West Kowloon Cultural District (Public Open Spaces) Bylaw

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West Kowloon Cultural District (Public Open Spaces) Bylaw

Preamble

WHEREAS—

(1) the vision and mission of the West Kowloon Cultural District Authority for the public open spaces in the West Kowloon Cultural District are formulated in the light of section 4, and in particular section 4(2)(m), of the West Kowloon Cultural District Authority Ordinance (Cap. 601);

(2) the West Kowloon Cultural District Authority aims to provide or facilitate the provision of free and accessible open space within the leased area to the general public; and

(3) the West Kowloon Cultural District Authority aims to manage the open space in ways which aim to achieve the mission for the open space to inspire, promote and encourage cultural pursuits for all:

NOW, THEREFORE, the West Kowloon Cultural District Authority under section 37 of the West Kowloon Cultural District Authority Ordinance (Cap. 601) and subject to the approval of the Legislative Council has made the following Bylaw—

Part 1

Preliminary

1. Interpretation

In this Bylaw—

authorized person (獲授權人士) means a person authorized under section 3;

ensure public safety or order (確保公共安全或秩序) means to ensure—

(a) the health or safety of any person in a public open space;

(b) the health or safety of any animal in a public open space;

(c) the safety of any property in a public open space; or

(d) the orderly and undisturbed enjoyment of any part of a public open space by any person;

Park Administration Office (公園行政辦公室) means the building designated as such by the Authority;

permission (准許) means a permission given under section 4;

public open space (公眾休憩用地) means any public open space within the leased area as delineated on a plan published by the Authority under section 5(1);

publish (發布), in relation to a plan referred to in section 5, means issuing or distributing the plan by making it available to the public by the display of notices, by computer or other devices or by any other means.

Part 2

Boundary, Access, Management and Control

2. Interpretation

In this Part—

closed area (封閉區域) means any part within a public open space which is temporarily closed to the public under section 8;

event (活動) means any event, exhibition or performance conducted within a public open space;

restricted area (限制區域) means any part within a public open space delineated as an area to which admission is restricted under section 5(2).

3. Authorization by the Authority

The Authority may authorize any of its officers or employees or any other person as it sees fit to perform the functions of an authorized person under this Bylaw and to enforce, or otherwise perform the functions relating to or with respect to, this Bylaw.

4. Permission by the Authority or authorized person

The Authority may give written permission, and an authorized person may give written or oral permission, to a person to do, carry out, conduct or perform an act or activity within a public open space which is otherwise prohibited or restricted under this Bylaw.

5. Boundaries of public open spaces

(1) The Authority must cause a plan to be published delineating the boundaries of all public open spaces and may from time

to time cause a new plan to be published in substitution for an existing plan, and may from time to time endorse on an existing plan or a new plan any amendment made to it.

(2) The Authority may from time to time cause another plan to be published to delineate any area within the boundaries described in subsection (1) to which admission to the public is restricted at all times.

(3) A restricted area must be demarcated and clearly marked out in the plan referred to in subsection (2) to show that entry to such area is restricted.

(4) The plans prepared under this section must be kept in the Authority's office.

(5) A copy of the plans prepared under this section must be made available for public inspection at the Authority's office, its website and in the Park Administration Office.

6. General admission etc.

(1) A person must comply with all instructions issued in writing by the Authority or given by an authorized person for the purposes of ensuring public safety or order relating to a public open space (including any restricted area or closed area).

(2) The power of the Authority or an authorized person under subsection (1) includes the power to refuse to admit a person into a public open space or any part of a public open space, or direct a person to immediately leave a public open space or any part of a public open space, if the Authority or authorized person reasonably believes that it is necessary to exercise such power to ensure public safety or order.

7. Restricted areas

(1) A person must not enter or remain in, or attempt to enter or remain in, a restricted area without permission.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

8. Closed areas

(1) The Authority or an authorized person may temporarily close to the public any part of a public open space, or any building within a public open space, by displaying a notice prominently in or adjacent to the closed area or building.

