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**TACKLING HOMELESSNESS: A LEGAL GUIDE FOR MUNICIPAL GOVERNMENTS**

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APPENDIX B

Draft Parks Bylaw Provisions (based on City of Abbotsford Parks Bylaw)

1. DEFINITIONS
2. “City” means **[EACH LOCAL GOVERNMENT SHOULD USE ITS OWN DEFINITION]**
3. “Council” means **[EACH LOCAL GOVERNMENT SHOULD USE ITS OWN DEFINITION]**
4. "Homeless Person" means a person who has neither a fixed address nor a predictable residence to return to on a daily basis.
5. “Park” means **[EACH LOCAL GOVERNMENT SHOULD USE ITS OWN DEFINTION]**
6. "Temporary Shelter" means a tent, lean to or other form of shelter that is temporary and portable in nature that is constructed from nylon, plastic, cardboard or other similar non-rigid material, and that covers an area of less than ten (10) square meters.
7. GENERAL PROHIBITION

No person may, within any Park:

(a) obstruct the free use and enjoyment of any Park by any other person;

(b) violate any bylaw, rule, regulation, posted notice, or command of the Council or a person in control of, or maintaining or supervising, any Park; or

(c) urinate or defecate in or on a Park except in a provided public or private toilet facility; and

in addition to any other penalty under this Bylaw, any person who violates this Section may be removed from the Park.

1. ERECTING STRUCTURES

(a) Subject to Section 3(b), no person may erect, construct, or build, or cause to be erected, constructed, or built, in or on any Park any tent, building, shelter, pavilion, or other construction whatsoever without the prior written permission of the Council. In determining whether to grant permission, Council may consider the matters set out in Section 8.

(b) Notwithstanding Section 3(a), where there is no accessible shelter accommodation available in the City, a Homeless Person may, without the prior written permission of the Council, as set out in Section 3(a), erect and occupy a Temporary Shelter in a Park, except in those Parks listed in Schedule "A" to this Bylaw, between the hours of 7:00 p.m. on one day and 9:00 a.m. of the following day, provided that the Homeless Person:

(i) not erect the Temporary Shelter until after 7:00 pm on one day;

(ii) take down and remove the Temporary Shelter from the Park prior to 9:00 am of the following day;

(iii) comply with all other provisions of this Bylaw;

(iv) not erect the Temporary Shelter in, on or within:

A. playgrounds, spray parks or pools;

B. horticultural display areas or ornamental gardens;

C. skateboard bowls, tennis courts or other sports courts;

D. sports fields, stadiums or dugouts;

E. stages or bleachers;

F. washroom facilities, picnic shelters or gazebos;

G. areas of a Park that have otherwise been issued a permit pursuant to this Bylaw;

H. recreation facilities;

I. cemeteries;

J. golf courses; or

K. pathways, bridges, docks or wharfs.

(c) The Council, or any officer, employee, or agent of the City may, in addition to any other authority granted under this Bylaw, remove or cause to be removed from any Park any Temporary Shelter that is not in compliance with this Bylaw.

4. OBSTRUCTING DRIVEWAYS

No person may, in any Park:

(a) use, occupy or travel along or upon any driveway in such a manner as to obstruct or to cause an obstruction;

(b) interfere with any other person or traffic lawfully using a driveway; or

(c) encumber or obstruct, or cause to be encumbered or obstructed in any manner whatsoever, any driveway without the prior written permission of the [**DESIGNATED MUNICIPAL OFFICIAL**]. In determining whether to grant permission, the [**DESIGNATED MUNICIPAL OFFICIAL**] may consider the matters set out in Section 8.

5. REMOVING OBSTRUCTIONS

The Council, or any officer, employee or agent of the City:

(a) may remove, or cause to be removed, from any Park any obstruction, vehicle, or thing placed therein or thereon contrary to the provisions of this Bylaw, at the expense of the owner, contractor, or other person responsible for such obstruction, vehicle, or thing; and

(b) is hereby empowered to carry out every lawful act required under the circumstances to have any such obstruction removed in the shortest possible time, and to hold any article or thing causing such obstruction until the expense of the removal has been paid.

6. CURFEW/ CAMPING

Subject to Section 6(c), no person may:

(a) enter, occupy or be present in any Park at any time between one hour after sunset on one day and one hour before sunrise the following day, with the exception of any of the outdoor Park facilities with lights, as set out in Schedule “B”, while such facility is open for use and the lights operating; or

(b) take up temporary abode or camp overnight in or on any parts of a Park without the prior permission of the [**DESIGNATED MUNICIPAL OFFICIAL**]. In determining whether to grant permission, the [**DESIGNATED MUNICIPAL OFFICIAL**] may consider the matters set out in Section 8.

(c) Notwithstanding Section 6 (a) and 6(b), where there is no shelter accommodation available in the City, a Homeless Person may, without the prior written permission of the [**DESIGNATED MUNICIPAL OFFICIAL**], as set out in Section 6(b), take up temporary abode or camp in a Park, except in those Parks listed in Schedule "A" to this Bylaw, between the hours of 7:00 pm on one day and 9:00 am of the following day, provided that the Homeless Person:

(i) not commence taking up temporary abode or camping until after 7:00 pm on one day;

(ii) cease taking up temporary abode in the Park and camping in the Park prior to 9:00 am of the following day;

(iii) comply with all other provisions of this Bylaw;

(iv) not take up temporary abode or camp in, on or within:

A. playgrounds, spray parks or pools;

B. horticultural display areas or ornamental gardens;

C. skateboard bowls, tennis courts or other sports courts;

D. sports fields, stadiums or dugouts;

E. stages or bleachers;

F. washroom facilities, picnic shelters, or gazebos;

G. areas of Parks that have otherwise been issued a permit pursuant to this Bylaw;

H. recreation facilities;

I. cemeteries;

J. golf courses; or

K. pathways, bridges, docks or wharfs.

7. OTHER REGULATIONS

**[SET OUT OTHER PROHIBITED NUISANCES OR ACTIVITIES IN PARKS THAT ARE NOT NECESSARILY RELATED TO CAMPING]**

8. PERMITTING CONSIDERATIONS

The following factors shall be considered by the Council in reviewing an application for a permit under this Bylaw:

(a) whether such activity will damage the Park;

(b) whether the proposed activity will or is likely to cause a hazardous or dangerous condition;

(c) the payment of applicable fees and charges, as set out in the [**local government’s *Fees and Charges Bylaw***] and

(d) the potential for conflicts with other persons using the Park.

Any person or group receiving any such permission is, at all times, subject to the conditions imposed and the provisions of this Bylaw in every respect; and the responsibility, at all times, is on the person or group receiving such permission to duly carry out all such conditions imposed, and to save harmless and protect the City from and against any and all claims, demands, suits, or compensation of whatsoever kind arising either directly or indirectly out of the permission granted.

9. OFFENCE AND PENALTIES

[**EACH LOCAL GOVERNMENT SHOULD TAILOR ITS OFFENCES AND PENALTIES IN ACCORDANCE WITH THE LAWS OF ITS JURISDICTION**]

SCHEDULE “A”

**[LIST OF PARKS WHERE TEMPORARY SHELTERS MAY NOT OCCUR]**

SCHEDULE “B”

**[LIST OF outdoor Park facilities with lights]**