

**Municipality Of Chatham-Kent**  
**Infrastructure and Engineering Services**  
**Office of the General Manager**  
**Information Report**

**To:** Mayor and Members of Council

**From:** David Taylor, Director of Legal Services  
Thomas Kelly, P.Eng., MBA, General Manager Infrastructure & Engineering Services

**Date:** May 6, 2021

**Subject:** Parks and Sports Field Utilization - Lark Park

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This report is for the information of Council.

The report addresses questions and concerns shared with Council and posted on social media over the past several days regarding a letter sent to Mr. Jason Reynolds advising him to stop cutting the grass in the Municipality's Lark Park. Mr. Reynolds has been ignoring repeated requests to refrain from cutting the grass at Lark Park since 2019. Mr. Reynolds is welcome and encouraged to utilize the park for sporting activities provided he complies with the same Council approved policies and procedures as all other groups using municipal parks. Such policies are used by Municipalities across Canada and have been designed with public safety in mind.

The Municipality sincerely appreciates the volunteer efforts of all residents and strongly supports both youth and adult sporting activities in Chatham-Kent.

**Background**

The Municipality is home to 185 parks and 101 sports fields located throughout Chatham-Kent. Industry best practices are employed to ensure the safe and efficient operation of these highly valued assets. The process to utilize and rent facilities for public use is in place to minimize the risks and liabilities to the Municipality and taxpayer.

Chatham-Kent parks and sports field facilities are used by over 3,000 youths and 2,000 adults annually (not including arenas).

The Municipality invests \$3.25M annually in the maintenance and lifecycle costs of these parks and sports facilities.

The Municipality also administers the A.L.L. for Kids program (Activities, Lessons and Leisure). In 2019, 1,002 children were able to participate in recreation and leisure programs supported by this program. As well, the Municipality runs many programs for children and youth in our community including free programs at our libraries, free skates and free swims in our arenas and pools, programs for families and children through our EarlyON Centres, and all of the children and youth programs run by municipal recreation services.

### Park and Sports Fields Service Levels

The Municipality determines the maintenance level of service of each asset dependent upon the specific usage. Services can range from grass cutting, field aeration, to line formation, field preparation and lifecycle replacement of assets. As illustrated in Table 1, typical grass cutting frequencies are defined by the particular sport using the asset:

**Table 1 - Service Levels for Grass Cutting**

Level of Cut	No. of Cuts Per Year	Event
A++	36	Baseball, Soccer (Irrigated Fields)
A+	22	Baseball, Soccer, Flag Football, Cemeteries
A	18	Community Parks
B	12	Pathways, Green Space
C	8	Boulevards
D	3	Green Space

Grass cutting services are outsourced to private contractors through a competitive bidding process. Prior to receipt of the contract, each contractor must provide proof of liability insurance (\$2.0M), along with an on-going commitment to protective clothing, protective equipment and the skills necessary to ensure the green space can be managed in a safe manner.

### Safety Requirements

Safety is of paramount importance to grass cutting operations. The Canadian Hospitals Injury Reporting and Prevention Program (CHIRPP) is an injury and poisoning surveillance system currently operating in the emergency departments of 11 pediatric and 7 general hospitals across Canada. As reported by CHIRPP, there were 512 serious accidents from lawnmower related activities from 2011 to 2018 comprising operator hand and foot cuts under a mower, burns from the motor or exhaust, and injuries sustained from being hit by a projectile launched from a lawnmower. Extrapolating this information across all of Canada, it is estimated that there are 2,200 serious lawnmower accidents each year that require emergency medical care at a hospital.

Unlike a residential lawn, parks and sports fields are used by many members of the public and the probability of unseen foreign material being left in the grass is very high. Consequently, the risk of projectiles from lawnmowers on municipal land is much higher

than when cutting a residential lawn. This additional risk needs to be considered when cutting the grass in public parks.

