

# New Parks and Public Open Space Bylaw

## Background:

### 1. What is the City proposing?

The City is looking to merge the existing [Protected Area Bylaw](#) and [Parks and Recreation Area Bylaw](#) into one new comprehensive *Parks and Public Open Space Bylaw*.

### 2. Why is the City doing this?

The City has determined the *Protected Area Bylaw and Parks and Recreation Area Bylaw* are outdated and require review based on community concern and other jurisdictional review. There have also been concerns from residents about the motorboat use within the City boundary on lakes.

The new *Parks and Public Open Space Bylaw* will replace the old and dated *Protected Area Bylaw* and the *Parks and Recreation Area Bylaw*. These bylaws are outdated and need to reflect current City policies and regulations, including the *OCP, Zoning Bylaw, the Strategic Sustainability Plan, the Trail Plan, and the Regional Parks Plan*.

The new bylaw will help manage resident-use of parks and public open-spaces to maximize enjoyment for all users, while minimizing environmental degradation.

### 3. Why is it important?

In 2012, the City of Whitehorse adopted a new *Snowmobile Bylaw* and a new *All-Terrain Vehicle Bylaw*. During both processes there was a call from the public asking for a review of the *Protected Area Bylaw*. Upon reviewing the *Protected Areas Bylaw*, it became evident that the *Protected Area Bylaw and Parks and Recreation Area Bylaw* both required a review and that in some other jurisdictions the content of these bylaws was covered in one bylaw. Some areas of concern include:

- use of snowmobiles in protected areas;
- use of vehicles in City green spaces and on trails;
- the limited areas the Protected Areas Bylaw covered;
- consideration for the parks identified in the Regional Parks Plan; and

- damage to vegetation in green space by vehicles and other uses.

In addition to concerns in these areas, Bylaw Services receives enquiries and concerns raised about boat motor use on lakes within the City limits (excluding Schwatka Lake).

#### 4. Wasn't this new bylaw originally called the *Parks and Protected Areas Bylaw*? Why are you changing the name to *Parks and Public Open-Space Bylaw*?

Yes, the new bylaw was originally going to be called the *Parks and Protected Areas Bylaw* because the new bylaw was to merge two bylaws that have 'parks' and 'protected areas' in their names. However, the *Parks and Protected Areas Bylaw* name did not describe much of the non-Park public open spaces identified in Map 1 of the *OCP* (Green Space Network Plan) such as Environmentally Sensitive Areas and Recreation Areas. Furthermore, bylaws should reflect the current *OCP* and the *Zoning Bylaw*. The areas identified under the old *Protected Area Bylaw* are considered public open-space in the *OCP* and the *Zoning Bylaw*.

It was therefore decided a more comprehensive name - *Parks and Public Open Space Bylaw* - would minimize confusion and more accurately reflect the scope of this new bylaw.

### Protected Areas Bylaw:

#### 1. What does the outdated Protected Area Bylaw include?

The existing Protected Areas Bylaw came into effect in 1975 and last received minor amendments in 1984. The Protected Areas Bylaw is 38 years old and is in need of changes to reflect the current needs of the community and to bring it in line with other existing bylaws (Snowmobile and All-Terrain Vehicle Bylaw) and plans (Official Community Plan, Trail Plan and Regional Parks Plan).

Maps in the Protected Areas Bylaw focus primarily on a few select subdivisions and their immediate area and a few select areas in the City where there is unstable soil or steep slope.

Some concerns with the existing Protected Areas Bylaw include:

- the Protected Areas Bylaw does not address protecting green spaces in general from damage caused by other vehicle usage, such as cars and trucks;
- snowmobiles should not be permitted to travel in protected areas; and
- there needs to be more designation of protected areas

## 2. Which areas are covered under the Protected Area Bylaw?

The *Protected Area Bylaw* regulates activities in specifically “*identified as ‘protected area’, which includes those areas within the City designated as protected (as identified) in Appendix A (the listed maps below).*”

Areas covered under this old bylaw include public open spaces that are generally within and surrounding residential neighbourhoods. This old bylaw specifically regulates activities in the following areas:

(Click to view map)

- [Protected Areas](#)
- [Ski Trails](#)
- [Granger](#)
- [Escarpment 1](#)
- [Escarpment 2](#)
- [Hillcrest](#)
- [Mountainview Dr 1](#)
- [Mountainview Dr 2](#)
- [Pineridge](#)
- [Porter Creek](#)
- [Riverdale](#)
- [Valleyview](#)

## Parks and Recreation Area Bylaw:

### 1. What does the outdated Parks and Recreation Area Bylaw include?

The existing Parks and Recreation Area Bylaw came into effect in 1992 and has not received any amendments. The Parks and Recreation Areas Bylaw is 21 years old and is in need of changes to reflect the current needs of the community as follows:

- The Parks and Recreation Areas Bylaw needs steeper fines (fines currently range from \$50.00 to \$100.00) to act as better deterrent for potential violators;
- laws around damage to vegetation need to be strengthened
- laws governing activities in City parks need to be put in place to ensure City parks are readily available for use by citizens and where business or groups conduct activities in City parks, the activity is done under a permit; and
- restriction on boat motor use on lakes within City limits.

