

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 08-66

A BY-LAW TO REGULATE THE USE OF MUNICIPALLY OWNED PARKS

WHEREAS Sections 9 to 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes municipalities to pass By-laws regulating and prohibiting with respect to, among other things, parks;

AND WHEREAS the Corporation of the Town of Lincoln deems it necessary and expedient to establish certain rules and regulations for the use of parks within the municipality;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN ENACTS AS FOLLOWS:

PART I: DEFINITIONS

1. In this By-law:
 - (a) "Bicycle" means any cycle propelled or driven by muscular power, regardless of the number of wheels it has;
 - (b) "Bicycle Trail" means a pathway, whether paved or unpaved, that is designed and posted to permit the use of bicycles, and does not include a roadway;
 - (c) "Commercial Vehicle" means a vehicle where goods and/or services are sold or offered for sale, and includes a refreshment vehicle and ice cream truck;
 - (d) "Council" means the Council of the Corporation of the Town of Lincoln.
 - (e) "Designated Area" means an area of a park designated by the Director for a specific purpose or use;
 - (f) "Director" means the Director of Community Services or his designate;
 - (g) "Enforcement Officer" means a Municipal By-law Enforcement Officer, a police officer or a person appointed or employed by the Town for the enforcement of by-laws;
 - (h) "Fence" means any physical barrier erected for the purpose of demarcation, including a railing, wall, hedge, line of posts, shrubs, trees, wire, gate, boards, pickets or other similar substances;
 - (i) "Fireworks" means a pyrotechnic device or a substance that is made, manufactured or used to produce an explosion or detonation, including fireworks composition and manufactured fireworks as defined in the Explosives Act, R.S.C. 1985, c. E-17, as amended.
 - (j) "Motorized Recreational Vehicle" means a vehicle that is propelled or driven by an internal combustion engine and that is used for recreational purposes, including but not limited to a snowmobile, go-cart, trail bike, mini bike, motorized scooters, or all terrain vehicle;
 - (k) "Multi-Purpose Pad" means an asphalt or concrete surface area for non-motorized activities, such as – without limiting the generality thereof – basketball, skateboarding, roller-blade and street hockey;
 - (l) "Multi-Use Recreational Trail" means a multi-purpose path whether paved or unpaved for use by pedestrians and non-motorized conveyances, except motorized wheelchairs;
 - (m) "Official Sign" means any sign, notice, or other device placed or erected in or upon a park by the Town;
 - (n) "Organized Sport or Activity" means a sport, game or activity that has been pre-planned and that involves more than one player;
 - (o) "Park" means the land, including any body of water, buildings or structures located therein, that is owned by or made available to the Town by lease, agreement, or

otherwise, and that is established, dedicated, set apart or made available for use as public open space; but does not include a marina, golf course, or cemetery;

- (p) "Parking Area" means a part of a park that is designated for the parking of motor vehicles;
- (q) "Parks Staff" means any permanent full time employee in the Community Services Department or Public Works Department of the Town.
- (r) "Permit" means a written authorization issued by the Director under this By-law including a document known as a "Special Events Permit" issued for the use of park facilities.
- (s) "Person" means an individual, partnership, association, firm or corporation, and in the case of a minor, the person having custody of the minor;
- (t) "Roadway" means a road that has been improved and designed for vehicular traffic use but does not include a Bicycle Trail;
- (u) "Town" means The Corporation of the Town of Lincoln.
- (v) "Tree" means a tree, shrub or any form of vegetation;
- (w) "Vehicle" means an automobile, motorcycle, motor assisted bicycle, trailer, traction engine, farm tractor, road-building machine, bicycle or any other vehicle propelled or driven by any kind of power, but does not include a wheelchair or a motorized wheelchair;
- (x) "Watercraft" means any device for conveyance in or on water, including but is not limited to boats, row boats, sailboards, canoes, kayaks, and dinghies.

PART II: ADMINISTRATION

2. The Director shall be responsible for the administration of this By-law and the Director may:
- (a) designate Designated Areas within a park;
 - (b) designate areas within a Park to be excluded from public access;
 - (c) make regulations and impose conditions upon which a Designated Area shall be used;
 - (d) make regulations and impose conditions for the orderly use of a Park and any Park facilities;
 - (e) issue Permits for specific uses of a Park or parts of a Park;
 - (f) impose conditions as a requirement of obtaining, continuing to hold or renewing a Permit, in addition to the requirements of this By-law, and such conditions may vary depending upon the type of Permit;
 - (g) revoke a Permit as a result of a breach of a condition of the Permit or a provision of this By-law.