### Park and Sports Field Allocation

The Municipality works closely with 104 unique community organizations to ensure the needs of each sporting team is accommodated. Due to the volume of users, the Municipality holds an annual allocation meeting to allow discussion amongst the groups regarding guidelines for engagement, special events, tournaments and any items of concern. At this meeting, a “User Guide” is reviewed in detail, which explains all requirements for a safe and efficient league operation. Most importantly, the reservation process is intended to eliminate any potential community conflicts of use.

Sport field users are required to meet the following requirements in exchange for the Municipal field services provided:

- Locations, dates and times requested for sport field use
- Proof of \$2M in general liability player insurance (amounts vary from as little as \$1.60/hour/event up to \$250/team/year depending on the assessed risk of the activity)
- COVID-19 compliance plan
- Sign a rental permit
- Pay the fees as defined in the Council approved User Fee by-law for use of sport fields
- When alcohol is served at a sporting event, the Municipal “Special Event Process” is followed to ensure required safety protocols are in place.

### Legal Considerations

In addition to operational requirements that must be addressed in booking sport fields, such as ensuring there are not conflicts between different uses, many of these booking processes are driven by legal and risk related issues.

If an accident happens, for example an injury to a player/spectator or damage to property, it is important that there be clear documentation establishing who was using the field at a given time, and that a policy of insurance that covers risks related to the booking is in place.

As the property owner, the Municipality can be brought into a lawsuit for an injury or property damage, even though the involvement of the Municipality may be very limited. In these cases, the Municipality would expect that the insurance company providing coverage for the event, league or other booking will respond and defend or settle any claim. If there is not clear documentation, and a policy of insurance that is covering a particular event, league or other booking, the Municipality may then have to respond to a claim. As is mentioned elsewhere in this report, the Municipality has a \$250,000 deductible for its insurance policy, which means that the first \$250,000 of any liability

claim is paid for by the financial resources of the citizens of Chatham-Kent. Processes to ensure insurance is in place and clear documentation exists for each use of a Municipal facility ensures that the citizens of Chatham-Kent do not pay for claims for which the Municipality was not responsible.

Additionally, if an injury happens, we want to make sure that there is an insurance policy in place that can provide coverage for the injured person. Personal injuries can have long lasting impacts and result in negative financial impacts to the individual who is injured. Ensuring that an insurance policy is in place for a booking provides a safety net for participants.

### Park and Sports Fields Fees, Revenues and Operating Costs

The User Fee By-Law approved by Council on March 1, 2021 lists the fees for sport field usage including HST as:

- Youth = \$12.03 / player (valid for the season)
- Adult = \$ 43.61 / 2 hours of field use
- Tournament fees vary depending on the field used and length of the reservation

2019 annual revenue from all sports fields was \$109,272, which amounts to 3.4% of the total cost to operate the parks and sports fields within Chatham-Kent.

### Park and Sports Fields User Profile

Organized community sports operate either as an “Incorporated Non-Profit” or as a “For-Profit” when offering youth and adult programming.

An “Incorporated Non-Profit” is typically managed by a volunteer elected board of directors. The “Incorporated Non-Profit” has a published constitution, operating bylaws, annual financial reports and schedules an Annual General Meeting. Any revenue above a break-even status is invested back into the organization.

In the case of a “For-Profit” organization, reporting requirements are much less stringent compared to an “Incorporated Non-Profit.” For example, financial reporting requirements are privately filed with the Canadian Revenue Agency. There is no requirement to invest profits back into the league and profits may be fully retained by the organizer. Table 2 below depicts a sampling of the Chatham-Kent sport user base, their Profit/Non-Profit Status, and typical fees charged to the public:

**Table 2 – Sample of Sport User Groups Using Municipal Sport Fields**

	<b>Incorporated/ Non-Profit</b>	<b>Average 2019 Fees/Person</b>
<b>Minor Sport Field User Groups</b>		
Chatham Minor Baseball Association	Yes	\$120
Chatham Girls Minor Softball Association	Yes	\$75
Chatham Youth Soccer Association	Yes	\$130
Chatham Kent Cougars Football Club	Yes	\$195
Chatham Kent Kids Flag Football	No	\$160
Chatham Youth Tennis	No	\$50
Wallaceburg Minor Ball	Yes	\$125
Blenheim Minor Baseball	No	\$100
Ridgetown Optimist Minor Soccer	No	\$35
<b>Adult Sport Field User Groups</b>		
Maple City Slo Pitch	Yes	\$105
Co-ed Slo Pitch - Chatham & Blenheim	No	\$30
Ladies Slo Pitch	No	\$75
Glory Days	Yes	\$170
Chatham Pickle Ball	Yes	\$35
Chatham Tennis Club	No	\$80
Blenheim Slo Pitch Mens & Ladies	No	\$33
Ridgetown Adult Soccer League	No	\$50
<b>Average Cost Per Person (Youth and Adult)</b>		<b>\$89</b>

**Comments**

There has recently been a great deal of media coverage concerning the Flag Football League that utilizes Lark Park in Chatham. The league is managed by a local Chatham-Kent resident and league oversight is provided by “Under Armour – Under the Lights – Flag Football League.” The Under Armour program assists individuals to be League Operators and run their leagues for profit (Appendix A).

In the fall of 2018, Chatham-Kent became aware of an organized Flag Football League through neighbourhood complaints of loud noise, alcohol consumption and public urination in Lark Park. It became evident that the Flag Football League was operating without any of the proper safety and insurance requirements employed by Chatham-Kent. Administration reached out to the league organizer several times to communicate the necessary guidelines to ensure a safe and successful league.

### Significant Damage to Lark Park from Flag Football League – January 2019

In January 2019, the Flag Football League scheduled an adult tournament. The tournament was held with no prior notification to the Municipality, and therefore no reservation, insurance or rental payment was received. During the tournament, an estimated \$2,000 of damage was done to the field. The Municipality contacted the organizer who agreed to repair the damage at his expense, but in the end, all repairs were done by the Municipality at the taxpayers' expense (Appendix B).

### Compliance History with the Lark Park Flag Football League

Of the 104 sports organizations utilizing the parks and sports fields, the Chatham-Kent Flag Football League is the only one that has failed to comply with the safe operating guidelines established by the Municipality.

On March 5, 2019, administration and members of Council met with the Flag Football league organizer to discuss park damage and mutually develop a solution. The following terms were agreed to:

The Chatham-Kent Football League committed to:

1. Booking the park formally for all use through our allocation process
2. Following all policies and procedures
3. Providing evidence of the \$2M liability insurance for players
4. Payment of fees associated with sport field use
5. Payment of tournaments fees
6. Tournament booking
7. Eliminating any drinking and smoking on the field

In turn, the Municipality committed to:

1. Increasing the grass cutting frequency from B (12 cuts /year) to A+ (22 cuts / year); the Municipality would fund the annual cost of \$3,700
2. Provide a portable washroom and garbage containers; the Municipality would fund the annual cost of \$400

As noted in Table 3, the Flag Football League has failed to comply with many of the terms of the March 5, 2019 understanding. The Municipality communicated with the league organizer 36 times in 2019 and 54 times in 2020 requesting compliance to Municipal policies and procedures.

**Table 3 - Flag Football League Compliance History**

	2018	2019	2020
Reservations Made - Youth	No	Yes	Yes
Reservations Made - Adult	No	No	Yes*
Youth Liability Insurance Proof	No***	No***	Yes
Adult Liability Insurance Proof	No***	No***	Yes*
Youth Player Payments Made	No	No	Waived
Adult Player Payments Made	No	No	No
Tournament Payments Made	No	No	No
Youth Covid Protocol Compliance	N/A	N/A	Yes
Adult Covid Protocol Compliance	N/A	N/A	No
Municipal Communications to League Organizer to Comply with Guidelines	0**	36	54

**Notes:**

\* September through to October only

\*\*First complaint received in fall of 2018 – league contact unknown at that point

\*\*\*Since proof of insurance was not provided, it is unknown if any insurance was purchased, or if the Flag Football League participants were aware that the league was potentially operating without insurance.

Grass Cutting at Lark Park

Lark Park grass cutting has been competitively sourced to a local contractor. The total area of the Lark Park grass cutting contract is 7.09 acres. The park receives 22 cuts per year or more if warranted due to growing conditions that season.