(2) The power of the Authority or an authorized person to close the area (including the building) under subsection (1) includes the power to block any entrance to or exit from a closed area or building within a public open space, for the purposes of ensuring public safety or order, to facilitate repair or maintenance works in a closed area, or for the purposes of conducting an event, as reasonably necessary.

(3) A person must not enter or exit any part of a public open space, or any building within a public open space, that is closed to the public under subsection (1), except through an entry point or exit designated by the Authority for use by the public.

(4) A person who, without reasonable excuse, contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 1.

9. Domestic animals

(1) The Authority may from time to time, by displaying a notice in any part of a public open space, prohibit any person from

bringing certain classes of domestic animal into the public open space.

(2) A person must not bring into a public open space a domestic animal of any class which has been prohibited under subsection (1).

(3) A person must not bring a domestic animal into a public open space unless the animal is at all times on a lead, carried in a proper cage or container, or otherwise under the control by other appropriate means of the person responsible for the animal.

(4) A person who brings a domestic animal into a public open space must not allow the animal to cause a danger, nuisance or annoyance to any other person.

(5) A person who brings a domestic animal into a public open space must comply with all notices displayed by the Authority in any part of the public open space from time to time regarding the control of or cleaning up after the animal.

(6) A person who brings a domestic animal into a public open space must—

(a) remove any faeces deposited by the animal in the public open space to a waste disposal facility; and

(b) dilute with water any urine left by the animal in the public open space.

(7) A person who brings a domestic animal into a public open space must remove the animal from the public open space on request by an authorized person.

(8) Subsection (7) does not apply to a disabled person who brings an assistance animal into a public open space.

(9) A person who, without reasonable excuse, contravenes subsection (2), (3), (4), (5), (6) or (7) commits an offence and is liable on conviction to a fine at level 1.

10. Conduct of events

(1) Except with the written permission of the Authority, a person must not conduct an event in a public open space.

(2) The Authority may give a written permission to a person (including an organizer) generally or in a particular case.

(3) Except with the written permission of the Authority, an organizer must not—

(a) erect any structure, stand, booth, platform or exhibit for an event; or

(b) require a ticket or other permit for admission to an event.

(4) The Authority, an authorized person or an organizer may do any one or more of the following—

(a) limit the number of persons who may enter any part of a public open space used for the event;

(b) impose terms and conditions of entry to any part of a public open space used for the event as specified by a written notice, which is prominently displayed at the entrance of the public open space or in any part of the public open space;

(c) limit admission to any part of a public open space used for the event (including a closed area) to persons over or under a certain age as specified by a written notice, which is prominently displayed at the entrance of the public open space or in any part of the public open space to which admission to the public open space is so limited.

(5) If an authorized person or an organizer reasonably suspects that a person participating in an event in a public open space does not meet any age requirement for admission to the

event, the authorized person or the organizer concerned may request the person to produce proof of age.

(6) For the purposes of subsection (5), in the absence of proof of age of the person, the age of the person as determined by the authorized person or the organizer concerned is the person's age for the purposes of this Bylaw.

(7) A person who does not meet the age requirement concerned, or who is unable or unwilling to produce the proof requested under subsection (5), or a person is determined under subsection (6) as not meeting the age requirement for admission, may be required by the authorized person or the organizer to leave that part of the public open space used for the event.

(8) A person who is required to leave any part of the public open space used for the event must do so immediately.

(9) A person who, without reasonable excuse, contravenes subsection (1), (3) or (8) commits an offence and is liable on conviction to a fine at level 1.

(10) In this section—

organizer (籌辦人), in relation to an event, means a person to whom a written permission has been given by the Authority to conduct the event.

11. Commercial filming, photography and recording

(1) Except with the written permission of the Authority, a person must not carry out filming, photography or any form of recording of a visual image or sound in a public open space with a view to selling, publishing or publicly exhibiting any items relating to the acts described above in the course of business for advantage or gain.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

Part 3

Conduct of Public

12. Compliance with notices and directions

(1) The Authority may, by a written notice prominently displayed in any part of a public open space, restrict or prohibit any conduct of the public in the public open space for the purposes of ensuring public safety or order.

(2) A person in a public open space must comply with the written notice of the Authority issued under subsection (1), and any direction given or request made by an authorized person, for the purposes of ensuring public safety or order.

