

## THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON

### BY-LAW NO. 2006-126

Being a by-law to regulate, protect and control all public parks in the Municipality of Clarington and to repeal By-laws 91-20 and 92-125

WHEREAS the Council of the Municipality of Clarington, pursuant to the provisions of Section 130 of the Municipal Act S.O. 2001, c.25, has the authority to enact this by-law;

AND WHEREAS the Council of the Corporation of the Municipality of Clarington find it necessary to enact a by-law to regulate, and control all public parks in the Municipality of Clarington and to protect these lands on behalf of the public interest;

AND WHEREAS Section 425 of the Municipal Act S.O. 2001, c.25, provides that any person who contravenes by-laws of the Council passed under the authority of the Municipal Act is guilty of an offense.

NOW THEREFORE The Municipality of Clarington hereby enacts as follows:

#### DEFINITIONS

1. For the purpose of this by-law,
  - (a) “**authorized sign**” means any sign, notice, or other device placed or erected in or upon a park, under the authority of this by-law;
  - (b) “**Corporation**” means the Corporation of the Municipality of Clarington;
  - (c) “**Council**” means the Council of the Municipality of Clarington;
  - (d) “**damage**” means break, injure, deface, move or remove;
  - (e) “**designated area**” means an area defined or constructed for a specific use which may include posted conditions;
  - (f) “**Director**” means the Director of Operations of the Municipality of Clarington or his/her designate;
  - (g) “**liquor**” means liquor as defined by the Liquor Control Act;
  - (h) “**motor vehicle**” means a motor vehicle within the meaning of the Highway Traffic Act, R.S.O. 1990, c.H8 as may be amended from time to time;
  - (i) “**motorized recreation vehicle**” includes a snowmobile, go-cart, trail bike, mini bike, all-terrain vehicle, or similar vehicle, propelled or driven by an internal combustion engine;
  - (j) “**park**” means land and land covered by water and all portions thereof owned or made available by lease, agreement, or otherwise to the Municipality, that is or hereafter may be established, dedicated, set apart or made available for use as woodlot, ravine, recreation centre, square, garden, walkway, water or any other area in the Municipality, devoted to active or passive recreation;
  - (k) “**parking lot**” means any area or a tract of land designated for the parking of vehicles;
  - (l) “**parking space**” means a portion of the surface of a parking lot designated by suitable markings for the purpose of parking a vehicle, exclusive of aisles;
  - (m) “**permit**” means any written authorization of Council, a Committee established by Council, or the Director where such authority has been delegated;
  - (n) “**resident**” means residents of the Municipality of Clarington;

- (o) “**vegetation**” means any flower, plant material, shrub or tree;
- (p) “**vehicle**” includes a motor vehicle as defined under the Highway Traffic Act, R.S.O. 1990, c.H8, as may be amended from time to time, and any bicycle, carriage, wagon, sleigh or other vehicle or conveyance of every description, whatever the mode of power, but excludes wheelchair or similar device (powered or otherwise) used by an individual due to a disability, baby carriage or cart, child’s wagon, child’s stroller, child’s sleigh or other conveyance of like nature.

**PART 1 – HOURS OF OPERATION**

- 2. a) Except as otherwise expressly provided by this by-law:
  - (i) All parks shall be closed from 11:00 p.m. to 5:00 a.m.
  - (ii) Notwithstanding the foregoing, the parks may be opened at any time upon permission of the Director.
  - (iii) During any period when a park is closed, no vehicle shall remain on park property.
  - (iv) During the time a park is closed, as herein before provided, no person except a Police Officer or a Municipality of Clarington employee, while on duty, shall enter or remain on park property and, during such period, no person shall leave a vehicle owned or operated by him/her on park property.

**PART 2 – CONDUCT**

**3. Conduct**

No person shall, within the limits or boundaries of any park within the Municipality:

- (a) indulge in any riotous, boisterous, violent, threatening, or illegal conduct or use profane or abusive language;
- (b) cast, throw, or in any way propel any object in such a manner as may, or does, endanger or cause injury or damage to any person or property;
- (c) create a nuisance by loitering, spying, accosting, frightening, annoying or otherwise disturbing other persons; or
- (d) create a nuisance or in any way interfere with the use and enjoyment of the park by other persons.

**4. Firearms and Offensive Weapons**

While in any park, no person shall be in possession of or use any firearm, replica guns, air gun, bow and arrow, axe or offensive weapon of any kind unless authorized by permit.

**5. Fireworks**

While in any park, no person shall ignite, discharge or set off any firecrackers, rockets or other fireworks except as a fireworks display authorized by permit.

