



Court File No. **KEL-S-S-136195**

This is the 1st Affidavit
of SHAWN O'HANLON in this case
and was made on 20Dec/2022
No.

KELOWNA REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CITY OF KELOWNA

PETITIONER

AND:

**UNKNOWN PERSONS OPERATING AS "COMMON LAW
EDUCATION AND RIGHTS", DAVID LINDSAY, JOHN DOE, JANE
DOE, AND PERSONS UNKNOWN**

RESPONDENTS

AFFIDAVIT

I, SHAWN O'HANLON, of 1435 Water Street, Kelowna, BC, civil servant, AFFIRM THAT:

1. I am a Bylaw Enforcement Officer for the City of Kelowna in this matter. I have personal knowledge of the matters hereinafter deposed to save and except where those matters are stated to be based on information and belief, and to such latter matters I verily believe the same to be true.
2. On September 18, 2021, while in the course of my duties as Acting Senior Bylaw Enforcement Officer for the City, I attended Stuart Park at 1430 Water Street, Kelowna BC, to conduct an inspection in response to complaints regarding an ongoing weekly event known as the "Freedom Rally" that occurs at Stuart Park and on surrounding highways.
3. At 11:00 a.m., I noted several people setting up signs and a portable tent with tables in Stuart Park, near the area of the park which contains a plaza, a staircase, and a bear statue. At 11:36 a.m. I observed event equipment set up in this area of the park, including signs, a portable gazebo labelled "C.L.E.A.R" (Common Law Education and Rights), and a

public address sound amplification system with a microphone and speakers. The items were set up in a way that limited and restricted the use of Stuart Park to the public by blocking off access to the stairway and the bear statue. Attached as Exhibit "A" to this Affidavit are true copies of 4 photographs I took of the event setup that day.

4. At approximately 12:00 p.m., I observed that the event had started and a large group of approximately 300 to 350 people was in attendance. A female person was using the PA system to address the crowd with amplified sound. I observed several groups of people standing in bike lanes and shaking signs at cars, but not directly impacting traffic at that time.
5. At approximately 1:10 p.m., I returned to the event and observed several people, including David Lindsay, addressing the crowd, which had now grown to 400 to 450 people, through the PA system. During these speeches, speakers identified Mr. Lindsay as the person responsible for the event, requesting that the crowd "thank him for all his efforts. A female speaker stated that she had been asked by Mr. Lindsay to be the MC or Master of Ceremonies for the event. I observed that Mr. Lindsay controlled the event throughout by giving direction to the crowd and to other speakers, and outlining the agenda, timeline, and future events, and requesting that attendees attend future events. Attached as Exhibit "B" to this Affidavit are true copies of 1 photograph which I took of the event that day, and two screenshots from City park security camera footage which captured the event that day.
6. The speeches lasted until around 2:00 p.m., at which time the David Lindsay led the attendees on a march down Water Street to Highway 97.
7. I also observed a table and rack that was set up in the area of the plaza being used to sell T-shirts. I saw several people purchase T-shirts from the table, by handing what appeared to be money to the people behind the table in exchange for the T-shirts (the "Merchandise Sale"). Attached as Exhibit "C" to this Affidavit are true copies of 3

screenshots from City park security cameras, that depict the Merchandise Sale as I observed it that day.

8. I issued bylaw notices to Mr. Lindsay for the infractions I witnessed under section 7.3 of the City of Kelowna Good Neighbor Bylaw, No. 11500, 2018 (the "Good Neighbor Bylaw"), sections 3.3, 3.41, and 3.8 of the City of Kelowna Parks and Public Spaces Bylaw, No. 10680, 2017 ("the "Parks and Public Spaces Bylaw"), and section 2.3.2 of the City of Kelowna Sign Bylaw, No. 11530, 2019 (the "Sign Bylaw").
9. Attached as Exhibit "D" to my Affidavit is a true copy of relevant portions of the consolidated Good Neighbor Bylaw.
10. Attached as Exhibit "E" to my Affidavit is a true copy of relevant portions of the consolidated Parks and Public Spaces Bylaw.
11. Attached as Exhibit "F" to my Affidavit is a true copy of relevant portions of the consolidated Sign Bylaw.
12. I was unable to locate Mr. Lindsay after he left Stuart Park to conduct his march with the crowd of attendees, so I mailed the violations to Mr. Lindsay's personal address of 657 Eckhardt Ave West, Penticton, BC.
13. Since that day, the Freedom Rally events continue to occur at Stuart Park and on Water Street and Highway 97 every Saturday under the direction of Mr. Lindsay.