PART III: EXEMPTIONS

3. This By-law shall not apply to:
- (a) employees or agents of ambulance, fire and police services acting in the scope of their duties to provide emergency services or enforcement activities within a Park;
 - (b) the Vehicles and other properties of ambulance, fire and police services used for the purpose of providing emergency services or engaging in enforcement activities within a Park;
 - (c) the Town, its Vehicles, and its employees or agents acting within the scope of their duties as employees or agents of the Town.

4. The Director may, in writing, exempt Persons from all or part of the requirements and prohibitions of this By-law from time to time if such exemption is required for the beneficial administration of a Park.

PART IV: PERMITS

5. An applicant for a Permit under this By-law shall:
- (a) complete an application for the Permit on the forms as provided by the Director.
 - (b) submit a completed application together with an application processing fee may be established by Council from time to time; and
 - (c) provide any documentation and insurance certificates as required by the Director as prerequisites and requirements for the issuance of the Permit.
6. (a) A Permit holder shall comply or ensure the compliance of all the provisions and conditions of the Permit and this By-law and, in addition to the application processing fee, shall pay all applicable fees and charges associated with a Permit as may be prescribed by Council from time to time.
- (b) In addition to any other enforcement proceedings against the Permit holder as permitted by law, failure to comply with any provision or condition of a Permit or this By-law may result in the revocation of the Permit by the Director.
- (c) The Permit holder of a revoked Permit shall immediately cease or ensure the immediate cessation of all the activities for which a Permit has been issued upon revocation of the Permit under subsection (b).
7. The issuance of a Permit under this By-law does not relieve any person from the necessity of acquiring any other licence or permit required for carrying on an activity in a park under any other applicable laws, by-laws, regulations, and requirements of any governmental authority.
8. A Permit is the property of the Town and is not transferable.

PART V: HOURS

9. All Parks shall close during the period commencing thirty (30) minutes after sunset of any day and ending thirty (30) minutes before sunrise of the following day, unless otherwise provided for by this By-law.
10. (a) Notwithstanding Section 9, the Director may close a Park or a portion of a Park for longer or shorter period of time should he deem it necessary for the beneficial administration of the Park or to carry out the functions as authorized by a Permit for use of a Park or part of a Park.
- (b) The Director shall not close a Park or a portion of a Park for a different period of time as provided in Section 9 for more than 6 consecutive months without Council approval.

PART VI: GENERAL PROHIBITIONS

PARK ENTRY

11. No Person shall:
- (a) enter or remain in a Park after it has closed, except if that person is a participant or spectator of any event or function authorized by Council or Permitted by this By-law wherein such participant or spectator shall promptly leave the Park upon the completion of such event or function;
 - (b) enter or remain in an area of a Park where admission is prohibited or restricted without a Permit; or
 - (c) enter or access through a Park for the purpose of conducting any work on private property without a Permit.

GENERAL CONDUCT

12. While in a Park, no Person shall:
- (a) engage in riotous, boisterous, violent, threatening, indecent, or illegal activity;
 - (b) engage in any activity that creates a public nuisance including but not limited to being in an intoxicated condition or by loitering, spying, frightening, annoying or otherwise interfering with the use and enjoyment of the park by any other Person;
 - (c) engage in any activity that may cause injury or damage to any person, animal, Tree or property;
 - (d) carry or discharge any firearm as defined by Town of Lincoln By-law No. 08-39, as amended, or any successor thereto;
 - (e) disobey an Official Sign;
 - (f) carry or discharge any Fireworks as defined by Town of Lincoln By-law No. 07-77, as amended, or any successor thereto without a Permit;
 - (g) release any balloons without a Permit;
 - (h) operate any powered models of aircraft, watercraft or vehicles other than in a Designated Area;
 - (i) use a skateboard other than in a Designated Area;
 - (j) use roller-blades anywhere in a park other than in a Designated Areas, a Multi-Use Recreational Trail or a Multi-Purpose Pad;
 - (k) play or practice golf or strike a golf ball;
 - (l) erect, place, install, or cause the erection, placing or installation of any permanent or temporary structure, tent or booth without a Permit;
 - (m) camp, erect or place a tent for shelter or temporary abode of any kind;
 - (n) operate any motor vehicle or any other form of motorized conveyance on a Multi-Purpose Pad or Multi-Use Recreational Trail or Bicycle Trail;
 - (o) skate, walk, or engage in any activity or access through snow or ice covered ponds, lakes, streams, rivers, or any other snow or ice covered body of water;
 - (p) ski, toboggan, snowboard, skibob, or sled other than in a Designated Area;
 - (q) arrange or engage in a team game or Organized Sport or Activity, except in those areas set aside by the Town for such purposes;
 - (r) interfere with an authorized team game or Organized Sport or Activity;
 - (s) consume, possess or use any alcoholic beverage without a Permit.
13. No person shall dump, deposit, drain, or otherwise dispose of:
- (a) any waste anywhere in a Park, except waste generated from the use of the Park which shall be placed wholly into receptacles provided in the Park for such purposes;
 - (b) any construction materials, debris, fill, snow or soil, or construction materials in a Park without a permit;
 - (c) any material into any pool, pond, lake, stream, fountain, watercourse, or any other body of water in a Park; or
 - (d) any material into any soils in a Park.
14. No person shall bury, scatter, or otherwise dispose of any cremated remains in a Park.