It became known that the organizer of Flag Football League would cut up to 1.4 acres of the park grass (20%) to a lower level to define the boundaries of the playing field (Appendix C). This is not a preferred practice because of the turf stress generated from the low cut. A preferred environmental practice is to utilize line painting that is currently used in soccer and football fields. The Lark Park field is in poor condition and line painting would assist in the recovery of the turf.

The organizer was advised of the existing grass-cutting contract in place and requested repeatedly to cease any grass cutting operations. The following communication was provided to the League organizer on August 7, 2020 advising that grass cutting by private citizens is not permitted in Municipal parks:

Good afternoon Jason,

Thank you for your email. I believe staff have explained to you what is required as well as the reasoning behind those requirements:

- Staff don't have an issue with you using Lark Park
- Staff are still waiting for proof of insurance (\$2M with the Municipality named as additionally insured)
- The \$10/youth fee is waived this year
- At this time, for a number of reasons, private people are not permitted to work on municipal property (e.g. cut the grass). The primary reasons being:
  - The individual would be required to sign an agreement
  - Commercial/General liability insurance would have to be in place. This is required for both the municipality and you if someone is injured because of your work.

If you provide what is required, the cut level in the park could be increased.

Thank you again for writing.

The league organizer repeatedly ignored Municipal communication that he was not permitted to cut the grass at Lark Park. The Municipality has obtained actual grass cutting footage at Lark Park on April 18, 2021 of the machinery used by the league organizers (Appendix D). The first concern was that this work occurred during the COVID shut-down when team-play is not permitted under the regulations. Secondly, the pictures depict the grass being cut with no safety guards in place and members of the public in close proximity and therefore at risk of potential injury. This is not a safe situation and it is fortunate that no one was injured. Appendix D pictures provide illustration of the reasons why grass cutting on public property needs to follow the proper safety protocol. An excerpt defining the Health and Safety obligations of Municipal grass cutting contractors is also included in Appendix D.

In response to the Health and Safety issue witnessed on April 18, 2021, a letter from Legal Services was sent to the League organizer requesting him to refrain from any further grass cutting operations. This letter was sent after several warnings to stop this practice. The letter in no way restricted the organizer from following the Municipal league guidelines and continuing the operation of the Flag Football League (with the exception of COVID Provincial restrictions).

### **Public Support – Flag Football League Youth Program at Lark Park**

The Flag Football League youth program provides Chatham-Kent young people with the opportunity to exercise and learn new skills in a team environment. The program is strongly supported by parents who have children participating in the league.

The efforts of the League organizer to start this program are sincerely appreciated.



### **Public Complaints – Flag Football League Adult Program at Lark Park**

Since 2018, administration has received a number of complaints regarding the operation of the flag football league in Lark Park targeted at the adult programming. Complaints include:

- Littering
- Alcohol being consumed in the park
- Loud profanity and noise complaints (typically during the adult leagues)
- Illegal parking throughout the neighbourhood (driveways blocked by parked cars)
- Public urination
- Vehicles driving onto the park grounds
- Adult games are much more frequent than youth games; issues are more pronounced during adult play

Many of the public complaints have been confirmed via on-site visits and Flag Football League Facebook postings. The league organizer was advised of these issues and asked to comply with Municipal policies and procedures.

### **Legal Issues**

There are a number of legal and risk related concerns with the league organizer bringing power equipment, such as a riding lawn mower, into a park without permission. In this case, no permission was provided to the league organizer and legal services understands that staff had previously communicated to the organizer that these grass-cutting activities were not permitted.

This equipment can be dangerous and could cause an injury, particularly in park areas that can have other users present. Before sending the letter to the league organizer in this case, legal services was informed that other users have been present in the vicinity of this grass cutting activity. This demonstrates that there was genuine risk of injury to our citizens.

