



# THE CORPORATION OF THE CITY OF WATERLOO

## BY-LAW NO. 2014 – 077

### BY-LAW TO PROVIDE REGULATION FOR MUNICIPAL PARKS AND TO PROVIDE A PROCESS FOR THE AUTHORIZATION OF PARTICULAR USES WITHIN MUNICIPAL PARKS.

**WHEREAS** Paragraph 11(3)5 of the *Municipal Act 2001*, S.O. 2001, c. 25 (the "*Municipal Act*") authorizes a municipality to pass by-laws relating to culture, parks, recreation and heritage;

**AND WHEREAS** Subsection 128(1) of the *Municipal Act* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

**AND WHEREAS** Section 429 of the *Municipal Act* authorizes a municipality to establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act*;

### THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:

#### 1. Definitions

1.1. For the purposes of this By-law, the following terms shall have the corresponding meaning:

"Authorized" is an event or state of usage for which prior approval was granted through one or more of the following:

- a) a Permit;
- b) a park access permit issued by the Director;
- c) an authorization in accordance with the City's Encroachment Policy;
- d) a facility rental agreement;

- e) a parks agreement; or,
- f) a letter of authorization from a member of the City's Administration with appropriate approval authority.

"Barbeque" means a manufactured device or structure with a grill that is designed for the cooking of food outdoors.

"By-law" means this By-law, as amended from time to time. The term includes its recitals and schedules, which are integral parts of it, unless otherwise stated.

"Contaminants" means any "contaminants" as that term is defined for the purposes of the *Environmental Protection Act*, R.S.O. 1990, c. E.19., as amended.

"City" means The Corporation of the City of Waterloo.

"Contained Fire" means a fire that is enclosed in a chiminea, fire pit, barbeque pit or similar vessel.

"Council" means the elected municipal council for the City.

"Deposit" means to add, apply, deposit of, discharge, dispose of, dump, emit, leak, place or put.

"Director" means the Director of Environment & Parks Services for the City, or his or her designate.

"Fees and Charges By-law" means the City's by-law with that title, as amended or replaced from time to time. At the time of passage of this By-law, the Fees and Charges By-law was the City's By-law No. 2012-061.

"Interfere" means to alter, block, close, damage, hinder, obstruct or occupy.

"Motor Assisted Bicycle" means a "motor assisted bicycle" as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8.

"Mobility Assisted Device" means a device that is designed for use, and used by, a person whose mobility is limited by one or more conditions or functional impairments. The term includes a motorized wheelchair.

"Motor Vehicle" means a vehicle that is capable of being propelled or driven by an engine or a motor, including, but not limited to: an automobile, a

motorcycle, a Motor Assisted Bicycle, a recreational vehicle and any other vehicle that can be propelled or driven by power other than muscular power, but does not include a Mobility Assisted Device.

"Municipal Law Enforcement Officer" means an individual appointed by the City pursuant to section 15 of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended.

"Object" means a chattel, a building or a structure.

"Open Air Fire" means a fire that burns outside of a building, including a contained fire.

"Order" means a work order issued in accordance with Section 9 of this By-law or an order to discontinue activity issued in accordance with Section 10 of this By-law.

"Park" means municipal Property that is under the control or management of the City and which is set aside and used for:

1. active recreational purposes (including: soccer pitches, baseball diamonds and other organized sports fields);
2. passive recreational purposes (including: open space lands and recreational trails);
3. conservation purposes (including woodlots, hazard lands and naturalized open areas);
4. buffer land (including open areas established between competing land uses);
5. drainage (including wetlands and stormwater management areas); or
6. utility corridors;

but shall not include the City's golf courses or cemeteries.

"Park Property" means the Property that is within and forming part of a Park.

"Park Road" means a road, lane, ramp or other means of vehicular access to, movement in, or egress from any portion of Park Property that exists on the Park Property. The term includes parking lots.

"Permit" means an authorization document issued under section 6 of this By-law.