**6. Injury and Damage**

No person shall in any park:

- (a) climb any building, structure or equipment, unless it is equipment designed for climbing;
- (b) Damage any vegetation or any building, structure, equipment or other property of the municipality;

- (c) Unless authorized by permit, climb, move or remove the whole or any part of rocks, boulders, rock faces, vegetation, or remove any soil, sand or wood;
- (d) In any manner, disturb ground which is under repair, prepared for planting, has been newly seeded or sodded or is in an area posted to that effect; or
- (e) Drive, park or walk in an area posted to prohibit same.

## **7. Waste and Pollution**

No person shall in any park;

- (a) dispose or dump garbage, litter, tree trimmings, yard waste, or any other refuse, except that which is generated through the normal use of the park and shall only deposit same in receptacles provided for such purpose.
- (b) dispose of or dump garden refuse except in a designated area thereof;
- (c) unless authorized by permit, dump or deposit snow, fill, soil, building or construction materials; or
- (d) dump or drain onto any soils or into the waters of any pool, pond, lake, stream, fountain or watercourse of any kind any material, toxic or otherwise, which may have the effect of polluting same.

## **8. Protection of Wildlife**

No person shall in any park:

- (a) kill, attempt to kill, maim, injure, trap or disturb any animal, bird, waterfowl, fish, worms, or other wildlife; or
- (b) touch, injure or remove any nest or egg there from; or
- (c) feed any waterfowl.

## **9. Encroachment**

Unless authorized by permit or agreement, no person shall encroach upon or take possession of any park by any means whatsoever, including the construction, installation or maintenance of any fence or structure, the dumping or storage of any materials or plantings, cultivating, grooming or landscaping, thereon.

## **10. Alcohol**

While in any park, no person shall consume, serve, or sell alcoholic beverages unless authorized by permit and with the approval of the Liquor Licence Control Board of Ontario.

## **PART III – PARK USE**

### **11. Campfires and Barbecues**

While in any park, no person shall:

- (a) light, build, or stoke an open fire or bonfire unless authorized by permit;
- (b) use charcoal or solid fueled portable barbecues unless authorized by permit or where posted to allow same;
- (c) use fuel other than charcoal or briquettes in stationary barbecues; or

- (d) leave a barbeque or campfire without extinguishing the fire and ensuring that the embers are cold.

**12. Organized Gatherings and Picnics**

While in any park, no person shall:

- (a) unless authorized by permit, hold a picnic, organized gathering or event for more than twenty-five persons; or
- (b) interfere with a picnic, organized gathering or event authorized by permit.

**13. Amplifiers and Loud Speakers**

Unless authorized by permit, no person shall operate loud speakers or amplifying equipment in any park.

**14. Camping and Lodging**

Unless authorized by permit, no person shall dwell, camp, or lodge in any park.

**15. Tents and Structures**

Unless authorized by permit, no person shall place, install, or erect any temporary or permanent structure in any park.

**16. Bathing, Swimming or Sun Bathing**

No person shall:

- (a) swim in any public swimming pool, except at times designated for swimming;
- (b) fail to abide by posted signs in or adjacent to any swimming pool, or to obey the instructions of any lifeguard or other authorized person; or
- (c) swim, bathe, or wade in any fountain, pond, lake or stream, except in a designated area.

**17. Use of Wash and Change Rooms**

No person shall enter any portion of any washroom, bathhouse, or change room in any park set apart for the opposite sex.

No person shall enter any portion of any washroom, bathhouse, or change room in any Park with a camera or electronic equipment capable of replicating images.

**PART IV – GAMES, SPORTS, AND ORGANIZED ACTIVITIES**

**18. Organized Sports or Activities**

1. While in any park, no person shall:
  - (a) arrange or engage in an organized sport or activity, unless authorized by permit; or
  - (b) interfere with an organized sport or activity authorized by permit.
2. In addition to the prohibitions set out in subsection (1), while in any park no person shall utilize a designated area without a permit where same is posted to prohibit or restrict such use.

**19. Fishing**

No person shall fish in an area posted to prohibit same, in any park.

**20. Golfing**

While in any park, no person shall play or practice golf or strike a golf ball.

**21. Model Aircraft and Rockets**

While in any park, no person shall operate any powered models of aircraft, rockets, watercraft, or vehicles unless authorized by permit.

**22. Gliders and Hot Air Balloons**

Unless authorized by permit, no person shall tether, launch, or land any hot air balloon, hand glider, ultra light aircraft or similar conveyance in any park.