In addition to the human cost of an injury, the personal injury claims that can arise against the Municipality can become very expensive. Due to the significant insurance deductibles the Municipality has, the first \$250,000 of any liability claim is borne by the financial resources of the citizens of Chatham-Kent. If a claim were to arise from this type of activity, the Municipality will almost certainly be added to the lawsuit as the owner of the park. Legal counsel for an injured party may seek to establish liability against the Municipality and its insurance policy by demonstrating that the Municipality was aware of the activity and did not stop it or ensure it was done properly, or ensure that insurance coverage was provided by the equipment operator.

In this case, the league organizer has stated that the league does have insurance. However, that insurance relates to running a sports league and not providing grass-cutting services. It is a real possibility that the league's insurance company would take the position that performing grass cutting is not a risk they were covering, and was thus

uninsured. Additionally, the most recent certificate provided to the Municipality for football league purposes expired in October of 2020.

As a result of the risks associated with these activities, before anyone is permitted to bring power equipment into a park, the Municipality requires a contractual agreement which provides detailed clauses regarding the operations, including that the person has the necessary skills to operate the equipment, will do so in a safe manner, has adequate insurance and, if appropriate, has WSIB coverage in place. Not having these items addressed puts the Municipality, and the financial resources of the citizens of Chatham-Kent, at risk. While the league organizer has indicated he is prepared to sign a waiver, such a document would not avoid risk to the Municipality for claims from third parties. A waiver is only a commitment that the person signing the waiver will not bring a lawsuit if he/she is injured; it does not address the risks of these activities causing injury or damage to third parties, such as other users of the park. While some social media commenters may believe that these risks are remote or do not need to be addressed, municipal administration maintains that we must diligently apply proactive risk management practices to all municipal operations in order to protect the safety and financial resources of citizens.

The Municipality has also entered into a grass cutting agreement with a local business for Lark Park. That contractor has a right to this work under the contractual agreement entered into between the Municipality and the contractor. Terms of that agreement include an obligation to repair any damage to the park, and to respond to personal injury claims or property damage claims made by third parties. The introduction of a third party performing grass cutting on Municipal property undermines this contractual relationship and can cause issues regarding the enforcement of contractual terms.

Some citizens have asked whether the position taken in relation to this use of power equipment within a park also applies to citizens cutting the grass on boulevards or in other municipally owned lands immediately adjacent to their properties. There is an important distinction to draw between this situation, and that of someone cutting a boulevard or other similar area. This league organizer had brought power equipment into the main area of the park where other users can be present, and where the municipality has an existing contractual relationship for grass cutting. This is quite different than some of the other examples raised by citizens. Each situation needs to be assessed on a case-by-case basis, considering the legal, risk and operational matters outlined in this report.

The Municipality's rules regarding the use of parks, and limiting those persons who can bring power equipment onto park properties, is consistent with other municipalities and levels of government.

For these reasons Legal Service maintains its recommendation that grass cutting not be permitted within park properties unless being performed by contractors who have the necessary skills, safety processes, insurance and related terms applicable to work of this nature.

### **Financial Implications**

Table 4 depicts the financial costs and revenues of all Chatham-Kent parks and sports fields in 2019:

**Table 4 - Park and Sports Fields Financials - 2019**

<b>Park Operating Expenses and Lifecycle Allocation</b>	<b>Revenue from User Fees</b>	<b>Net 2019 Park Expenses</b>	<b>% Expenses Recovered by User Fees</b>
\$3,253,899	<b>-\$109,272</b>	\$3,144,627	3.4%

In total, the parks and sport fields maintenance fees are subsidized 96.6% from the general tax base, with user fees accounting for only 3.4% of the actual maintenance costs incurred.

Table 5 depicts the changes in operational costs at Lark Park in response to the Flag Football League:

**Table 5 - Annual Lark Park Operational Cost Change from League Play**

<b>Service Provided</b>	<b>2018</b>	<b>2019</b>	<b>*2020</b>
12 cuts per year (B level cut)	\$3,909		
22 cuts per year (A+ level cut)		\$7,631	\$5,886
Portable washrooms		\$ 452	\$ 150
<b>Total</b>	<b>\$3,909</b>	<b>\$8,031</b>	<b>\$3,909</b>

Per Table 6, the league has been strongly supported by A.L.L. For Kids for those children whose parents and guardians may not otherwise be able to pay the registration fees.