“Person” means an individual, firm, corporation, partnership, association or organization, including a charitable organization.

“Pesticide” means any substance manufactured, sold or used as a method of directly or indirectly controlling, preventing, destroying, attracting or repelling any unwanted plant or organism.

“Police Officer” means a police officer, as defined by the *Police Services Act* R.S.O. 1990, c. P.15, as amended.

“Property” means land and all buildings, structures and fixtures located on the land.

“Provincial Offences Act” means the *Provincial Offences Act*, R.S.O. 1990, c. P. 33. as amended.

“Solid Fuel” means any combustible material that is in the form of a solid, which is used for fuel, including: paper, wood or coal.

“Vegetation” means any type of plant life within a Park.

“Wildlife” means non-domesticated or feral animals. The term includes the organisms at any and all stages of their life cycles, including but not limited to: eggs, larvae and tadpoles.

## **2. Scope and Administration**

- 2.1. This By-law applies to all Parks within the City, but does not apply to the interior spaces of any buildings in the Parks.
- 2.2. The Director shall be responsible for the administration of this By-law.

## **3. Hours and Closure of Parks**

- 3.1. No Person shall enter a Park or remain in a Park between the hours of eleven o'clock in the evening (11:00 p.m.) of any one day, and six o'clock in the morning (6:00 a.m.) of the following day. This prohibition does not apply to the Park areas designated in Schedule “A”.
- 3.2. The Director may close a Park at any time. Park closure will be indicated through appropriate signage or barricades at the entrance of the Park. Where a Park is closed under this section, no Person shall enter the Park.

#### **4. Restrictions and Prohibitions**

##### **4.1. No Person shall:**

- 1) disobey instructions provided on a sign in a Park;
- 2) encroach upon or take possession of any Park Property by any means whatsoever, including but not limited to the construction, installation, placement or maintenance of any Object on Park Property;
- 3) disturb, hinder or obstruct the operation of an Authorized event in a Park;
- 4) camp, lodge or reside in a Park;
- 5) Deposit, or permit the depositing of, any Contaminants or Pesticides into a Park;
- 6) Deposit, or permit the depositing of, any garbage, litter or like refuse, except only into receptacles provided for such purposes;
- 7) Interfere with any Park Property;
- 8) engage in riotous, boisterous, violent, threatening or illegal conduct or use profane or abusive language;
- 9) engage in conduct that endangers the health and safety of himself, herself or others;
- 10) enter into a Park with machinery, equipment or other vehicles unless Authorized;
- 11) climb on any buildings or structures in a Park with the exception of playground equipment which is designed for climbing upon;
- 12) Deposit, or permit the depositing of, water in or onto a Park. This prohibition includes, but not limited to, allowing water drainage from a roof drainage system, a pool or a hot tub. The prohibition includes water in liquid, vapour and solid forms;
- 13) remove water from any waterworks system in a Park;
- 14) Deposit, or permit the depositing of, snow in or onto a Park;
- 15) lay any pipe or conduit within a Park, whether or not it connects to any pipe or main belonging to the waterworks contained within any Park;

- 16) undertake any scientific investigation or scientific study in a Park without prior written approval from the Director of Environment and Parks or his designate;
- 17) operate a Motor Vehicle or use the motor on a Motor Assisted Bicycle in a Park, except on a Park Road;
- 18) burn Solid Fuel in a Park;
- 19) light or maintain an Open Air Fire in a Park;
- 20) use a Barbeque, except in a safe manner;
- 21) bring a horse into a Park;
- 22) undertake any of the following recreational activities in a Park:
  - a) the operation of powered model aircraft, watercraft or vehicles;
  - b) the practice of archery;
  - c) the discharge of a firearm or cross bow or bow;
  - d) hunting;
  - e) fishing;
  - f) the striking of a golf ball;
  - g) the tethering, launching or landing of any hang glider, ultra-light aircraft, parachute, hot-air balloon, or similar conveyance;
  - h) skateboarding, except as permitted in Schedule "B";
  - i) BMX biking, except as permitted in Schedule "B"; or
  - j) in-line skating, except as permitted in Schedule "B";
- 23) Interfere with Wildlife in a Park;
- 24) Interfere with the nest, den or spawning grounds of any Wildlife in a Park;
- 25) Interfere with any Vegetation within a Park;
- 26) allow a domestic animal to Interfere with Wildlife in a Park;