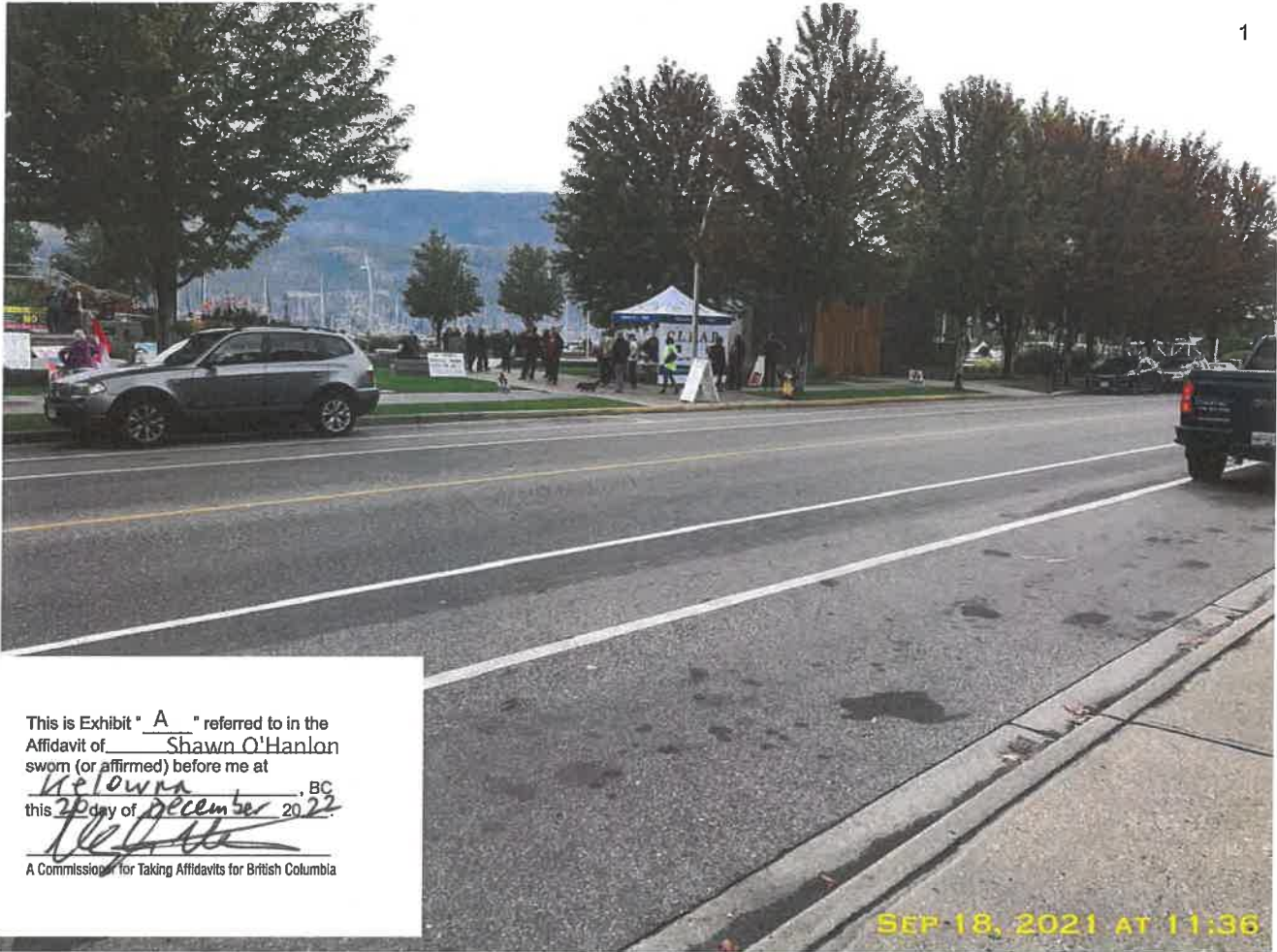
AFFIRMED BEFORE ME at Kelowna,
British Columbia, on 20/Dec/2022.