**Table 6 – A.L.L. For Kids Subsidy Chatham Kids Flag Football Program**

	<b>2018</b>	<b>2019</b>	<b>2020</b>
Registration fees charged/child	\$60	\$80	\$195
# of Kids Subsidized	1	4	13
<b>Total Grant Money received From All for Kids</b>	<b>\$60</b>	<b>\$320</b>	<b>\$2,535</b>

Table 7 details the funds that are outstanding from the organizer for the youth and adult leagues he was operating.

**Table 7 – Estimated Flag Football League Past Due User Costs**

	2018	2019	2020
Damages Owing	N/A	\$2,000	\$0
Estimated User Funds Should have received	unknown	\$3,073	\$565
Amounts received from League Organizer	0	-\$418	-\$24
Net Annual Totals	unknown	\$4,656	\$541
<b>Grand Total Past Due (as of 2020)</b>			<b>\$5,197</b>

As noted earlier in this report, this particular organizer is the only one of 104 groups who has not complied with the Municipality's booking policies, nor paid the fees and damages owing due to the use of the park.

Prepared by:

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Reviewed by:

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Don Shropshire  
Chief Administrative Officer

Attachment(s):      Appendix A – Excerpts from Under Armour Flag Football site  
                              Appendix B - Jan 2019 - Field Damage After Adult Tournament  
                              Appendix C – Lark Park – Site Plan – Grass Cutting  
                              Appendix D - Flag Football League - Health and Safety Concerns -  
    Turf Maintenance Activity – Lark Park

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## Excerpts from Under Armour – Under the Lights – Flag Football League website

Under Armour Flag Football (Under the Lights) is one of the fastest growing youth sport league initiatives in the country. Our national youth flag football league is perfect for children from 1st-8th grade, with the emphasis on promoting a competitive, confidence building, non-contact experience for both boys & girls of all skill levels.

With a focus on safe play and community engagement, we're looking to grow the game across North America. With 250+ leagues, more than 100,000 athletes and the support of Under Armour - we provide the tools you need to start, maintain and grow a flag football league in your community!

### Why Under the Lights Flag Football:

- Small roster sizes so everyone plays
- Registration fee includes Under Armour game shirt and shorts for each player
- Each team is provided a Under the Lights football
- Flag belts are provided and worn at each Under the Light league
- NO team sponsors are required in our Under the Lights flag league
- League Commissioner always on-site to assist in Game Day operations and Customer Service
- Certified Officials enforcing the rules of the Under the Lights flag games
- Safety is a focus for Under the Lights flag leagues by mandating players to wear mouthguards and pocketless shorts for games
- Access to Under Armour apparel is provided to our parents through discount shopping
- Community fun with Food and Music present at our games.

### FAQs

#### **Is there an upfront cost to become a league operator?**

- There is no upfront financial investment required to start a flag football league with Under Armour Flag Football.

#### **What are the Operators responsible for?**

- The operator will be responsible for the following action items:
  - Game management of the league
    - Rostering
    - Uniform ordering
    - Scheduling
    - Customer Service
  - Leasing the fields
  - Organizing the Official and compensation

- Marketing and promoting the flag league
- Insurance for the league
- Scholarship players if needed

**How much money can I make as a League Operator?**

- League operators net roughly \$40 per athlete based on our average registration fee of \$160 per season and our typical leagues average 230 athletes per season.
- Our larger leagues welcome more than 1,000 athletes each season.
- Using these numbers, there is potential to earn between 20k-100k per year and that does not include your ability to make ancillary money on vendor relationships and local sponsors.