- 27) allow a domestic animal to Interfere with the nest, den or spawning grounds of any Wildlife in a Park; or,
- 28) allow a domestic animal to Interfere with Vegetation in a Park.

## **5. Exemptions**

5.1. This By-law does not apply to:

- a) employees or agents of Emergency Medical Services, Waterloo Fire Rescue Services, and Waterloo Regional Police Services, acting within the scope of their duties to provide emergency services or enforcement activities within a Park; or
- b) employees or agents of the City acting within the scope of their duties.

## **6. Permit**

- 6.1. Any Person may apply to the Director for a Permit authorizing him or her to undertake an activity or event which would otherwise be prohibited by this By-law. Where a Permit is issued in accordance with this By-law, the event or activity described in the Permit is considered to be Authorized.
- 6.2. An applicant for a Permit must pay the applicable fee pursuant to the Fees and Charges By-Law.
- 6.3. After considering the merits of a Permit application, the Director may:
  - a) grant the Permit as requested;
  - b) grant the Permit subject to certain terms or conditions as deemed necessary or advisable by the Director; or
  - c) deny the Permit.
- 6.4. A Permit may be immediately revoked by the Director if an applicant, or any Person acting on the applicant's behalf:
  - a) provided false or misleading information on the Permit application submitted to the City;
  - b) violates this By-law or any other applicable laws, by-laws, standards or policies; or,
  - c) violates any of the terms or conditions of the Permit.

## **7. Signage**

- 7.1. Reference to By-law No 03-059 on any signage in a park shall be a reference to this By-law.

## **8. Enforcement**

- 8.1. A Police Officer or a Municipal Law Enforcement Officer may enter onto any land at any time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- a) this By-law;
  - b) an Order made under this By-law;
  - c) a term or condition of a Permit; or,
  - d) an order made under section 431 of the *Municipal Act*.
- 8.2. It is an offence for a Person to interfere with a Police Officer or Municipal Law Enforcement Officer who is lawfully conducting an investigation into an allegation that the provisions of this By-law are being contravened.

## **9. Work Order**

- 9.1. Where the Director or a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Municipal Law Enforcement Officer may make an Order requiring the Person who contravened this By-law, or who caused or permitted the contravention, to do work to correct the contravention.
- 9.2. An Order under this section shall set out:
- a) the reasonable particulars of the contravention adequate to identify the contravention and the location of the Property on which the contravention occurred or is occurring; and,
  - b) the work to be done and the date by which the work must be done.
- 9.3. An Order under this section may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.
- 9.4. Any Person who fails to comply with an Order issued under this section of the By-law is guilty of an offence and, upon conviction, is liable to the penalties prescribed in section 12.



## **10. Order to Discontinue Activity**

- 10.1. Where the Director or a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Director or the Municipal Law Enforcement Officer may make an Order requiring the Person who contravened this By-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to discontinue the contravening activity.
- 10.2. An Order issued under this section shall set out:
- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the Property on which the contravention occurred or is occurring; and,
  - b) the date by which there must be compliance with the Order.
- 10.3. Any Person who fails to comply with an Order issued under this section is guilty of an offence and, upon conviction, is liable to the penalties prescribed in section 12.

