

By-law Number 19-2016
Of The Corporation of the
Municipality of Chatham-Kent

A by-law relating to the use, protection and regulation of public parks and recreation areas in the Municipality of Chatham-Kent

Finally Passed the 7th day of March, 2016

Part 1
Interpretation

1.1

In this by-law:

Authorized Parking Area – defined

“Authorized Parking Area” means an area of a Park or Recreation Area designated, set aside for or established, for the parking of motor vehicles, which may have posted regulations with respect to the use of the area.

Bicycle – defined

“Bicycle” includes a unicycle and a tricycle but does not include a motor assisted cycle of any type.

Change Rooms – defined

“Change Room” means any permanent or temporary structure or portion of a structure designed to accommodate persons for the purpose of changing their clothes. A change room may or may not include Washroom facilities.

Control – defined

“Control” includes care and custody.

Council – defined

“Council” means the Council of the Corporation of the Municipality of Chatham-Kent.

Cross Bow – defined

“Cross-bow” means a device with a bow and a bowstring mounted on a stock that is designed to propel an arrow, a bolt, a quarrel or any similar projectile on a trajectory guided by a barrel or groove and that is capable of causing serious bodily injury or death to a person.

Firearm – defined

“Firearm” means a barreled 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 barreled weapon and anything that can be adapted for use as a firearm.

Manager – defined

“Manager” means the Manager, Recreation Facilities, Manager, Parks and Open Spaces or the Director, Community Attraction and Leisure Services for the Municipality or such persons as designated by them in writing.

Motor Vehicle – defined

“Motor vehicle” has the meaning attributed to it in the Highway Traffic Act but does not include motorized wheelchairs.

Motorized Snow Vehicle – defined

“Motorized snow vehicle” means a self-propelled vehicle designed to be driven primarily on snow.

Multi-use Pathway – defined

“Multi-use Pathway” means that part of a Park that has been improved with a hard surface and intended for a variety of uses including pedestrians, in-line skating and certain Vehicles.

Municipality – defined

“Municipality” means the Corporation of the Municipality of Chatham-Kent.

Officer - defined

"Officer" means a Provincial Offences Officer as defined in section 1(1) of the Provincial Offences Act, R.S.O. 1990, c.P.33, which includes a by-law enforcement officer of the Municipality and a Police Officer of the Chatham-Kent Police Service.

Park(s) – defined

“Park” or “Parks” means land and land covered by water and all portions thereof owned by the Municipality 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 public open space by the Municipality, that is, has been or hereafter may be placed under the jurisdiction of the Municipality, including any buildings, structures, facilities, erections and improvements located in or on such land and includes authorized parking areas.

Paintball Gun - defined

“Paintball Gun” means a device which uses an expanding gas, such as carbon dioxide (CO₂) or compressed air, to propel paintballs through the barrel of the device, or other similar devices.

Recreation Area – defined

“Recreation Area” means an area or building or combination of both under the control of the Municipality which is maintained and/or supervised by employees of the Municipality and includes any tennis court, beach area, boat docking facility, promenade, arena, skating rink, swimming pool, wood lot, Special Use Trail, Multi-use

Pathway, wading pool/spray pad, play area, skateboard facility, sports field, designated area of a Park, a building or portion of a building which is owned, leased or used by the Municipality, including a school and school grounds, for the purpose of offering recreation to the public.

Refuse – defined

“Refuse” includes but is not limited to paper wrappers, food containers, discarded food, disposable eating utensils, and newspapers, drink containers of all kinds, disposable diapers, broken glass, grass clippings and inert fill of any kind.

Roadway – defined

“Roadway” means that part of a Park or Recreation Area that is improved, designed or ordinarily used by vehicles and motor vehicles.

Running At Large – defined

“Running At Large” means a dog found in any Park or Recreation Area and not under the physical Control of any person by means of a leash held by the said person.

Special Event Activities – defined

“Special Event Activities” means a meeting, camping, outdoor wedding, concert, sing-song, sit-in, dance, organized sport or game or any other group activity.

Special Use Trail – defined

“Special Use Trail” means a trail located and designed in response to the need for exclusive or limited uses to include hiking, cycling, off road vehicles, equestrian and canoeing, and/or to respond environmental conditions of a particular location.

Trailer - defined

“Trailer” means a vehicle that is at any time drawn upon a highway by a motor vehicle, except an implement of husbandry, a mobile home, another motor vehicle or any device or apparatus not designed to transport persons or property, temporarily drawn, propelled or moved upon such highway, and except a side car attached to a motorcycle and shall be considered a separate vehicle and not part of the motor vehicle by which it is drawn.