A Commissioner for taking Affidavits for British Columbia


SHAWN O'HANLON

Stephen Fleming, CITY CLERK

STEPHEN FLEMING
A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA
1435 Water Street, Kelowna, B.C.



This is Exhibit " A " referred to in the Affidavit of Shawn O'Hanlon sworn (or affirmed) before me at Kelowna, BC this 20 day of December 2022
[Signature]
A Commissioner for Taking Affidavits for British Columbia

SEP 18, 2021 AT 11:36



SEP 18, 2021 AT 11:36



SEP 18, 2021 AT 11:37



SEP 18, 2021 AT 11:36



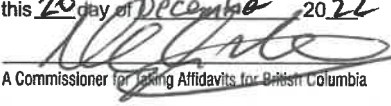
This is Exhibit " B " referred to in the
Affidavit of Shawn O'Hanlon
sworn (or affirmed) before me at
Kelowna, BC
this 29 day of December 2022.
[Signature]
A Commissioner for Taking Affidavits for British Columbia





This is Exhibit " C " referred to in the Affidavit of Shawn O'Hanlon sworn (or affirmed) before me at Kelowna, BC this 20 day of December 2022.
[Signature]
 A Commissioner for Taking Affidavits for British Columbia



This is Exhibit " D " referred to in the
 Affidavit of Shawn O'Hanlon
 sworn (or affirmed) before me at
Kelowna, BC
 this 20 day of December, 2022

 A Commissioner for Taking Affidavits for British Columbia

CITY OF KELOWNA

BYLAW NO. 11500

REVISED: May 7, 2018

CONSOLIDATED FOR CONVENIENCE TO INCLUDE: BYLAW NO:11546

A Bylaw for the purpose of preventing, abating and prohibiting nuisances and other objectionable situations

WHEREAS under Sections 8 and 64 of the *Community Charter*, Council may, by bylaw, regulate, prohibit and impose requirements in relation to nuisances, disturbances and other objectionable situations;

AND WHEREAS under Section 17 of the *Community Charter*, Council directs that if a person subject to a requirement fails to take the required action the municipality may fulfill the requirement at the expense of the person and recover the costs incurred from that person as a debt;

AND WHEREAS under Section 194 of the *Community Charter*, Council may, by bylaw, impose a fee payable in respect of all or part of a service of the municipality or the exercise of a regulatory authority by the municipality;

AND THEREFORE, the Council of the City of Kelowna, in an open meeting assembled, enacts as follows:

1. Introduction

1.1 This bylaw may be cited as "Good Neighbour Bylaw No. 11500".

BL11546 amended Section 2:

2. Definitions

2.1 In this bylaw:

Building materials includes items and implements used in the construction of structures or in landscaping, including lumber, windows, doors, roofing materials, fill, soil, scaffolding, tools and equipment;

Bylaw Enforcement Officer means a bylaw enforcement officer appointed by Council of the City of Kelowna pursuant to section 36(1) of the *Police Act*, RSBC 1996, c. 367;

Bylaw Supervisor means the person appointed by Council of the City of Kelowna to exercise supervisory responsibility over bylaw enforcement officers or other persons;

Construction Noise means any noise or sound made by:

- (i) the carrying on of works in connection with the construction, demolition, reconstruction, alteration or repair of any building or structure;

- (ii) the carrying on of any excavation by machinery or heavy equipment; or
- (iii) the moving or operating of any kind of machine, engine or construction equipment.

Customer Service Box means a distribution box for publications or a drop box for couriers;

Derelict means

- (a) physically wrecked or disabled;
- (b) in the case of a motor vehicle, incapable of operating under its own power or, in the case of a trailer, incapable of being towed in the manner a trailer is normally towed; or
- (c) in the case of a motor vehicle, lacking number plates for the current year pursuant to the regulations under the *Motor Vehicle Act*, RSBC 1996, c. 318;

Development Engineering Manager means the person with supervisory authority over the City's department of Development Engineering;

Dumpster means a trash receptacle designed to be hoisted and the trash within it deposited into a truck;

Graffiti means one (1) or more letters, symbols or marks, however made, on any structure, place or thing, including a utility kiosk, customer service box or dumpster, but does not include marks made accidentally, or any of the following:

- (a) a sign, public notice or traffic control devices authorized by the Public Works Manager appointed by Council of the City of Kelowna;
- (b) a sign authorized by the Sign Bylaw, No. 8235, as amended or replaced from time to time;
- (c) a public notice authorized by a City bylaw or by provincial or federal legislation; or
- (d) in the case of real property, a letter, symbol or mark for which the owner or tenant of the real property on which the letter, symbol or mark appears has given prior, written authorization, such as a mural;

Motor Vehicle means a vehicle that is designed to be self propelled;

Mural means an artistic rendering or drawing painted or otherwise applied to a building or structure, and where permission has been granted by the owner of the building or structure to apply the mural;

Nuisance Abatement Fee means the fees, charges and amounts stated in Schedule "A" to this bylaw;

Nuisance Service Call means a response by a bylaw enforcement officer or RCMP member to, or abatement of, any activity, conduct or condition occurring on or near real property that is contrary to a provision within sections 4, 7, 8 or 9 of this bylaw;

Order to Comply means an order substantially in the form described in provision 10 of this bylaw;

Owner means the registered owner of an estate in fee simple, the tenant for life under a registered life estate, the registered holder of the last registered agreement for sale, the holder or occupier of land held in the manner referred to in section 228 or 229 of the *Community Charter*, and an Indian who is an owner under the letters patent of a municipality incorporated under section 9 of the *Local Government Act*.

Public Space means any real property or portions of real property owned or leased by the City to which the public is ordinarily invited or permitted to be in or on, and includes, but is not limited to, the grounds

of public facilities or buildings, the surface of Okanagan Lake and the lake foreshore, any public transit exchange, transit shelter or bus stop, and public parkades or parking lots;

Public Works Manager means the person with supervisory authority over the City's department of Public Works;

Real Property means land, with or without improvements so affixed to the land as to make them in fact and law a part of it;

Residential Areas means lands that are used residentially in a zone that permits residential use under the City of Kelowna Zoning Bylaw No. 8000, as amended or replaced from time to time (the "Zoning Bylaw");

Revenue Supervisor means the municipal officer assigned responsibility as collector of taxes for the City;

Rubbish includes, but is not limited to, dead animals, paper products, crockery, glass, metal, plastics, plastic, metal or glass containers, wire, rope, pipes, machinery, tires, household appliances, litter, organic matter not in a closed and sealed composter, vehicle or mechanical parts, dilapidated furniture, and any other scrap or salvage, unless the materials are in a closed building or structure and not visible from another parcel or a public space, and for clarity, rubbish material covered by a tarp or other cover are not within a closed building or structure;

Street means any highway, roadway, sidewalk, boulevard, lane and any other way which the public is ordinarily entitled or permitted to use for the passage of vehicles or pedestrians, but does not include a private right-of-way on private property;

Utility Kiosk means an above-ground structure that is used for housing or storing electrical or communications components, circuits, devices, equipment, materials, cables, connections and the like.

Vehicle means a device in, upon, or by which a person or thing is or may be transported or drawn upon a highway, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks.

3. General Prohibition

3.1 No person shall do any act or cause any act to be done which constitutes a nuisance at law.

BL11546 amended Section 4:

4. Property Nuisances

4.1 No owner or occupier of real property shall permit any act to be done which constitutes a nuisance at law on that real property.

4.2 No owner or occupier of real property shall permit or allow the real property to become or remain unsightly.

4.3 Without limiting the generality of section 4.2 of this bylaw, an owner or occupier of real property must not:

(a) permit an accumulation of water, filth or rubbish on the real property;

- (b) place or throw any circular, pamphlet, handbill or other paper material, whether or not the paper material had been previously placed upon any motor vehicle or other vehicle, without the consent of the motor vehicle owner or occupant thereof;
- (c) cut, remove or damage any tree, shrub or flower plant, bush or hedge;
- (d) deface or damage any street, ditch or fence or anything erected or maintained for purpose of lighting a street;
- (e) dispose or place or leave any cement, mortar, lime, or any other substance having a damaging or destructive effect upon the concrete, asphalt, bushes, shrubs, or trees, or grass situate thereon;
- (f) stamp, paint, post, affix or otherwise place any placard, bill, poster, notice advertisement without first having obtained the permission of the City; or
- (g) remove to, or accumulate in from lands adjacent to a street or public space, grass cuttings, leaves or rubbish.