## **11. Remedial Action**

- 11.1. If a Person is ordered to do work under Section 9 of this By-law and that Person defaults in complying with that Order, the City may take steps to remediate the contravention, and any damages caused by the contravention, at expense of the Person directed or required to do the work by the Order.
- 11.2. The City may recover the costs of doing any remedial work from the Person directed or required to do the work by either action or by adding the costs to the tax roll of that Person and collecting them in the same manner as municipal property taxes.
- 11.3. The costs outlined in this section shall include interest calculated at a rate of fifteen (15) per cent per annum, calculated for the period commencing on the first day the City incurs the costs and ending on the day the costs, including the interest, are either paid in full or added to the tax roll.

## **12. Penalties and Offence**

- 12.1. Every Person who contravenes any of the provisions of this By-law is guilty of an offence pursuant to section 425 of the *Municipal Act* and all contraventions of this By-law are designated as continuing offences.

- 12.2. Every Person, excluding a corporation, who is convicted of an offence, is liable to a minimum fine of Two Hundred and Fifty Dollars (\$250) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for the first offence and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.
- 12.3. Every corporation which is convicted of an offence is liable to a minimum fine of Five Hundred Dollars (\$500) and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.
- 12.4. Notwithstanding sections 12.2 and 12.3 above, every Person convicted of a continuing offence is liable for each day or part of a day that the offence continues, to a fine not exceeding one thousand (\$1,000.00) dollars for each day that the offence continued.
- 12.5. Every Person who contravenes any provision of this By-law, upon conviction, may be liable to a set fine as provided for in *Provincial Offences Act*, R.S.O. 1990, c. P.33.

### **13. Severability**

- 13.1. If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.

### **14. Fees and Charges**

- 14.1 Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this By-law through the Fees and Charges By-law.

### **15. Effective Date and Repeal**

- 15.1. This By-law will come into force and effect, and By-law 03-059 shall be repealed, upon the passing of this By-law by Council.
- 15.2. Where the provisions of any other by-laws are inconsistent with the provisions of this By-law, the provisions of this By-law shall prevail.
- 15.3. Notwithstanding sections 15.1 and 15.2 above, any by-law, or provisions thereof, that are repealed or replaced by this By-law are deemed to continue in full force and effect with respect to any enforcement under Part I of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, as well as their set fine schedule as approved by the Chief Justice, until such time as the Chief

Justice approves the set fine schedule for this By-law. Where the provisions of those by-laws are inconsistent with the provisions of this By-law, the provisions of this By-law shall prevail.

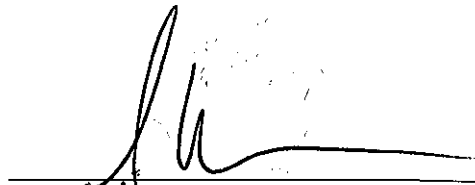
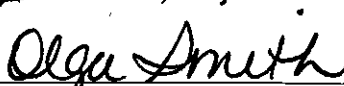
15.4. Notwithstanding sections 15.1 and 15.2, the provisions of any By-law that are repealed or replaced by this By-law are deemed to continue in force and effect with respect to any and all permits, orders, appeals or prosecutions issued, filed or commenced under that by-law and any assessment, rate, charge, tax, fee, liability or penalty outstanding may be collected as if such by-law, or provision thereof, had not been repealed or replaced.

**16. Short Title**

16.1. This By-law may be cited as "the Parks By-law".

Enacted this 14 day of July, 2014.

Approval	Date	Print Name	Initials
Community Services	July 8/14	Allan Seabrooke	AS
Legal	July 8, 2014	Stephen Achteril	SA
Finance	July 8/14	N/A	AS

  
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 S. Witmer, Acting ~~Mayor~~ Halleran, Mayor  
  
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 O. Smith, City Clerk

**SCHEDULE "A"**

PARK/FACILITY	ACTIVITY	PERMITTED TIMES
Waterloo Park – Laurel Trail	Entry of park area	24 hours

**SCHEDULE "B"**

PARK/FACILITY	ACTIVITY	PERMITTED TIMES
Waterloo Park - Skatepark	Skateboarding Inline skating BMX biking	Dawn to Dusk