**What is included in a \$60 Tournament Flag Kit?**

- Every player will receive a custom UA game jersey
- Every player will receive a custom UA game short
- Every team will receive a Under the Lights football
- Flag belts will be provided to the league
- Head Coach trophy and Champion player medals provided
- Sports Engine by NBC Sports website management
- Launchtrack registration management
- Background Check system
- Champion teams qualify for National Championship Tournaments
- Champion teams will qualify for National Rankings
- Affiliation with the Under Armour brand
- Access to custom marketing materials to promote your league
- uaflag.com email address
- UA Flag canopy and gameday marketing items provided
- Access to shop for Under Armour apparel at discounted prices

**What is included in a \$25 Recreational Flag Kit?**

- Every player will receive a custom UA game jersey
- Flag belts will be provided to the league
- Sports Engine by NBC Sports website management
- Launchtrack registration management
- Background Check system
- Affiliation with the Under Armour brand
- Access to custom marketing materials to promote your league

**How much money does it cost to become a League Director?**

- Zero.

**What expenses is the League Director responsible for?**

- Insurance, field rental, official and marketing.

**Is the registration fee determined or set by the League Director?**

- Yes

**Is there any support provided in marketing such as social media or hard copy items?**

- Yes

## Jan 2019 - Field Damage After Adult Tournament Non Compliant – No Insurance, No Permit, No Payment

*Figure 1 - Lark Park Prior to January adult Tournament*



*Figure 2 - Lark Park during non-compliant tournament*

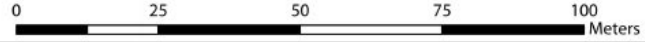






Chatham-Kent Infrastructure & Engineering Services  
**Lark Park Grass Cutting**  
 Legend

- Field A - 94' x 246'
  - Field B - 99' x 160'
  - Field C - 99' x 160'
  - Municipal Park
  - Parcel Fabric
- Field B & C added to meet COVID-19 requirements



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**Flag Football League - Health and Safety Concerns - Turf Maintenance Activity – Lark Park**

*Figure 1 - Grass being cut with no safety guards in place*



*Figure 2 - Members of the public in close proximity and thus at risk of potential injury*



Passing lawnmower

**Excerpts from Chatham-Kent Grass Cutting Contract Document****Contract General Provisions:****9. Health and Safety**

- i. If our inspectors observe possible infractions, they will undertake to notify the Bidder of his responsibilities for the infractions so noted, keep records of them, and if corrective actions are not immediately taken, notify the Ministry of Labour. In situations where the Bidder has made no effort to rectify an unsafe situation, as identified by municipal staff, the Corporation has instructed its staff to order the Bidder to immediately cease work until such time as the unsafe situation has been rectified. The Bidder acknowledges that non-adherence to the OHSA and lack of a policy may disqualify the Tender.
- ii. As a further measure of the Corporation's commitment to safety, if our inspectors observe possible infractions, they will notify the Bidder of his responsibilities for the infractions so noted, keep records of them and if corrective actions are not immediately taken, the Corporation has instructed its staff to order the Bidder to immediately cease work until such time as the unsafe situation has been rectified. Accordingly, financial loss or damages of any kind whatsoever to the Contractor or sub-contractors, shall be the sole responsibility of the Contractor. By the Bidder submitting this Tender, it is expressly agreed that the Corporation shall not be held liable for any such loss or damage as a result of the Corporation ordering a work on the project to halt.
- iii. The Corporation is firmly committed to corporate health and safety. The Bidder shall have corporate health and safety policies and procedures as required in the OHSA and *Regulations for Construction Projects*, R.S.O. 1980, as amended, and shall produce same to the Corporation, upon request.
- iv. The Contractor shall:
  - a) Ensure that all work be undertaken in strict accordance with all current editions of all health and safety legislated requirements including, but not limited to:
    - the OHSA and regulations;
    - the *Environmental Protection Act*;
    - the *Transportation of Dangerous Goods Act*;
    - all applicable acts, regulations, codes, standards et cetera, both general and specific to any given project.
  - b) Complete a notice of project, where required, and supply a copy to the Corporation.
  - c) Have written health and safety procedures and be responsible for the health and safety of all of their employees. Before commencing work, the Contractor shall name one supervisor and an alternate with accountability for the health and safety of their employees while being present in the field during construction activities and provide those person's names to the Corporation.
  - d) Ensure that the appropriate instruction and training has been provided to all of their employees in accordance with all applicable acts, regulations, codes and

standards and produce such records of training, upon request.