**23. Skating**

1. No person shall erect any outdoor ice surface in any park except unless authorized by a permit, and may construct under terms and the following conditions.
2. volunteer residents agree to the following terms and conditions:
  - i. Abide by safety guidelines as set by the Municipality from time to time. The volunteer residents inspect the rink daily to ensure structure and skate surface is as safe as possible and maintain a log of inspections for review by the Operations Department.
  - ii. The volunteer residents are responsible to organize, schedule, secure hoses and obtain additional volunteers to ensure the public's safety at all times.
  - iii. The volunteers are required to work under the direction of the Operations Department itself.
3. Community groups agree to the following terms and conditions in addition to Section 23(2) i and ii above.
  - i. The group must provide a hold harmless/indemnification agreement signed in favour of the Municipality.
  - ii. The group must provide proof of at least \$1,000,000 limit of liability insurance which includes the Municipality as an Additional Insured under the residents policy with respect to any liability arising out of the ice surface.

**24. Skiing**

No person shall ski, toboggan, snowboard, or sled in any area in any park posted to prohibit same.

**25. Roller Skates and Skate boards**

While in any park, no person shall:

- (a) operate or utilize roller skates, skate boards, linear skates, heelies, or like conveyances where posted to prohibit or otherwise restrict the use of the same; or
- (b) obstruct, inconvenience or endanger other users of the park while operating or utilizing traditional or in-line roller skates.

**26. Tennis**

No person shall enter, walk, or play upon a designated area for tennis in any park, except in accordance with the posted rules and regulations.

**PART V – VEHICLES**

**27. Roadways**

1. The Director is authorized to establish appropriate regulations to regulate the use of park roadways.
2. Unless authorized by permit, and except as provided in Section 30 with respect to bicycles, no person shall, while in any park, drive, operate, pull or ride any vehicle except on a roadway or parking area.

**28. Parking**

While in any park, no person shall:

- (a) park or leave a vehicle except in a designated area for parking;
- (b) park or leave a vehicle between the hours of 11:00 p.m. and 5:00 a.m., except in a designated area allowing for such overnight parking, or where authorized by permit;
- (c) stop or park a vehicle in a designated area for parking, except in a parking space and in accordance with posted conditions;
- (d) stop or park a vehicle in a designated disabled parking space, unless a disabled person parking permit issued in accordance with the provisions of the Highway Traffic Act, R.S.O. 1990 c.H.8, as may be amended from time to time, is properly displayed on or in the vehicle; or
- (e) use any parking space except while using the park.

**29. Other Activities**

No person shall make use of any roadway or parking lot in any park for:

- (a) washing, cleaning, servicing, maintaining or, except in the event of an emergency, the repair of any vehicle; or
- (b) instructing, teaching or coaching any person in the driving or operation of a motor vehicle.

**30. Bicycles**

While in any park, no person shall:

- (a) ride, operate or be in possession of any bicycle where posted to prohibit same; or
- (b) obstruct, inconvenience or endanger other users of the park while riding or operating a bicycle.

**31. Motorized Recreation Vehicles**

No person shall ride, drive park or be in possession or control of a motorized recreational vehicle in any park except in a designated area.

**32. Trucks and Commercial Vehicles**

No person shall drive, operate, pull or ride in any park:

- (a) any heavy machinery or equipment of any description and whatever the mode of power; or

- (b) any truck, trailer or bus whatsoever except a vehicle that is,
  - i. being used for the purpose of making a delivery to a point within the limits of the park while it is proceeding to or from such point of delivery, or
- (c) this provision shall not apply to a motor vehicle operated for personal, recreational or noncommercial purposes.

### **33. Speed**

Unless authorized by permit, while in any park, no person shall operate:

- (a) any vehicle on a roadway at a speed in excess of the posted limit; or
- (b) a bicycle other than on a roadway at a speed in excess of 20 kilometers per hour.

## **PART VI – COMMERCIAL ENTERPRISES**

### **34. Sale of Merchandise, Trade or Business**

1. Unless authorized by permit, no person shall, while in any park, sell or offer or display for sale:
  - (a) any food, drink or refreshment;
  - (b) any goods, wares, merchandise or articles including promotional material, souvenirs and novelties; or
  - (c) any art, skill, service or work.
2. While in any park, no person shall practice, carry on, conduct or solicit for any trade, occupation, business or profession.

### **35. Circulars and Advertisements**

1. Unless authorized by permit and Municipal Peddlers Licence, no person shall:
  - (a) while in any park distribute, discard, or display any handbill, notice, or other circular, bill or advertisement; or
  - (b) post, nail, attach, stencil or otherwise fasten or erect any poster, sign, notice, placard or other circular, bill, advertisement or paper to any park property.

