
8	Park impeding traffic	18(5)(b)	\$100.00	\$50.00
9	Park contrary to sign/traffic control device	18(5)(c)	\$75.00	\$25.00

**SCHEDULE C****HOURS OF OPERATION [Section 6]**

Unless there is a declared fire hazard or parks permit is issued the hours of operation shall be the following:

<b>Location</b>	<b>Hours of Operation</b>
Transfer Beach	24 hours per day
Forrest Field	5am-11pm
Holland Creek Trail	5am-10pm
Holland Creek Sports area	5am-10pm
Harbourview Park	5am-10pm
Root Street Park	5am-10pm
Spirit Square	5am-10pm
High Street Park	5am-10pm
Gourlay- Janes Park	5am-10pm
Aggie Playground and Playing Field	5am-10pm
Kinsmen/Brown Drive Park	5am-10pm
Davis Road School	5am-10pm
Bob Stuart Park	5am-10pm
Arboretum	5am-10pm
Mackie Park	5am-10pm
Stonewall Park	5am-10pm
Queen's Park	5am-10pm
Wickham Park	5am-10pm
Cenotaph	5am-10pm
Skate Park	8am-9pm
Park parking areas	5am-10pm