

Category: Parks / Land Management

Subject: Park Land Protection and Use Policy

Purpose

The purposes of the Park Land Protection and Use Policy are:

- To provide direction on the protection and uses of public park land within the City of Penticton in accord with the Official Community Plan, Parks & Recreation Master Plan and Zoning Bylaw.
- To protect parks as public assets of the City of Penticton. This policy will ensure that city parks remain in the public domain through community engagement and support and with the implementation of the Park Land Protection and Use Policy.
- To support the community's use and enjoyment of the parks, provide opportunities for primarily outdoor recreation and nature appreciation thereon, and to protect, conserve, and preserve the natural, physical, historical and cultural resources thereon.
- To improve the quality of parks in our community through enhanced park stewardship and sustainable resource management.

Scope & Guiding Principles

The community developed a vision, a park definition and set of values in the 2018 Parks and Recreation Master Plan to guide future use of Penticton's parks and recreation services in the City of Penticton. These values directed the development of the Park Land Protection and Use Policy and will guide its implementation.

- A public park is an unencumbered tract of land wherein the land title is held by a public entity for the benefit, use and enjoyment of the people and for the protection, conservation, preservation of the natural, physical, historical and cultural resources thereon, and wherein an encumbrance is a burden, obstruction, or impediment to the foundational purpose or purposes for which the park was established.
- Policy Objectives and their resulting policies have been created based on the Vision, Park Definition, Values and community engagement undertaken with the Parks & Recreation Master Plan and will be used to guide the use of parks.
 - *Support recreational opportunities, healthy living and enhance public enjoyment of parks*
 - *Safeguard public access and community affordability*
 - *Protect public ownership*
 - *Protect, preserve and promote park land*
 - *Engage the community in park governance and decisions*

Policy Statements

1. Support recreational opportunities, healthy living and enhance public enjoyment of parks

- 1.1. The City of Penticton supports uses, recreational opportunities, provides for a healthy lifestyle and improves the public enjoyment of parks. These uses are identified as Permitted Uses in the Zoning Bylaw and shall meet applicable subdivision and development regulations contained within each Park Zone.
- 1.2. Requests for uses that are not identified as Permitted Uses in the Zoning Bylaw shall follow the zoning procedure for *Uses in a Park Zone that are not a Permitted Use* as outlined in this policy prior to being considered by Council.

2. Safeguard public access and community affordability

- 2.1. The City of Penticton does not support uses that inhibit long term public access through exclusive memberships, prohibitive fees or permanent physical structures that detract from the natural setting and use of the park.

3. Protect public ownership

- 3.1. A *License*, as defined under this policy permits the use of something or allows an activity to take place; a Licensee shall not be guaranteed exclusive use of the property, is not an entitlement to the land, and includes a cancellation clause allowing the Licensor (City) to cancel the license at any time by providing the stipulated required notice; additional licenses to unrelated parties may be granted over the same property or portions of property; a license cannot be registered on the title of the property.

- 3.1.1. The City of Penticton may issue a License To Use for a portion of public park land to support a Permitted Use in a Park Zone. These licences are typically for a short term or seasonal in nature, up to a maximum of five (5) years, and shall be approved in accordance with the zoning procedure for *Permitted Uses* outlined in this policy.

- 3.2. A *Lease*, under this policy is defined as a contract by which one party conveys exclusive use of land or real property to another for a specified period of time and provides entitlement to the land, usually in return for a periodic payment. A lease is a stronger form of tenure than a License and typically cannot be cancelled during the term of the lease as long as Lessee honours terms and conditions. Leases may be registered with the Land Title office creating a legal enforceable charge against the property for the term of the lease. In the context of park land within the City of Penticton, a lease of municipal park land grants a private interest rights to public land and diminishes public ownership and control.

- 3.2.1. The City of Penticton will not enter into a lease of land dedicated as park under Park Dedication Bylaw 2018-37 without the approval of the electors.