Vehicle – defined

“Vehicle” includes a Motor Vehicle and any Vehicle drawn, propelled or driven by any kind of power including muscular power but excludes a child’s wagon, a baby carriage, a child’s stroller, a wheelchair or similar device (motorized or otherwise) used by an individual due to a disability.

Walkway – defined

“Walkway” means an access from street to street.

Washroom – defined

“Washroom” means any permanent or temporary structure or portion of a structure that contains toilets and/or urinals and wash basins and which is owned, leased or operated by the Municipality.

Part 2

By-law Application and Administration

2.1 By-law Applicability – defined

This by-law applies to all Recreation Areas, Parks and any premises located therein which are under the control and management of the Municipality, together with the avenues, boulevards, drives, streets and approaches thereto and connecting the same.

2.2 Emergency and Maintenance Vehicles – excepted

Notwithstanding any provision of this by-law, Vehicles operated on behalf of an ambulance service, fire department, police department, public utilities and the Municipality, shall have full access to all parts of a Park and/or a Recreation Area at all times where such access is possible.

2.3 By-law Administration

This by-law is administered by the Community Attraction and Leisure Services Division, Community Development Department of the Municipality.

2.4 Wheel Chairs Excepted

Despite any regulation in this by-law restricting the use of Motor Vehicles in Parks, for greater certainty a wheelchair or similar device (motorized or otherwise) used by an individual due to a disability may be used in all areas of Parks including Multi-use Pathways and the accessible portions of hiking trails.

Part 3

General Prohibited Activities

3.1 Activities – prohibited

In any Park or Recreation Area, no person shall:

- (1) Operate a Vehicle at a rate of speed in excess of the posted speed limit or in excess of 30 kilometers per hour in un-posted areas.
- (2) Operate a Motor Vehicle except on a Roadway or in an Authorized Parking Area or as defined on a Special Use Trail.
- (3) Park a Vehicle or Trailer in a place other than an Authorized Parking Area.

- (4) Operate, park, or leave unattended a Vehicle or Trailer in any part of a Park or Recreation Area between 11:00 p.m. and 6:00 a.m. in the morning of the following day, excluding boats for which mooring fees have been paid.
- (5) Operate a Motor Vehicle, horse & horse drawn Vehicle or Motorized Snow Vehicle on a Multi-use Pathway.
- (6) Fail to yield to a pedestrian when using a permitted Vehicle on a Multi-use Pathway.
- (7) Use a Special Use Trail in any way other than the single or limited use for which it is designed and intended.
- (8) Operate a Motorized Snow Vehicle.
- (9) Engage in riotous, boisterous, violent, threatening, or illegal conduct or use profane or abusive language, including, but not limited to.
 - i) Making any verbal comments or physical gestures, about or toward anyone that could reasonably be considered to be offensive, derogatory or abusive
 - ii) Making noise likely to disturb any inhabitant or interfere with the enjoyment of the Park or Recreation Area through the use of electronic equipment or any other means
 - iii) Urinating or defecating except in a designated Washroom facility
- (10) Play or practice golf or strike any golf ball by any means whatsoever in an area not designated for such activities.
- (11) Climb, break, peel bark from, cut, remove, deface or otherwise damage any tree, shrub or bush, or pick, destroy or remove any flower, plant, roots, grass or rock cause or permit any animal under their Control or ownership to damage any trees, shrubs, bushes, flowers, plants or roots: post any sign or poster on any tree, bush, or shrub.
- (12) Remove, break, deface, or otherwise damage any building, equipment or any other property of the Municipality.
- (13) Fail to deposit Refuse in containers provided or if containers are not provided fail to remove Refuse from Walkway or Multi-use Pathway, Park or Recreation Area.
- (14) Light a fire or make use of any fire unless in a properly constructed barbecue or in a fire-pit designated for the purpose by the Municipality

and an open burn permit has been obtained from the Fire Services Department of the Municipality.