- e) Include health and safety instructions and best management practices within their management system to reach and continually maintain a consistent high level of health and safety.
  - f) Ensure that employees are aware of all worksite hazards and hazardous substances that may be in use at the worksite and that all employees wear all appropriate personal protective equipment.
  - g) Provide and maintain necessary personal protective equipment, first aid items etc. as called for under the various acts and regulations.
- v. The Bidder having a policy(ies) and a firm commitment to health and safety will be a requirement of this Contract.

Contract – Special Provisions – General

**8. HEALTH AND SAFETY**

- i) The Corporation is firmly committed to Corporate Health and Safety.

The Contractor shall have Corporate Health and Safety Policies and Procedures as required in the Occupational Health and Safety Act and Regulations for Construction Projects, R.S.O. 1980.

- ii) To provide a safe and healthy work environment, the Bidder shall:
- Work in accordance with the Provincial "Occupational Health and Safety Act and Regulations for Construction Projects" (R.S.O. 1980 Chapter 321 as amended, Ontario Regulation 213/91, Ontario Regulation 714/82).
  - Work in accordance with the Contractor's Corporate Health & Safety Policies.
  - Abide by any other directives or policies set forth by the Ontario Ministry of Labour and the Ontario Workers' Compensation Board.

Note: In cases of discrepancy in document content, the Policy or Procedure providing the highest level of Health and Safety shall govern.

Information to Bidders:

**17. Insurance**

The Bidder shall procure and maintain Liability Insurance in accordance with Section GC6.03 of the General Conditions and shall file with the Corporation, together with the Agreement executed by him; the required information on Insurance Bureau of Canada

Form IBC 2100 dated 03-2005, or such substantially similar form as may be acceptable to the Corporation, in its sole discretion.

**GC6.03 of the General Conditions is amended as follows:**

The Liability Insurance shall:

- a) have a limit of liability of not less than Two Million Dollars (\$2,000,000) inclusive for any occurrence;
- b) be Commercial General Liability Insurance covering all operations and liability assumed under the Contract with the Corporation. The Commercial General Liability Insurance Policy shall be written on an occurrence form and include:
  - Premises and Operations
  - Products and Completed Operations
  - Blanket Contractual
  - Broad Form Property Damage
  - Contingent Employer's Liability
  - Cross Liability
  - Severability of Interests
  - Owners and Contractors Protective
  - Personal Injury
  - Employer's Liability
  - Employees as additional insureds
  - Non-owned Automobile including OEF #96
  - Hostile Fire;
- c) if the work is to include shoring, underpinning, etc. the policy must not contain any exclusions with respect to the intended work. A copy of the endorsement or a letter from the insurer verifying coverage is to accompany the Certificate of Insurance;
- d) include insurance against liability for bodily injury and property damage caused by vehicles owned by the Contractor and used in conjunction with the work either within or outside the contract limits, and shall have a limit of liability of not less than \$2,000,000 inclusive for any one occurrence;
- e) include an Installation Floater in sufficient amount to provide full coverage to the equipment being installed on the Corporation's property, including coverage for the goods while in transit, in storage or on site, and shall be further endorsed to provide coverage while being tested; (remove where not installing equipment on our sites –such as HVAC units, computer equipment, etc.)
- f) include a Contractor's Equipment Floater in sufficient amount to provide full coverage for the Contractor's Equipment that may be located on the Corporation's lands, from time to time, throughout the duration of this Contract;
- g) be endorsed to provide that the policy or policies will not be altered, cancelled or allowed to lapse without thirty (30) days prior written notice to the Corporation. This notice shall include the Contract Number from this Tender and be filed with the Municipality of Chatham-Kent, Legal Services, 315 King Street, PO Box 640, Chatham, ON., N7M 5K8, Fax: 519-436-3250;

- h) be endorsed to include the Corporation of the Municipality of Chatham-Kent as additional insured.

**18. Workplace Safety & Insurance Board**

Certificates of good standing from the Workplace Safety and Insurance Board will be required at the time of submitting the Tender.