4. Protect, preserve and promote park land

- 4.1. If the proposed use is deemed to uphold the scope and guiding principals of this policy and to have a net benefit to municipal park land, the City will then submit the proposal for public engagement in accordance with Section 5 of this policy.
- 4.2. The City of Penticton supports the growth and enhancement of public park land for community use in accordance with the Parks & Recreation Master Plan.

The City of Penticton recognizes that there are a number of private encroachments into existing public park land. No new private encroachments onto public park land will be permitted. Existing encroachments may be reviewed and considered for continuation, modification, or removal based on their impact on park use, public benefit, and feasibility.

5. Engage the community in park governance and decisions

- 5.1. The community is involved in governance of the protection and use of parks and the implementation of this policy through their membership on the Parks & Recreation Advisory Committee.
- 5.2. The community shall be engaged before a decision is made on any proposed change to use or regulation within any Park Zone in accordance with the procedure outlined in Section 8 of this policy. This policy provides for increasing levels of engagement based on the scale and impact of the proposed use. City staff and the Parks & Recreation Advisory Committee will establish the level of engagement according to the impact of the proposed use, in accordance with the zoning procedure for *Requests for Uses that are not Permitted Uses* and in accordance with the IAP2 International Spectrum of Public Participation.

6. Legacy Licenses and Leases

- 6.1. The City of Penticton recognizes that a number of legacy leases and License to Use agreements existed on public land at the time this policy was originally adopted, some of which may not align with current permitted uses. These existing agreements may continue in accordance with their terms. Upon expiry of a legacy agreement, the continuation of the use will be evaluated in accordance with this policy, applicable bylaws and the *Procedure for uses that are not Permitted Park Uses* (See section 8.2 of this policy).

PROCEDURES – ZONING BYLAW

7. Permitted Uses

- 7.1. Permitted Uses within any Park Zone and no other uses than those provided for in the list of permitted uses in the Zoning Bylaw shall be allowed on City park land.

7.2. Permitted Uses in a Park Zone may occur in accordance with the subdivision and development regulations of the Park Zone.

7.3. City staff will report to the Parks & Recreation Advisory Committee on any new licences for permitted uses in a Park Zone.

8. Uses in a Park Zone that are not Permitted

8.1. Uses that are not a Permitted Use within a Park Zone or a regulation change must be reviewed through a Zoning Amendment application and a Public Hearing held in accordance with the Local Government Act.

8.2. The procedural review for any new use on Park Zoned Land is as follows:

Step 1: Zoning Amendment Application submitted to City staff

Step 2: Proposal brought forward to Open Council meeting for introduction to the community

Step 3: Circulation of application to City Departments and Parks & Recreation Advisory Committee for review against the Official Community Plan, Parks and Recreation Master Plan, Zoning Bylaw, Park Protection and Use Policy and any other applicable regulations

Step 4: Parks & Recreation Advisory Committee meet to review application and determine level of community engagement required in accordance with the IAP2 International Spectrum of Public Participation

Step 5: Public Participation process occurs receiving input from community

Step 6: Parks & Recreation Advisory Committee to meet and review application

Step 7: Parks & Recreation Advisory Committee to provide a recommendation to Council

Step 8: Council report introduced to Council outlining proposed Park Protection and Use or regulation change

Step 9: Public hearing advertised and held in accordance with the *Local Government Act*.

Step 10: After hearing from the public and receiving a recommendation from the Parks and Recreation Advisory Committee, Council renders a decision on a park proposal.

8.3. The procedural review contained within Section 5 of this policy may be followed for review of other park use related matters as determined by staff and the Parks & Recreation Advisory Committee.

PROCEDURES – LICENSE TO USE RENEWAL

9. Pre-Approved Sites for License to Use to Renewal

9.1. To support operational continuity, administrative efficiency and long-term community partnerships, the City may establish and maintain a list of Pre-Approved Sites where the use has been previously approved, remains unchanged, and poses no material impact to parkland protection objectives. Inclusion on the list does not guarantee renewal of a License to Use Agreement. The Pre-Approved Site List will be reviewed and maintained every three (3) years through the following procedure:

Step 1: Parks & Recreation Advisory Committee reviews the Pre-Approved Site List and feedback from staff

Step 2: Parks & Recreation Advisory Committee would then make a recommendation to Council to approve or amend the Pre-Approved Site List.