(3) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 1.

13. Public conduct

(1) A person must not, in a public open space—

(a) spit, urinate, defecate or perform any other bodily function contrary to public decency, except in facilities specifically provided for that purpose;

(b) dispose of any litter, except in the litter receptacles provided and designated for receipt of litter of that kind;

(c) melt or burn wax or paper in such manner as to cause or be likely to cause a risk of injury to any person or damage to property;

(d) throw a stone or missile, or discharge a gun, air gun, bow and arrow, catapult or other similar device;

(e) beg or solicit alms;

(f) smoke or carry a lighted cigarette, cigar or pipe, except in any smoking area designated as such by a written notice of the Authority;

(g) cause a nuisance or annoyance to any other person after being requested to desist from such conduct by an authorized person;

(h) play ball games, use bicycles, skateboards, roller skates or any similar apparatus or equipment in any part of a public open space where the Authority has by written notice prohibited such activities;

(i) without permission, offer for sale or sell any article or service;

(j) without permission, dump, abandon or leave behind any vehicle, equipment, construction debris, waste matter, rubbish, refuse or unwanted articles of any kind;

(k) without permission, fly a kite with a control string longer than 50 m, any remotely controlled powered flying drone or model aircraft (whether fuelled by hydrocarbon or alcohol based fuels or powered by electricity), or any untethered balloon filled with heated air or lighter than air gases more than 10 m above ground level;

(l) without permission, climb a perimeter wall, fence, post, barrier or any structure; or

(m) without written permission, camp out.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

(3) The Authority may, without any notice to the owner concerned, remove and dispose of any vehicle, equipment, construction debris, waste matter, rubbish, refuse or unwanted articles of any kind dumped, abandoned or left behind in any part of a public open space in breach of this section in such manner and at such time as the Authority sees fit.

(4) The Authority incurs no liability for, and no claim for damages or compensation is to be brought against the Authority by any person in respect of, the removal or disposal referred to in subsection (3), other than the liability for negligence or wilful default.

(5) In this section—

litter (扔棄物) includes any refuse, rubbish, earth, dirt, filth, dust, sawdust, paper, timber off-cuts, ashes, excreta and any other matter of a like nature.

Part 4

Protection of Public Open Spaces and Environment

14. Prohibited acts

(1) A person must not, without permission—

(a) remove, interfere with, deface or damage any equipment, apparatus, fitting, fixture or facility in any part of a public open space;

(b) remove, interfere with, damage or injure any tree or plant in a public open space;

(c) light any fire, barbecue or otherwise cook food in a public open space;

(d) feed or attempt to feed feral animals or birds kept or found in a public open space;

(e) distribute any bill, placard or notice, or affix any bill, placard or notice to or on any tree or plant in a public open space, or to any part of any building, railing, bench, seat, gate, wall or other structure, erection or ornament in a public open space or enclosing a public open space; or

(f) remove, displace or otherwise tamper with any life-saving appliance provided by the Authority in a public open space, except for the purposes of using such appliance for the purposes for which it is intended.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

Part 5

Prohibition of Dangerous Goods and Firearms, etc.

15. Dangerous goods, firearms and offensive weapons

(1) A person must not, without lawful authority, bring into a public open space or possess any of the following items in a public open space—

(a) any dangerous goods as defined by section 2 of the Dangerous Goods Ordinance (Cap. 295);

(b) any firearm, ammunition or offensive weapon of any description.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.

Part 6

Public Conveniences

16. Access to public conveniences

(1) Except with permission or reasonable excuse, a male person must not enter any part of a public convenience that is allocated for the exclusive use of female persons.

(2) Subsection (1) does not apply to a child under the age of 5 years who is accompanied by a female person in charge of or supervising the child.

(3) Except with permission or reasonable excuse, a female person must not enter any part of a public convenience that is allocated for the exclusive use of male persons.

(4) Subsection (3) does not apply to a child under the age of 5 years who is accompanied by a male person in charge of or supervising the child.

(5) A person who contravenes subsection (1) or (3) commits an offence and is liable on conviction to a fine at level 1.