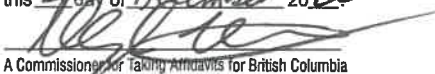
7. Property Noise

- 7.1 No person shall make or cause, or permit to be made or caused, any noise in or on a street or elsewhere in the City that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.
- 7.2 No owner or occupier of real property shall allow or permit such real property to be used so that noise or sound which emanates therefrom is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.
- 7.3 No person shall make, cause, or permit to be made or caused, noise or bass sound of a radio, television, player, or other sound playback device, public address system, or any other music or voice amplification equipment, musical instrument, whether live or recorded or live, whether amplified or not, in or on private property or in any public space or street in such manner that is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.
- 7.4 No person shall own, keep or harbour any animal or bird which by its barks, cries or sounds is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.

BL11546 amended Section 8:

8. Construction Noise

- 8.1 No person shall on any day before 7:00 am or after 9:00 pm make or cause, or permit to be made or caused any construction noise.
- 8.2 A person may apply to the public works manager for permission to vary the time restrictions established in section 8.1 of this bylaw with respect to construction noise generated on public spaces or streets. A person may apply to the development engineering manager for permission to vary the time restrictions established in section 8.1 of this bylaw with respect to construction noise generated on real property that is not a public space or a street. An application in the form specified by the development engineering manager or development engineering manager, as appropriate, must be submitted at least five (5) business days prior to the date of the proposed activity.

This is Exhibit " E " referred to in the
 Affidavit of Shawn O'Hanlon
 sworn (or affirmed) before me at
Kelowna, BC
 this 27 day of December 2022

 A Commissioner of Taking Affidavits for British Columbia

CITY OF KELOWNA

BYLAW NO. 10680

REVISED: May 15, 2017

**CONSOLIDATED FOR CONVENIENCE TO INCLUDE:
 BYLAW NO. 10797, 11023 & 11349**

PARKS AND PUBLIC SPACES BYLAW

**A Bylaw Pursuant to the Community Charter to Regulate, Prohibit and
 Impose Requirements in Relation to City Parks**

WHEREAS Council may, by bylaw, regulate, prohibit and impose requirements in relation to the management of services, public places, nuisances, disturbances and other objectionable situations;

WHEREAS Council wishes to regulate, prohibit and impose requirements in relations to City parks, recreation facilities, highways, and other public places;

NOW THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

PART 1 - TITLE

- 1.1 This bylaw may be cited for all purposes as the City of Kelowna "Parks and Public Spaces Bylaw No. 10680.

PART 2 - DEFINITIONS

Boulevard means the portion of a highway between the curb lines or the lateral lines of a roadway and the adjoining property or roadway, and includes curbs, sidewalks and ditches.

Bylaw Enforcement Officer shall mean the person or persons appointed from time to time by the Council to enforce and administer this bylaw and shall include any Peace Officer.

Camping Equipment includes portable cooking equipment, sleeping bags or rolls, backpacks or packsacks, tents, tarps or lean-tos.

Campsite includes any place of temporary abode and any place where **Camping Equipment** are left or stored.

Chattels means a moveable item of personal property, including **Watercraft**, vehicles, **Camping Equipment**, or other items.

City shall mean the City of Kelowna.

Council shall mean the Municipal Council of the City of Kelowna.

Designated Area means an area of a park designated by the Park Services Manager for a specific purpose or use.

Dog Off-leash Park means a park which has been so designated by Council resolution as per Schedule 'F' of this bylaw and within which dogs are permitted to run at large subject to the restrictions established in this bylaw.

Dog On-Leash Park means a park which has been so designated by Council resolution as per Schedule 'E' of this bylaw and within which dogs on leashes are permitted subject to the restrictions established in this bylaw.

Driveway shall mean and include any way or thoroughfare set apart and improved for the use of pedestrians, vehicular or animal traffic, within any park and shall include roadway, path, underpass, street, road, lane, bridge, viaduct, or overpass.

Equestrian Park means a park which has been designated by Council resolution as per Schedule 'G' of this bylaw and within which horses are permitted subject to the restrictions established in this bylaw.