DAMAGE TO PROPERTY

15. While in a Park, no Person shall:
- (a) damage, deface, destroy, injure, plant, prune or remove any plant, shrub, flower, flowerbed, bush, sod, grass, or any other vegetation unless otherwise authorized in writing by the Director.
 - (b) climb, damage, deface, destroy, injure, plant, prune or remove any Tree;
 - (c) climb, damage, deface, destroy or remove any bench, fence, fixture, fountain, monument, seat, sign or table;
 - (d) climb any building, structure or equipment, unless the structure or equipment is designed for climbing;
 - (e) damage or deface any building, structure, or equipment;
 - (f) damage or disturb in any manner any the grounds of the Park, including any grounds prepared for planting; or
 - (g) remove any soil, sand, gravel, stone, rocks, wood, or any other material located in the Park.

PART VII: SPECIFIC PARK USES

FIRES AND BARBEQUES

16. While in a Park, no Person shall:
- (a) light, build or stoke a fire or bonfire without a Permit;
 - (b) use a portable barbecue in an area other than a Designated Area or without a Permit; or
 - (c) violate any provisions of the Open Air Burning By-law No. 07-78, as amended.

ORGANIZED GATHERINGS AND PICNICS

17. While in a Park, no person shall:
- (a) hold a picnic, organized gathering or event for more than fifty persons without a Permit;
 - (b) interfere with a picnic, organized gathering or event authorized by Permit; or
 - (c) engage in cooking except in Designated Areas or as otherwise provided for in this By-law.
18. Notwithstanding Section 17, if the organized gathering or event is an Organized Sport Activity, no person shall arrange or engage in such a sport activity or event except in a Designated Area and with a valid Permit, where one is required.

AMPLIFIERS AND SPEAKERS

19. While in a Park, no Person shall:
- (a) without a Permit, operate or use any sound amplifying equipment, including but not limited to a radio, tape player, compact disc player, public address system and car radio in a manner that, in the opinion of Park Staff or an Enforcement Officer, disturbs or interferes with other Persons in or near the Park; or
 - (b) operate or use any sound amplifying equipment contrary to the provisions of the Noise Control By-law No. 08-48, as amended.

WATERCRAFT

20. No Person shall:
- (a) launch a Watercraft anywhere in a Park except from a Designated Area; or

(b) moor or dock a Watercraft anywhere in a Park except in a Designated Area.

21. No person shall fuel or refuel a Watercraft:

(a) from any Vehicle or other equipment on land, including piers or docks, except in a Designated Area; or

(b) from another Watercraft.

BATHING AND SWIMMING

22. While in a Park, no Person shall:

(a) enter any public swimming pool except at times designated for swimming and provided that there is lifeguard present and on duty;

(b) disobey posted Official Signs or the instructions of any lifeguard, Parks Staff or Enforcement Officer in or adjacent to any swimming pool;

(c) swim, bathe or wade in any fountain, pond, lake, stream, or any body of water except in Designated Areas;

(d) take any inflatable device, swimming assistive device, snorkel, or other underwater breathing device into any body of water unless otherwise permitted; or

(e) misuse or damage the Town's life saving equipment.

WASHROOMS AND CHANGE-ROOMS

23. While in a Park, no Person shall:

(a) enter into any washroom, bathhouse, or change-room designated or set apart for the opposite sex; or

(b) activate, operate, turn on or use any photographic device, including any camera, video equipment or cellular phone with video or photographic functions, in a washroom, bathhouse, or change-room.