Step 3: Staff present the Committee’s recommendation to Council for approval of the Pre-Approved Site List.

Removal of a site from the list shall require that any subsequent License to Use renewal to comply with Section 10.

9.2. A License to Use may or may not be renewed up to a maximum of five (5) years. Where a License to Use renewal for a Pre-Approved Site is for an identical use and there are no significant changes being made to the terms of the agreement, the renewal will proceed to an Open Council meeting for direction. Once the Pre-Approved Site list has been endorsed by Council, no further Committee recommendations are required for renewals within the duration of the Pre-Approved Site list.

10. Full Renewal for License to Use Agreements not on the Pre-Approved Site List

10.1. A Licence to Use may or may not be renewed up to a maximum of five (5) years. Where a License to Use renewal does not meet the criteria for Section 9.1, the following procedure will apply:

Step 1: Application to renew submitted to City staff

Step 2: City staff conduct License to Use Agreement Review to confirm conditions of the license are met and that the agreement is in good standing, application circulated to City Departments for acceptance and feedback

Step 3: Proposal brought forward to the Parks & Recreation Advisory Committee for their review and recommendation

Step 4: Parks & Recreation Advisory Committee make a recommendation to Council to approve or deny the renewal.

Step 5: Staff present the Committee’s recommendation to Council in an open meeting for final direction.

Schedules

A. Pre-Approved Site List

Related Policies and Legislation

Approval History			
Previous revisions/replaces:			
Approved by Council on:		Resolution No.:	

Certified Correct:

Angie Collison, Corporate Officer

Schedule A – Pre-Approved Site List

Objective & Eligibility Criteria: To support operational continuity, administrative efficiency and long-term community partnerships, the City may establish and maintain a list of Pre-Approved Sites where the use has been previously approved, remains unchanged, and poses no material impact to parkland protection objectives. Inclusion on the list does not guarantee renewal of a License To Use Agreement.

Review & Maintenance: The Pre-Approved Site List will be reviewed and maintained every three (3) years through the following procedure:

Step 1: Parks & Recreation Advisory Committee reviews the Pre-Approved Site List and feedback from staff

Step 2: Parks & Recreation Advisory Committee would then make a recommendation to Council to approve or amend the Pre-Approved Site List.

Step 3: Staff present the Committee's recommendation to Council for approval of the Pre-Approved Site List.

Removal of a site from the list shall require that any subsequent License to Use renewal comply with Section 10.

Sites

1. Concessions:
 - a) The Peach- 185 Lakeshore Drive West
 - b) Skaha Main – 3701 Parkview Street
 - c) Skaha East – 3885 South Main Street
 - d) Sudbury Beach – 3846 Skaha Lake Road
2. Beach Vending Program Sites
3. 185 Lakeshore Drive West - Jubilee Pavilion
4. 215 Riverside Drive- (current agreement with Coyote Cruise)
5. Rotary Park foreshore (current agreement for Pier Watersports)
6. 500 Edmonton Avenue-
 - a) Day Care
 - b) Penticton Safety Village
7. 1701 Government Street (current agreement with Interior Health – Hospice House)
8. Community Gardens:
 - a) 480 Vancouver Avenue
 - b) 2460 Baskin Street
9. 1400 Riddle Road (current agreement with Penticton Area Cycling Association PACA)
10. Disc Golf:
 - a) Riddle Road (current agreement with Penticton Disc Golf Society)
 - b) Three Blind Mice (current agreement with Penticton Disc Golf Society)
11. 1051 Penticton Avenue (current agreement with Province of BC for Air Quality Station)
12. 3807 Skaha Lake Road (current agreement with Oxbow RV Park)
13. Okanagan Lake Foreshore (current agreement with Splash BC – WIBIT)
14. 630 Munson Mountain Road (current agreement with BMX Society)
15. 1060 Main Street (current agreement with Penticton New Beginnings Christian Fellowship)