BL11023 added definition:

Geocaching means an outdoor activity in which participants use a global positioning system receiver or mobile device and other navigational techniques to hide and seek containers, called **geochaches** or caches.

BL11023 added definition:

Geocache or cache, means a container, usually containing a logbook and small trading items, tucked away for others to find.

BL11023 added definition:

Nuisance means any activity or action(s) which interferes with the use and enjoyment, comfort or convenience of the park by other persons.

BL11023 amended definition:

Owner in respect of any animal, means a **Person** owning; or harbouring; or having custody, care and control of an animal; or being in possession of an animal.

Park means any real property owned or subject to a right of occupation by the City for the purposes of pleasure, recreation or community uses of the public including public parks, playgrounds, public squares, pathways and other public places and all improvements and shall include all beaches and other public areas adjacent to lakes or streams including foreshore or land covered by water; but does not include the travelled portion of a highway.

Park Services Manager means the person appointed from time to time as the Park Services Manager for the City of Kelowna and includes any person lawfully acting on their behalf.

Passenger Ship shall mean a watercraft that transports passengers, as defined by the Canada Shipping Act, R.S.C., c. S-9, as amended from time to time, on Lake Okanagan.

Person shall mean and include any individual, corporation, partnership or party and the heirs, executors, administrators or other legal representatives of the same, to whom the context can apply according to law. The singular shall also include the plural and the masculine shall also include the feminine.

Prohibited Animal means a snake, or any animal prohibited under the Regional District of Central Okanagan Bylaw No. 1028, as amended or replaced from time to time.

PART 3 - PROHIBITIONS

- 3.1 No Person shall use any land in a Park in contravention of this bylaw or in contravention to a sign which has been posted prohibiting or regulating such use.
- 3.2 No Person shall throw, deposit, drop, leave, place or dump, or cause to be thrown, deposited, dropped, left or placed, any garbage, cans, bottles, paper, ashes, cigarette or cigar butts, refuse, trash, or rubbish in a Park, Public Space or the waters adjacent thereto.
- 3.3 No Person shall sell or display for sale any refreshment, article, merchandise, product, thing, service, or conduct any business in a Park without a permit issued by the City or written permission obtained from the City.
- 3.4 No Person shall carry or discharge any firearms including air guns, air rifles, air pistols, spring guns, bow, crossbow, or any weapon of any description in a park, except as provided in Section 4.4 hereof.
- 3.5 No Person shall make or cause to be made a fire in a park without prior written permission from the Park Services Manager and Kelowna Fire Department.
- 3.6 No Person shall play at any game whatsoever or use any portion of any Park except upon or in such portions thereof as may be especially allotted or designated for any such purpose, and under such rules and regulations and at such times as shall be prescribed by the City.
- 3.7 No Person shall use any sportfield, including ball diamonds, soccer and football fields between November 1 and April 15, or during periodic maintenance closures, unless authorized by the City.
- 3.8 No Person shall conduct any event, procession, march, drill, performance, ceremony, concert, gathering or meeting without the written permission of the City firstly being obtained.

BL11023 amended Section 3.9:

- 3.9 No dog Owner shall permit such dog to:
- a) enter upon or be in a Park unless the said Park is designated, by resolution of Council as a "Dog On-Leash Park" or "Dog Off-leash Park" as per Schedules 'E' and 'F' of this Bylaw, and the Owner is capable of controlling the dog at all times; or
 - b) enter upon or be in a "Dog On-Leash Park" unless such dog is on a leash two metres or less in length; or
 - c) deposit excrement/feces in a park or public space unless the owner immediately removes the excrement/feces and disposes of it in a sanitary manner.
- 3.10 Notwithstanding the provisions of sub-section 3.9 of this Bylaw, a dog Owner may be permitted to bring a dog to a special event, run or walk in a Park that is not designated either a "Dog On-Leash Park" or a "Dog Off-leash Park", only if approved under the conditions of the Outdoor Events Bylaw No. 8358.

BL11023 amended Section 3.11:

- 3.11 A dog which the dog Owner thereof has been convicted of harbouring an aggressive or dangerous dog pursuant to the definition established in Regional District of Central Okanagan Responsible Dog Ownership Bylaw No. 1343, as amended or replaced from time to time, shall be prohibited from all parks and no dog Owner of such aggressive or dangerous dog shall permit such dog to enter upon or be in a Park.
- 3.12 No Person shall feed any animal or fowl in a Park or Public Space.
- 3.13 No Owner of a Prohibited Animal shall permit such animal to enter or be in a Park.

