



Town of Whitby

By-law # 7419-18

Public Parks and Park Buildings

Being a By-law to regulate and control the use of public parks and park buildings.

Whereas the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the “Act”) allows a Municipality to pass a by-law to regulate matters not specifically provided for by the Act for purposes related to health, safety, and wellbeing of the inhabitants of the municipality;

And whereas Section 11 of the Act provides the Town with broad authority to pass such by-laws within various spheres of jurisdiction, including a by-law respecting culture, parks, recreation and heritage;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

- 1.1. “Commissioner” means the Commissioner of the Community and Marketing Services Department of The Corporation of the Town of Whitby or his or her designate;
- 1.2. “barbeque” means a portable or fixed device, whether powered by coal, wood, propane or other fuel, or electricity, including smokers, rotisseries, hibachis, or any other device designed and intended solely for the cooking of food in the open air;
- 1.3. “fire-arm” means any barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm;
- 1.4. “fireworks” means devices containing combustible chemicals that cause explosions or spectacular effects;
- 1.5. “game” includes any activity which involves an object which is thrown, hurled, or propelled and includes, without limiting the generality of the foregoing, baseball, softball, fastball, cricket, golf, archery, football, soccer, rugby, field hockey, javelin, discus, caber or hammer throwing, racquet games, hockey and lacrosse;
- 1.6. “hunt” includes chase, pursue, follow after or on the trail of, search for, shoot at, stalk or lie in wait for, worry, molest, take or destroy any animal or bird, whether or not the animal or bird be then or subsequently captured, injured or killed;

- 1.7. "litter" includes dumping, throwing, placing, depositing or leaving, or causing to be dumped, thrown, deposited or left any refuse, garbage or debris of any kind or any object or substance which tends to pollute, mar or deface;
- 1.8. "motor vehicle" means a motor vehicle within the meaning of the Highway Traffic Act, R.S.O. 1990, c.H.8 as may be amended from time to time;
- 1.9. "motorized recreational vehicle" includes a snowmobile, go-cart, trail bike, mini bike, e-bikes, all-terrain vehicle, or similar vehicle, propelled or driven by an internal engine, but excludes wheelchair or similar assistive device used by an individual due to requiring a mobility assistance;
- 1.10. "park" includes playgrounds, sports fields, memorial squares, public squares, gardens, ponds, boat launches, trails, pathways, open spaces, green spaces, splash pads, tennis courts, multi-purpose courts, skateboard facilities, bocce courts, lawn bowling greens, off-leash dog parks, beaches, picnic shelters, picnic areas, and any other area owned and used by the municipality for active or passive recreational purposes, or for any purpose ancillary thereto;
- 1.11. "park building" includes recreation centres, arenas, indoor swimming pools, and any other building owned and used by the municipality for active or passive recreational purposes or for any purpose ancillary thereto;
- 1.12. "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
- 1.13. "structure" means any construction or any production or piece of work artificially built up or composed of parts joined together in some definite manner and without limiting the generality of the foregoing includes a wading pool, monument, fountain, bridge, fence, wall, gate, pavement, sidewalk, walk, swing, slide, playground apparatus, table, seat, bench, shelter, barbecue, sign, and recreational equipment;
- 1.14. "trails" means paved areas through parks and open spaces, which are utilized by a number of multiple different users such as bicyclists, walkers and runners for both transportation and recreation, and are designed to connect neighbourhoods, places of employment, public transport stops and other nodes.
- 1.15. "Town" means The Corporation of the Town of Whitby;
- 1.16. "unmanned aerial vehicles" (UAV) are power drive aircraft such as drones which may be remotely controlled or can fly autonomously through software-controlled flight plans in their embedded systems working in conjunction with onboard sensors and Global Positioning System;
- 1.17. "vegetation" includes trees, flowers, flower beds, bushes, shrubs, plants, sod and grass;

- 1.18. "waterfront parks" means Front Street Park, Gordon Richards Park, Gordon Street Boat Launch, Intrepid Park, Iroquois Beach Park, Kiwanis Heydenshore Park, Lions Promenade, Port Whitby Marina, Rotary Sunrise Lake Park, Victoria Street Soccer Fields, Windsor Bay Park.
- 1.19. "weapon" means anything used, designed to be used or intended for use in causing death or injury to any person, or anything used, designed to be used or intended for use for the purpose of threatening or intimidating any person and, without restricting the generality of the foregoing, includes any fire-arm, bow, cross-bow, pellet gun, or paint ball gun;

2. General

Hours of Operation

2.1. No person, except a person acting under the authority of a permit issued by the Commissioner, shall:

- 2.1.1. Enter into or remain in a park between the hours of 10:00 p.m. local time in the afternoon and 6:00 a.m. local time in the forenoon from the 1st day of April to the 30th day of September, inclusive, in any calendar year, unless the park contains lit sport fields and courts, no person shall enter into or remain in the park between the hours of 11:30 p.m. local time and 6:00 a.m.;
- 2.1.2. Enter into or remain in a park between the hours of 8:00 p.m. local time in the afternoon and 6:00 a.m. local time in the forenoon from the 1st day of October to the 31st day of March, inclusive, in any calendar year, unless the park contains lit sport fields and courts, no person shall enter into or remain in the park between the hours of 10:00 p.m. local time and 6:00 a.m.;
- 2.1.3. Enter into or remain in a park building when the park building is closed to the public.