Part 7

Lost or Misplaced Property

17. Lost or misplaced property

(1) A person who comes into possession of any property in a public open space which appears to have been lost or misplaced must, as soon as practicable, hand over the property to an authorized person.

(2) Any lost or misplaced property which comes into the possession of the Authority or an authorized person—

(a) in the case of perishable, noxious or otherwise offensive goods or articles, may be disposed of by the Authority by sale or otherwise as soon as practicable; or

(b) in any other case, may be retained by the Authority for a period of 3 months after the property has come into its possession or the possession of the authorized person, and if at the end of that period the property remains unclaimed, it is deemed to become the property of the Authority free of all rights and encumbrances, and the Authority may dispose of the property by sale or otherwise.

(3) The Authority incurs no liability to any person for any lost or misplaced property as a bailee or otherwise, and no claim for damages or compensation is to be brought against the Authority by any person for the property.

(4) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

Part 8

Vehicles

18. Prohibition of motor vehicles

(1) A person must not drive, bring or cause to be driven or brought any motor vehicle into a public open space without permission, except in a car park within the public open space.

(2) Subsection (1) does not apply to—

(a) a powered wheelchair or other similar apparatus used solely for the conveyance of an invalid or disabled person; or

(b) an emergency vehicle.

(3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

(4) In this section—

car park (停車場) means any area designated by the Authority as a car park and which is open to the public, whether operated by the Authority directly or by another person and whether or not a parking fee is chargeable;

emergency vehicle (緊急服務車輛) means a vehicle driven by any of the following persons—

(a) a police officer acting in the course of his or her duties as a police officer;

(b) a member of an ambulance service providing transport for sick or injured persons;

(c) a member of a fire fighting and emergency rescue and assistance service or the Civil Aid Service providing transport in the course of an emergency;

(d) an authorized person acting in the course of his or her duties;

motor vehicle (汽車) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374).

Part 9

Public Transport

19. Interpretation

In this Part—

designated road (指定道路) means any land set aside and designated by the Authority as a designated road under section 20(1);

private bus (私家巴士) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374);

public service vehicle (公共服務車輛) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374).

20. Public service vehicles and private buses

(1) The Authority may set aside any land within a public open space and designate such land as a designated road for use by public service vehicles and private buses for such purposes and between such hours as may be specified from time to time by the Authority as it sees fit.

(2) The Authority may determine the purposes for which, and the conditions under which, the designated road may be used by public service vehicles and private buses, and the conditions under which the land designated under subsection (1) may be used.

21. Application of Road Traffic (Public Service Vehicles) Regulations

(1) Part IV of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) applies to a public open space subject to the modifications set out below—

(a) a reference to "road" includes "designated road";

(b) subject to paragraph (c), a reference to "the Commissioner" is to be construed as a reference to "the Commissioner for Transport or the West Kowloon Cultural District Authority in conjunction with the Commissioner for Transport"; and

(c) in applying regulations 31 and 32, a reference to "the Commissioner of Police" is to be construed as a reference to "the Commissioner of Police or the West Kowloon Cultural District Authority".

(2) In applying Part IV of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) in relation to a designated road, as modified under subsection (1), the provisions may be enforced by an authorized person.

(3) Any person who without reasonable excuse contravenes any of the provisions of, or any requirement under, regulation 33, 34, 35 or 36 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) as it applies to a public open space under this Bylaw commits an offence and is liable on conviction to a fine at level 2.

22. Securing of vessels to wharfs of public open spaces

(1) A person must not, without permission, secure any vessel (including a charter boat, a water taxi or ferry, and a pleasure craft) to any pier, jetty, landing stage or dock attached to or serving a public open space.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

Part 10

Enforcement

23. Enforcement

(1) A person must not obstruct, disturb or interfere with an authorized person, an agent or a contractor of the Authority in the execution of their duties or performance of any works in connection with a public open space or any part of a public open space.

(2) If an authorized person reasonably suspects that a person in a public open space has contravened this Bylaw, the authorized person may, after advising the person of the act or omission that constitutes the suspected contravention, require the person to produce proof of identity and state the person's true address.

