

Overnight Camping on Public Lands in the City of Parksville

The BC Supreme Court provided direction to municipalities on how to regulate overnight camping in public spaces by people who are homeless. Local governments cannot enact an outright prohibition on overnight accommodation on public lands by people who are homeless. The Canadian Charter of Rights and Freedoms grants a constitutional right to someone who finds themselves homeless allowing them to erect a temporary shelter on public lands in order to sleep during the night.

Bylaws must be reasonable in terms of restrictiveness and their impact on homeless. Section 7 of the Canadian Charter of Rights and Freedoms states, *“Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”*

Local governments do have the authority to regulate the use and balance this with other uses in the community. Local governments can balance competing interests and prohibit overnight accommodation in “key sensitive areas”. For the City of Parksville, sensitive lands where the City could be justified in prohibiting overnight camping would be the Community Park, Springwood Park and the municipal well fields as well as City-owned lands along the oceanfront. In 2016, Council amended the Parks and Open Spaces Bylaw to allow for a 40 metre setback from the playground in Foster Park.

The City’s Parks and Open Spaces Bylaw No. 1523 states a homeless person may take up overnight accommodation and erect and occupy a temporary shelter in a park, between the hours of 7 pm on one day and 9 am the following day, provided the homeless person:

- Does not erect the shelter within 40 metres of the playground in Foster Park, within 10 metres of any other playground, sports field, tennis court, picnic shelter, gazebo, water park, public washroom, ornamental garden or horticultural display.
- Does not erect the shelter on or within 5 metres of an established trail.
- Does not damage or alter City property, including fencing, trees, shrubs, plantings, benches, or other municipal equipment or infrastructure.
- Removes the shelter completely by 9 am each morning and does not leave possessions, debris, litter or any other article behind.
- Does not obstruct a highway or interfere with the lawful use of a person or vehicle using a highway.
- Does not obstruct a City employee in the performance of their duty.

In sensitive areas, overnight accommodation, erection and occupancy of a temporary shelter and open burning for any purpose is prohibited.

For more information:

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