## 2. Which areas are covered under the Parks and Recreation Area Bylaw?

The *Parks and Recreation Area Bylaw* regulates activities in: “*any municipal outdoor used to accommodate the recreation of residents of the City or enhance the beauty or preserve the natural surroundings of the community including:*

- *developed parks and playgrounds;*
- *developed trails designated as such and under the ownership or control of the City of Whitehorse;*
- *undeveloped park areas as listed in the Official Community Plan or acquired through subdivision;*
- *campgrounds owned and operated by the City;*
- *open space lands under the ownership or control of the Crown, Commissioner of the Yukon, or the City of Whitehorse; and*
- *greenbelts and buffer areas under the ownership or control of the Crown, Commissioner of the Yukon, or the City of Whitehorse.”*

## New Parks and Public Open Space Bylaw:

### 1. What will the new bylaw include?

The goal is to create one new *Parks and Public Open Space Bylaw* that updates and combines both existing bylaws and the areas they cover. Specifically, this new bylaw will apply to all City parks and public open-spaces, including Regional Parks.

The City will be reviewing the activities on land-locked lakes within the Municipality and what type of regulations, if any, are required.

First Nation settlement lands will be covered by this bylaw at the discretion of First Nation Governments (Kwanlin Dün First Nation and Ta'an Kwäch'än Council).

## 2. What about motorboat use?

The City will be reviewing the restriction of motorboat use on all navigable waterbodies, such as Long Lake and Chadburn Lake.

However, the new *Parks and Public Open Space Bylaw* will not consider motorboat or float-plane restrictions on Schwatka Lake and the Yukon River corridor.

## 3. How is this Bylaw different to the Snowmobile and ATV bylaw?

The 2012 [Snowmobile Bylaw](#) and 2012 [ATV Bylaw](#) regulate snowmobile, ATV and other recreational vehicle-use within the City boundary including dirt-bikes and side-by-sides. However, neither aforementioned bylaw regulates off-roading car or truck activities. The new *Parks and Public Open Space Bylaw* will regulate car and truck off-roading activities.

## 4. Are snowmobile and ATV-use part of the scope of the Parks and Public Open Space Bylaw?

No. Snowmobile and ATV activities are covered under the 2012 *Snowmobile Bylaw* and 2012 *ATV Bylaw*. However, the *Parks and Public Open Space Bylaw* process may result in other City bylaws being amended, including the 2012 *ATV Bylaw* and 2012 *Snowmobile Bylaw*, at the discretion of Council, after the *Parks and Public Open Space Bylaw* is passed.

## 5. Can development occur within any of the areas covered by this Bylaw?

Yes. Map 1 (Green Space Network Plan) of the [OCP](#) identifies 'Future Planning Areas' where possible future development may be considered. This does not mean all of these Future Planning Areas will be developed, but rather identified areas where feasibility studies may be conducted. Activities such as test-pitting and well-drilling and monitoring may be permitted by the City.

The Green Space Network Plan also identifies Recreation Areas, Environmentally Sensitive Areas, and Green "Connections" Areas, which collectively comprise two-thirds of the total City area. (Regional Parks are included and comprise a third of the total City area). By total area and percentage, the City of Whitehorse has set aside more land for

parks and other ‘green’ designations than any other municipality in [Canada](#).

The other third includes Future Planning Areas, Designated Development Areas (includes current existing development) and First Nation Lands.

The *OCP* also stipulates these maps have not been surveyed and are for conceptual purposes alone.

## 6. The *OCP* identified Environmentally Sensitive Areas. What does that mean for activities regulated under this bylaw?

The *OCP* stipulates in identified Environmentally Sensitive Areas (ESA’s), minimal disturbance, development, or human intervention will be permitted. ESA’s include slopes and riparian areas. Activities such as natural surface trails, interpretation and signage, research and education are permitted in these areas. Furthermore, the *OCP* stipulates that community enjoyment of these areas be encouraged.

## Bylaws and OCP 101:

### 1. What is a bylaw?

A bylaw is a rule or ordinance put in place by a municipality to reflect direction made through a plan (e.g. [Official Community Plan](#): aka “OCP”) or policy (e.g.: [Park Maintenance Policy](#)), with the enabling legislation being in the *Municipal Act*.

### 2. What is an OCP?

As outlined in the 2010 *OCP*:

*The purpose and content of an OCP is formally outlined in the Yukon Municipal Act. The 2010 OCP has been adopted by a bylaw, which means all future land use decisions made by Council must be consistent*

*with the objectives and policies outlined in the Plan. An OCP, however, is not intended to be a static document, but should adapt to new trends within society and respond to changing circumstances including, but not limited to, population growth, housing demand, and public interest. As such, following careful consideration by Council, policies and land use designations in the Plan may be revised by an amending bylaw pursuant to provisions outlined within the Municipal Act. It is important to note that the OCP is not a regulatory document, such as a zoning bylaw. The OCP should guide development through broad land use policy, while regulatory tools, such as densities, setbacks, and other development standards should be administered through the Zoning*

*Bylaw.*

## 'Activity' v. 'Use' (land-use designation):

### 1. What is the intention of a bylaw?

Bylaws generally cover 'activities' such as recreation, damage to vegetation etc. Bylaws do not cover 'use'. Use is also guided by plans and policies, but is regulated in the [Zoning Bylaw](#). Use includes land-use designation such as park-land, development, commercial etc.