- (15) Fish from a location which may endanger the safety of any other person.
- (16) Swim in areas of boat docking or launching facilities or boat in designated swimming areas.
- (17) Permit a dog under their ownership or Control to run at large except in a designated leash free area.
- (18) Leave any excrement and not sanitarily dispose of any excrement left by an animal anywhere in the Park or Recreation Area.
- (19) Cause or permit any animal under their Control or ownership to swim in or enter into or foul any swimming or wading pool or spray pad intended for human use only.
- (20) Remain in a Walkway, Multi-use Pathway, Park or Recreation Area for unauthorized purposes.
- (21) Loiter in any Washroom or Change Room, or engage in conduct within a Washroom or Change Room that could reasonably be considered to be offensive.
- (22) Use a cellular phone, camera or any device capable of recording images in Change Rooms or Washrooms.
- (23) Discharge or permit the discharge of any water from private properties, including pool water and water from a roof drainage system, onto, into or over any Park or Recreation Area with the exception of natural over land flow from adjacent residential yards.
- (24) Hinder or obstruct, or attempt to hinder or obstruct, any person exercising or performing a duty under this by-law.
- (25) Enter any Washroom or Change Room, or portion thereof, in any Park or Recreation Area, set apart for the opposite sex provided that this shall not apply to children who are 10 years of age or younger and who are, at the time, accompanied by a parent, guardian, caregiver or caretaker.
- (26) Encroach on municipally owned lands or erect fences on municipally owned lands without the written consent of the Manager and any such object encroaching shall be removed by the abutting owner forthwith at their expense.

- (27) Use a Firearm, Crossbow, or Paintball Gun anywhere in the Park or Recreation Area.

Part 4
Activities – Subject to Approval

4.1 Activities prohibited – subject to approval

Unless authorized by the Manager in writing, no person shall engage in any of the following activities in a Park or Recreation Area:

- (1) Remain in a Park or Recreation Area between the hours of 11:00 p.m. and 6:00 a.m. of the following day, except that a person may enter or remain in a Park during the times the Manager has authorized use of the Park or Recreation Area or in areas designated for camping by the Municipality or in a boat for which mooring fees have been paid to the Municipality.
- (2) Linger or remain in any public Park or Recreation Area after 11:00 p.m. except with permission from the Manager for the completion of an organized game or sport which could not have been completed prior to 11:00 p.m. because of weather or other reason.
- (3) Hold or take part in an unauthorized public meeting or gathering where such a meeting or gathering requires booking through the Municipality's facility rentals process.
- (4) Sell refreshments or other merchandise to the public.
- (5) Operate any business, game, show or amusement for admission by the public.
- (6) Consume, serve, sell or possess liquor without proper approval of the Municipal Clerk and the Alcohol and Gaming Commission of Ontario.
- (7) Change the landscape, including but not limited to, removing plants or plant materials, digging holes, cutting trees, and/or depositing fill without written permission of the Manager.

Notwithstanding subsection (3) and (4) of Section 4.1 the Manager shall retain the right to authorize Special Event Activities deemed to celebrate and support heritage, arts and cultural events or broader Municipal benefit.

Part 5

Enforcement

5.1 Applicable law

Any person using any Park and Recreation Area is subject to, and shall comply with all applicable Municipal by-laws, Provincial and Federal laws and regulations. Without limiting the generality of the foregoing, all persons using any Park and Recreation Area shall comply with By-law 137-2014 to regulate smoking of tobacco and tobacco like products on lands within the Municipality of Chatham-Kent.

5.2 Fine – upon conviction

Any person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a set fine for those contraventions listed in Schedule “A” attached hereto, or otherwise a maximum fine as provided in the *Provincial Offences Act*, R.S. O. 1990, c. P.33.

5.3 Continuation – repetition of offence – prohibited

The court in which the conviction has been entered and any other court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed by the court on the person convicted.

5.4 Enforcement

Any Officer or person under contract with the Municipality to enforce this by-law, may order a person believed to be in contravention of the by-law to:

- (1) Cease the activity that is in contravention of the by-law; and/or
- (2) Leave the Park or Recreation Area; imposing such conditions related to re-entry as deemed necessary;
- (3) Order the removal of any Motor Vehicle, Vehicle, Trailer parked in contravention of section 3.1 (3) all such costs of storage and moving shall be assessed to the Vehicle owner.

Part 6

Fees

6.1 Use without payment – prohibited

No person shall use a Park or Recreation Area without first having paid the applicable fee, if any, or having made the appropriate arrangements for the scheduled payment of fees according to the practices established by the Manager and as established in the applicable municipal fees and charges by-law # 19-2016, or such other or successor by-laws passed by Municipal Council for this purpose.

Part 7
Miscellaneous

7.1 Validity

If a court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue to be enforced.

7.2 By-law reference on signs – deemed to conform

On a sign posted by the Municipality in a Park or Recreation Area, reference to By-law #66-2004, #38-2009, #19-2016 shall be deemed to references to this by-law.

7.3 Effective date

This by-law shall come into force and effect on the day of its final reading.

7.4 Repeal of By-law

By-law #38-2009, and all amendments thereto, are hereby repealed.

Read a First, Second and Third Time this 7th day of March, 2016.

Mayor – Randy R. Hope

Clerk – Judy Smith