(3) A person who, without reasonable excuse, fails to produce proof of identity or state the true address under subsection (2) commits an offence and is liable on conviction to a fine at level 1.

(4) An authorized person may require a person to leave a public open space or any part of a public open space if—

(a) the authorized person reasonably suspects that the person has contravened this Bylaw; or

(b) the person does not comply with a requirement of any authorized person under subsection (2) or a notice displayed by the Authority under section 8(1).

(5) A person who fails to leave a public open space or any part of a public open space after being required to do so under subsection (4) may be removed from the public open space by

an authorized person by the use of reasonable force if necessary.

(6) A person who, without reasonable excuse, fails to leave a public open space or any part of a public open space after being required to do so under subsection (4) commits an offence and is liable on conviction to a fine at level 1.

(7) If an authorized person reasonably suspects that a person in a public open space has committed an offence under this Bylaw, the authorized person may—

(a) require the person to accompany the authorized person to the Authority's office, the Park Administration Office or a police station; and

(b) detain the person until the person is delivered into the custody of a police officer to be dealt with according to law.

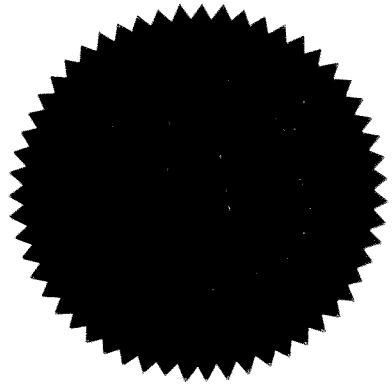
(8) A person who, without reasonable excuse, refuses to be accompanied or detained under subsection (7) commits an offence and is liable on conviction to a fine at level 2.

24. Name in which proceedings for offences may be brought

Without prejudice to any Ordinance relating to the prosecution of criminal offences or the powers of the Secretary for Justice in relation to the prosecution of criminal offences, prosecutions under this Bylaw may be brought in the name of the Authority.

Made by the West Kowloon Cultural District Authority this 6th day of June 2016.

THE CORPORATE SEAL of the)
WEST KOWLOON CULTURAL)
DISTRICT AUTHORITY)
is affixed by authority of the)
Board of the West Kowloon Cultural)
District Authority, and authenticated by:)



D.W. Pescod
(Authorized Signature)

Andrew LAM Siu-lo
(Authorized Signature)

Explanatory Note

This Bylaw provides for the management, control, operation and use of public open spaces within the West Kowloon Cultural District (***Public Open Spaces***) in order to ensure public safety or order and prevent nuisances, and provides for related matters.

2. Part 1 contains definitions of terms and expressions used in this Bylaw.

3. Part 2 contains provisions that—

   (a) empower the West Kowloon Cultural District Authority (***the Authority***) to delineate the boundaries of Public Open Spaces and restricted areas;

   (b) provide for the power of authorized persons to restrict admission so as to ensure public safety or order in Public Open Spaces;

   (c) prohibit members of the public from entering restricted areas of Public Open Spaces without permission;

   (d) enable the Authority and authorized persons to temporarily close certain parts of Public Open Spaces;

   (e) permit domestic animals, including assistance animals, to be brought into Public Open Spaces, unless the animals are in a class which is prohibited;

   (f) provide for the conduct of events in Public Open Spaces; and

   (g) enable the Authority to control commercial filming and photography in Public Open Spaces.

4. Part 3 contains provisions that regulate the conduct of the public in Public Open Spaces.

5. Part 4 contains provisions for the protection of Public Open Spaces and the environment.

6. Part 5 prohibits dangerous goods, firearms and offensive weapons from being brought into Public Open Spaces.

7. Part 6 contains provisions relating to access to public conveniences in Public Open Spaces.

8. Part 7 contains provisions dealing with lost or misplaced property.

9. Part 8 prohibits motor vehicles from being brought into Public Open Spaces without permission.

10. Part 9 contains provisions that—

    (a) empower the Authority to set aside land within Public Open Spaces for use by public service vehicles and private buses; and

    (b) regulate the securing of vessels to wharfs adjacent to Public Open Spaces.

11. Part 10 contains provisions relating to the general enforcement of the Bylaw.