### 2. Does the Parks and Public Open Space Bylaw process consider land-use designation?

No. Land-designation is guided by the *OCP* and reflected in the *Zoning Bylaw*. The *Parks and Public Open Space Bylaw* will only consider 'activities'.

### 3. Will this new bylaw offer additional protection?

The new *Parks and Public Open Space Bylaw* may increase protection against certain 'activities'. However, this process will not consider 'use', such as land-use designation, because use is directed by the *OCP* and other planning processes and already reflected in the *Zoning Bylaw*.

### 4. How and when is land-use designation considered?

Potential changes in land-use designation are considered during the regular *OCP* process, scheduled to potentially start in 2017. Once a new *OCP* is designated, the *Zoning Bylaw* will be updated to reflect the *OCP*. Together these are the two tools municipalities use to consider land-use designation.

## Approach and Timeline:

### 1. Will the public be involved?

Yes. There will be multiple opportunities for public engagement. The City will keep the public informed and provide feedback on how public input influenced the decision. See [website](#) for process and ways to get involved.

### 2. When will the Parks and Public Open Spaces Bylaw be completed?

The City hopes to complete the bylaw process and adoption in 2015.

## Land Ownership:

### 1. Who owns and administers the land covered under this Bylaw?

The *Parks and Public Open Space Bylaw* will cover all parks and public open space lands under the ownership or control of the Crown, Commissioner of the Yukon, or the City of Whitehorse.

The City is leading this bylaw under the authority of the *Yukon Municipal Act*. The City is working in close collaboration with Yukon Government and First Nation Governments throughout this process.

### 2. How are First Nations Involved?

The *Parks and Public Open Space Bylaw* will apply to First Nation settlement lands as deemed appropriate by First Nation Governments.

However, the City recognizes these areas comprise Kwanlin Dün First Nation and Ta'an Kwäch'än Council traditional territory lands and is, therefore, working with these Governments to identify areas of mutual interest.

### 3. Will this new Bylaw apply to private land?

No, this Bylaw will not apply to private land.

### 4. What if I have to access a private interest surrounded by public lands where this bylaw applies?

Individuals with private land 'inholdings' or other permitted private interests should bring forward their particular situation to ensure the activities are considered under the bylaw. This will allow the City to consider permitting such activities.

## Mineral Claims:

### 1. What about active claims in these park areas?

Active claims are located within the Municipal boundary. Those who hold mineral claims in good standing within the City boundary have the legal right to exercise that mineral claim.

### 2. Isn't there a 5-year withdrawal from staking prohibition in the Municipality?

Yes. The Yukon Government placed a [staking prohibition](#) in July 2012 on 74% of the

City's municipal boundary. The existing moratorium is due to expire in July 2017.

The prohibition order does not affect pre-existing mineral claims that remain in good standing.

## Future Activities:

1. Will the Parks and Public Open Space Bylaw change how I currently recreate in these park areas?

The *Parks and Public Open Space Bylaw* may change some activities in these areas such as the use of cars and trucks for off-roading.

2. Will scientific and educational endeavours be permitted?

Yes, so long as activities adhere to existing policies and regulations.

3. Can I camp in the City Boundary?

Camping is prohibited within the City Boundary unless otherwise indicated.

4. Will sport fishing, hunting, and trapping be permitted?

Sport fishing with a valid license is already allowed within the Municipal Boundary. Hunting and trapping are already prohibited within the Municipal Boundary. This new bylaw will change none of these existing regulations.

5. Are shared-use trails allowed in these parks and public-open spaces?

Yes. Trail planning and development in the City Boundary takes direction from the [2007 Trail Plan](#), which informed the 2010 *OCP*. The *OCP* stipulates that:

- 18.1.1: Prioritization of Trail Plan implementation measures shall be considered in Regional Park areas.
- 18.5.1: Where feasible, consideration shall be made to separate multi-use trails (which accommodate motorized and non-motorized recreation) from non-motorized trails. Future multi-use trail development shall avoid environmentally sensitive areas wherever possible.

The *Snowmobile Bylaw* and *ATV Bylaw* also dictate trail use within the City Boundary.

The City regularly works with the [Whitehorse Trail and Greenways Committee](#) to help make trail-related decisions. This Committee is comprised of City Department representatives and stakeholders and users of the Whitehorse Trail System. The

committee meets on a regular basis to discuss and make recommendations on the achievement of the 2007 Trail Plan's guiding principles, with particular focus on stewardship, public education, and respectful use of Whitehorse trails.

## City Roles:

### 1. Which Departments at the City are involved? Who is leading this project?

Bylaw Services and Parks and Community Development are leading this process, in close collaboration with Planning Services and Environmental Sustainability.

The City has hired John Glynn-Morris, an independent contractor, to lead all public engagement activities.