BL11349 amended Section 3.39:

3.39 No Person shall damage public property or publicly owned assets, including but not limited to assets such as structures, fences, railings, utilities, vegetation, hard surfaces, public art, or signage. Damage to a park shall include (but not be limited to) dumping, draining, or discharge of any substance, liquid or solid on to park land or any water body within a park.

3.40 No Person shall golf, ski, snowboard, or sled in a Park, except in a Designated Area.

3.41 No Person shall engage in any activity that creates a nuisance or that interferes with the use and enjoyment of the park by other persons.

BL11023 amended Section 3.42:

3.42 No Person shall release or land a hot air or passenger balloon, or operate an unmanned aircraft, drone or a model aircraft in a Park without a permit.

3.43 No Person shall use a tennis court for any sport or activity other than tennis or pickleball.

3.44 No Person shall use or access an electrical service or any other utility in a Park without written permission from the City.

PART 4 - USES

4.1 The City may designate certain areas of a Park for a specific use and may prescribe certain rules and regulations for the use and may prescribe such times as desired by the City for such use.

4.2 The City may, upon request, issue written permission for any procession, march, drill, performance, ceremony, concert, gathering or meeting and may charge rent for the use of any Park or portion thereof as set by Council.

4.3 The City may issue, upon written request for a special event or special occasion, a permit as outlined in the Outdoor Events Bylaw No. 8358, for such persons and vehicles as the City permits, to enter or be in a specific Park while or during such times as the Park is closed. Such permit shall be displayed in such vehicle, face up on the dash on the driver's side and visible from the exterior of the vehicle, and the Person or persons shall carry on their Person such access permit and shall present same on request to any Bylaw Enforcement Officer or peace officer for the City.

4.4 Notwithstanding anything contained in this bylaw or any other bylaw of the City to the contrary, the officers, officials and employees and contractors of the City, while exercising their duties, shall be exempt from the provisions hereof.

4.5 The Park Services Manager is hereby authorized to alter the Parks Hours of Operation outlined in Schedule 'B' of this bylaw taking into consideration the impact on adjacent neighbours, special events and safety, subject to posting signage within the affected Park indicating the revised hours. The Park Services Manager or a Bylaw Enforcement Officer is further authorized to alter the Parks Hours of Operation established by this bylaw on a temporary basis for safety, emergencies or weather-related events.

BL11023 amended Section 4.6:

4.6 No Person shall use any parkland in order to gain vehicular access through the Park to private property or for a construction project unless they have obtained a 'Park Access Permit' with the City, and provided a \$1,000 security deposit, a Park access fee and appropriate safeguards against public liability, as per Schedule 'A' of this bylaw.

This is Exhibit " F " referred to in the
 Affidavit of Shawn O'Hanlon
 sworn (or affirmed) before me at
Kelowna, BC
 this 20 day of July, 2022

 A Commissioner for Taking Affidavits for British Columbia

CITY OF KELOWNA

BYLAW NO. 11530

REVISED: June 10, 2019

CONSOLIDATED FOR CONVENIENCE TO INCLUDE: BYLAW NO. 11835

City of Kelowna Sign Bylaw

A bylaw to regulate the number, size, type, form, appearance and location of signs in the City of Kelowna.

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

Section 1 – GENERAL ADMINISTRATION

1.1 Title

- 1.1.1. This Bylaw may be cited as the "Sign Bylaw No. 11530".

1.2 Interpretation

- 1.2.1. Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Kelowna, as amended, revised, consolidated or replaced from time to time.
- 1.2.2. If a section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portions of this bylaw.

1.3 Definitions and other interpretation rules

- 1.3.1. Any term or phrase that is not defined in this Bylaw but that is defined in the City of Kelowna Zoning Bylaw shall have the same meaning as defined in the Zoning Bylaw.

1.4 General Definitions related to this Bylaw

'Abut or Abutting' means immediately contiguous to, or physically touching, and when used with respect to lots or sites means two that share a common property line.

'Agricultural and Garden Stands' means those accessory buildings and structures for retailing agricultural products on a farm.