## **PART VII – REGULATION AND ENFORCEMENT**

### **36. Permits and Licences**

1. Permits issued for activities contemplated in this by-law may be subject to such fees as Council shall from time to time establish.
2. Permits issued for activities contemplated in this by-law may include conditions as to time, location, area, equipment, number of participants, type of activities, release, indemnity and insurance coverage.
3. The issuance of a permit pursuant to this by-law shall not relieve any person from the necessity of acquiring any and all other licence or permit required for such activity by any government or public authority.
4. No permit contemplated by this by-law shall be issued if same would result in the contravention of other applicable law.

### **37. Posting of Signage**

The Director is authorized to post signage of permission, regulation, restriction, warning or prohibition with respect to uses of or activities in any park in accordance with the provision hereof.

### **38. Temporary Closure**

1. The Director is authorized to close off for such temporary periods as the Director deems appropriate any park or part or parts thereof to relieve or prevent overcrowding or traffic congestion, or in the interests of public safety, or as may otherwise be authorized by Council.
2. The Municipality may, at any time when it is deemed advisable to do so, close to the public any park or any portion of any park, or any building in any park, and may require the payment of a fee by any person desiring to enter any such park or building and no person shall enter any park or any portion of any park, or any building in any park, so closed, without first paying the fee for admission, to a person duly authorized by the Municipality for the collection of such fee. Nothing in this by-law prevents any Municipality of Clarington employee or servant from performing his duties as an employee or servant.
3. The Director is authorized to post signage of permission, regulation, restriction, warning or prohibition with respect to uses of or activities in any park in accordance with the provisions hereof.

### **39. Exclusions and Exemptions**

1. This by-law shall not apply to:
  - i. the drivers, operators or other personnel of ambulance, police or fire department vehicles, or the riders or attendants of police department horses, while engaged in the performance of their duties;
  - ii. employees or agents of the municipality while engaged in works or services undertaken for or on behalf of the municipality; or
  - iii. a park, property or building that is now or hereafter under the jurisdiction of a board established by the Council or by statute, the members of which are appointed by Council.

### **40. Enforcement**

1. Any police officer, Municipal Law Enforcement Officer or employee of the municipality designated by the Director is authorized to inform any person of the provisions of this by-law and to request compliance therewith.
2. Any police officer, Municipal Law Enforcement Officer or employee of the municipality whose duties include the enforcement of this municipal by-law, is authorized to order any person believed by such officer or employee to be contravening or who has contravened any provision of this by-law,
  - i. to desist from the activity constituting or contributing to such contravention;
  - ii. to remove from the park any animal or thing owned by or in the control of such person which the officer or employee believes is or was involved in such contravention; or
  - iii. to leave the park.
3. Any police officer or Municipal Law Enforcement Officer may enforce the provisions of this by-law.

4. Where any person contravenes any of the provisions of this by-law, or fails to comply with any order referred to in subsection (2) hereof, the permission and licence of such person to remain in the park is revoked.

#### **41. Penalties**

- a. Any person contravening any of the provisions of this by-law, other than clause 33(a) resulting from the operation of a motor vehicle, is guilty of an offence and on conviction is liable to a fine in such amount provided for by the Provincial Offences Act, R.S.O. 1990, c.P.33, as may be amended from time to time.
- b. Any person contravening the provision contained in clause 33(a) of this by-law, resulting from the operation of a motor vehicle, is guilty of an offence under the Highway Traffic Act, R.S.O. 1990, c.H.8, and, pursuant to the provision thereof, on conviction is liable to a fine in such amount provided for by the Highway Traffic Act, R.S.O. 1990, c.H.8, as may be amended from time to time.
- c. The owner of a motor vehicle that is parked or left in contravention of section 28 of this by-law is guilty of an offence and on conviction is subject to the provisions of this section, unless at the time of the offence the motor vehicle was in the possession of another person without the owner's consent.

#### **42. Removal of Vehicles**

A police officer or Municipal Law Enforcement Officer, upon discovery of any vehicle parked or standing in contravention of section 28 of this by-law may cause it to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, are a lien upon the vehicle which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, c.R.25, as may be amended from time to time, or any successor acts thereto.

That by-laws 91-20 and 92-125 be hereby repealed.

BY-LAW read a first and second time this 12<sup>th</sup> day of June, 2006

BY-LAW read third time and finally passed this 12<sup>th</sup> day of June, 2006

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John Mutton, Mayor

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C. Anne Greentree, Deputy Clerk