Conduct

2.2. No person shall:

- 2.2.1. play, organize, encourage or otherwise take part in any game or activity which involves thrown, hurled or propelled objects in areas in a park not designated for that type of game or activity or that may cause an element of danger to those people not involved in the game or activity;
- 2.2.2. skate, roller skate, in-line skate or use a skate board in areas in a park that may cause an element of danger to those people not involved in the same game or activity in the park;

- 2.2.3. obstruct a roadway, path or parking area in a park;
- 2.2.4. smoke in a park, in accordance with the Town Property Smoking Restrictions By-law;
- 2.2.5. swim, bathe or wade in a fountain or ornamental pond in a park except those designated for such purposes;
- 2.2.6. dress or undress in a park or park building except in proper change facilities;
- 2.2.7. be nude in a park or park building except when robing or disrobing in a change facility provided by the Town for such purpose;
- 2.2.8. beg for any purpose in a park or park building;
- 2.2.9. conduct himself or herself in such a manner as to be obnoxious, boisterous or objectionable to any other person in a park or park building, or use profane, indecent or abusive language in a park or park building;
- 2.2.10. carry a fire-arm or weapon in a park;
- 2.2.11. hunt or kill any animal or bird in a park or injure or disturb any animal, fish or bird or remove any nest or egg in a park;
- 2.2.12. knowingly or not knowingly allow an animal or pet to enter into a park unless the animal or pet is restrained by a leash, dogs are only permitted to be off leash in designated off leash parks;
- 2.2.13. permit any dog or cat or other domesticated animal to enter any playground or any other area posted to prohibit same, it being understood this excludes any person reliant upon a service animal.

Damage to Property

2.3. No person shall:

- 2.3.1. damage, deface or remove any vegetation, structure or building in a park or park building;
- 2.3.2. litter in a park or park building;
- 2.3.3. pollute any stream, river, lake, pond, swimming pool, wading pool, or spray pad in a park or a park building;
- 2.3.4. distribute or display any advertisement, notice, bill or paper in a park or a park building or affix any advertisement, notice, bill or paper to any vegetation, structure or building in a park or a park building;

2.3.5. clean, polish, maintain or repair any motor vehicle in a park.

Permits - Restricted Uses

- 2.4. While in any park, no person shall organize, arrange, or participate in any of the following activities in a park or park building, unless authorized by the Commissioner or in accordance with a permit/prior authorization to specifically allow for:
- 2.4.1. using any apparatus, mechanism or device for the amplification of the human voice, music or other sound;
 - 2.4.2. soliciting for any purpose in a park or a park building or offer goods for sale, lease, rent or barter;
 - 2.4.3. lighting, building, maintaining, or stoking an-open fire or bonfire;
 - 2.4.4. use of barbeques within Kiwanis Heydenshore Park, Cullen Central Park or Special Event;
 - 2.4.5. holding a picnic, organized gathering or event for twenty persons or more within Waterfront Parks and Cullen Central Park;
 - 2.4.6. setting off fireworks;
 - 2.4.7. encroaching onto park lands or make exclusive use of any portion of a park;
 - 2.4.8. possession and/or consumption of liquor;
 - 2.4.9. use, ride, train, or race a horse or any large animal similar;
 - 2.4.10. ride, drive, stop or park a motor vehicle or motorized recreational vehicle in a park except in a designated parking lot and in a designated parking space, it being understood that the maximum permissible parking period shall be four hours when so posted;
 - 2.4.11. flying or operating any engine powered airplane or unmanned aerial vehicle (UAV);
 - 2.4.12. operation of an amusement ride, hot air balloon or game of chance in a park or park building.

3. Exclusive use of Park

- 3.1. The Commissioner may issue a permit to a person for the use of all or a portion of a park or park building subject to such terms and conditions as the Commissioner may consider reasonable, desirable and appropriate.

4. Fees

- 4.1. The Town may from time to time prescribe a fee or fees for the use of a park or park building or a portion thereof and no person shall use such park or park building or portion thereof without first having paid the prescribed fee to the Town.

5. Enforcement and Penalties

- 5.1. Any police officer or municipal law enforcement officer appointed by the Town whose duties include the enforcement of this by-law is authorized to inform any person of the provisions of this by-law and to request compliance therewith.
- 5.2. Any police officer or municipal law enforcement officer appointed by the Town whose duties include the enforcement of this by-law is authorized to order any person believed by such officer to be contravening or who has contravened any provision of this by-law,
 - 5.2.1. to desist from the activity constituting or contributing to such contravention;
 - 5.2.2. to remove from the park any animal or thing owned by or in the control of such person which the officer believes is or was involved in such contravention; or,
 - 5.2.3. to leave the park.
- 5.3. Any police officer or municipal law enforcement officer appointed by the Town for such purpose may enforce the provisions of this by-law.
- 5.4. Where any person contravenes any of the provisions of this by-law, or fails to comply with any order referred to in Subsection 5.2. of this by-law, the permission and licence of such person to remain in the park is revoked.
- 5.5. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a maximum fine of \$100,000.00, and in the case of a continuing offence, for each day or part of a day that the offence continues, an additional maximum fine of \$10,000.00 pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

6. Short Title

- 6.1. This by-law may be referred to as the Parks By-law.

7. Repeal of Existing By-law

- 7.1. By-law # 5066-02 and # 6018-08 are repealed on July 1, 2018.

8. Effective Date

- 8.1. This by-law shall come into force and effect on July 1, 2018.

By-law read and passed this 25th day of June, 2018.

Original Approved and Signed.

Don Mitchell, Mayor

Original Approved and Signed.

Christopher Harris, Town Clerk