'Awning' means a retractable or non-retractable covering of non-rigid materials such as canvas or similar fabric projecting from the exterior wall of the building.

'Lot' means a parcel of land, including crown land, which is legally defined either by registered plan or description.

'LUX' means a measurement for the amount of light coming from a digital display screen and striking the human eye at a given distance. One LUX is perceived brightness of the light from one candle striking the human eye at one metre away.

'Nit' means a measurement equivalent to the power emitted by a digital display screen in a particular direction, as perceived by the human eye, per square metre.

'Official Sign' means a sign required by, or erected pursuant to the provisions of federal, provincial, or local government legislation, regulation, or bylaw.

'Owner' means the registered owner of an estate in fee simple or strata title, or agent authorized in writing, and includes:

- (a) the tenant for life under a registered life estate; and
- (b) the registered holder of the last registered agreement for sale.

'Residential Sales Centre' means a permanent or temporary building or structure used for a limited period of time for the purpose of marketing residential land or buildings.

'Roof Line' means the horizontal line made by the intersection of the wall of the building with the roof of the building or the top of the edge of the parapet. In the case of a building with a pitched roof, the roof line shall be at the eave level.

'Sign' means any visual medium, including its structure and other component parts, or banner, illuminated or non-illuminated, which is visible from any public street or adjacent property or any lettering, words, pictures or symbols which identify, describe, illustrate, advertise or draw attention to a product, place, activity, business, service, or institution. Without limiting the generality of the foregoing, signs include banners, letters, illustrations, figures, neon tubing, placards, painted messages, but not flags, window displays of merchandise or signs painted on or attached to a motor vehicle unless the vehicle is parked on a regular basis to act as a sign.

'Sign Area' means the total area within the outer edge of the frame or border of a sign. Where a sign has no frame, border or background, the area of the sign shall be the area contained within the shortest line surrounding the whole group of letters, figures or symbols of such sign. In the case of a multi-faced sign, only one side of the sign shall be counted.

Section 2 – GENERAL REGULATIONS

2.1 Signs Permitted in All Zones without Permits

- 2.1.1. The following forms of signage are permitted on all properties in the City without any sign permit, provided they comply with all regulations in this Bylaw:
- (a) Official Signs or signs required to be maintained or posted by law or governmental order, rule or regulation, and traffic control signs pursuant to the Motor Vehicle Act or other Provincial legislation;
 - (b) signs wholly not visible from a public roadway, sidewalk, park or any adjacent or abutting properties;
 - (c) on-site signs, with a sign area not exceeding 1.0 m², and with a vertical dimension of the sign, exclusive of any supporting structure, of less than 1.0 m, for the direction of control of traffic, pedestrians or parking;
 - (d) temporary seasonal decorations provided that they are erected no longer than 45 consecutive days in one (1) calendar year; and
 - (e) Banner Signs - Temporary for special events may only be displayed immediately prior to and during the special event, provided the sign area does not exceed 2.0 m² and the Banner Sign - Temporary is displayed for no more than 14 consecutive days and for no more than 90 days in one (1) calendar year.

2.2 Permit Required

- 2.2.1. No person shall construct, place, erect, display, alter, repair, or re-locate a sign requiring a permit without a valid sign permit issued pursuant to this Bylaw.
- 2.2.2. A permit expires if the authorized sign development is not substantially commenced within one (1) year of the date of issuance.
- 2.2.3. Notwithstanding a permit being issued to a third party, the owner and occupier of the lot where a sign is located are jointly and severally responsible to complete all work in accordance with the permit and public safety, and to maintain the sign in a safe condition free from defects.

2.3 Prohibitions

- 2.3.1. No person shall construct, place, erect, display, alter, repair or re-locate a sign not requiring a permit except in conformance with this Bylaw.
- 2.3.2. No off-site signs are permitted except for directional signs and agricultural product signs, real estate signs, and project signs, in conformance with the provisions of this Bylaw.
- 2.3.3. No sign shall be erected, operated, used or maintained and no sign permit shall be issued for a sign that:
- (a) due to its position, shape, colour, format or illumination obstructs the view of, or may be confused with, an official traffic sign, signal or device, or may create a hazard to the safe and efficient movement of vehicular or pedestrian traffic;