COMMERCIAL ACTIVITIES

24. While in a Park, no Person shall:

(a) Unless authorized by Permit, sell, offer to sell, or display for sale:

(i) any flowers, food, including fruits and vegetables, drinks, or refreshments;

(ii) any goods, wares, merchandise, or articles, including promotional materials, souvenirs and novelties; or

(iii) any art, skill, service or work.

(b) Unless authorized by Permit, practice, carry on, conduct, or solicit for any trade, occupation, business, profession, or charity.

25. While in a Park, no Person shall:

(a) film, photograph or videotape for remuneration without a Permit; or

(b) make any television broadcast without a Permit, except if the broadcast is made by the news media.

CIRCULARS AND ADVERTISEMENTS

26. While in a Park, no person shall:

(a) distribute or display any handbill, notice, or any other type of circular, bill, advertisement, or any form of promotional item or sample without a Permit; or

(b) erect, display, alter or allow the erection, display or alteration of any sign unless in compliance with By-law No. 02-24, as amended.

PART VIII: ANIMALS

DEFINITIONS

27. In this Part,
- (a) "At Large" means not being under the control of its Owner and in the case of dogs, includes when a dog is not on a lead or leash held by a Person or not otherwise physically restrained or directed in its actions;
 - (b) "Leash" means a rope, chain or other restraining device for a dog which may not exceed two (2) metres in length; and
 - (c) "Owner" means a Person who keeps, harbours, or has temporary or permanent possession of an animal, and, in the case of a minor, "Owner" includes the Person responsible for the custody of the minor.

ANIMALS IN PARKS

28. No Owner shall:
- (a) bring any animal other than a domesticated animal into a park unless authorized by a Permit;
 - (b) allow an animal to be At Large;
 - (c) allow an animal to enter any beach, pond, swimming area, garden, landscaped area, playground or sports field, or any other area posted to prohibit animals;
 - (d) allow an animal to disturb any wildlife; or
 - (e) allow an animal to engage in any activity that is prohibited under Part VI of this Bylaw.

PROTECTION OF WILDLIFE

29. While in a Park, no person shall hunt, injure, kill, attempt to kill, trap or otherwise pursue or molest any animal in any manner so as to disturb its presence in the park.

CANINE CONTROL BY-LAW

30. In the event of any conflict between this By-law and the Town of Lincoln Dog Control By-law No. 96-200, as amended, the Dog Control By-law shall take precedence.

PART IX: VEHICLES

GENERAL PROHIBITIONS

31. While in a Park, no Person shall:
- (a) Unless specifically Permitted, drive, operate, pull, or ride any Vehicle except on a roadway or in a designated Parking Area;
 - (b) Drive, operate or park:
 - (i) any heavy equipment, machinery or vehicle of whatever mode of power;
 - (ii) any truck or trailer except for the purpose of making a delivery to a point within the limits of the Park;
 - (iii) any recreational vehicle, commonly known as an "RV" which may provide living accommodations for persons; or
 - (iv) any Motorized Recreational Vehicle.
 - (c) Subsection (b) does not apply to an owner of an ice cream truck or refreshment vehicle who holds a valid Permit issued under this By-law for the purpose of operating an ice cream truck or a refreshment vehicle in a Park.
32. No Person shall use a roadway or Parking Area in a Park for:

- (a) cleaning, maintaining, repairing, servicing or washing a Vehicle;
- (b) instructing, teaching, or coaching any person in the driving or operation of a Vehicle, except for a Bicycle; or
- (c) games or sport activities, without a Permit.

33. While in a Park, no Person shall:

- (a) without a Permit, park any vehicle on any landscaped area, turf grass area or other area not designated for parking;
- (b) park any equipment, machinery, trailer or vehicle except while using the Park; or
- (c) park any equipment, machinery, trailer or vehicle after the Park has been closed.

34. No person shall park a bus in a Park except for the purpose of pick-up and drop-off, and in any event, no person shall park a bus for that purpose for more than 30 minutes.

BICYCLES

35. Notwithstanding Sections 31 and 33, a person may ride a Bicycle on a Bicycle Trail within a Park and a Person may park a Bicycle on turf grass areas of a Park.

COMMERCIAL VEHICLES

36. In addition to Section 31, no Person shall drive, operate, pull, ride, or park any Commercial Vehicle in a Park unless the Person:

- (a) has a valid Permit issued by the Director to conduct commercial activities using the Vehicle in the Park;
- (b) satisfies all licencing requirements as provided in other applicable laws, by-laws, regulations, and requirements of any governmental authority for the operation of such Commercial Vehicle in the Town; and
- (c) complies with all the provisions in the Permit as issued by the Director.

SPEED

37. No person shall operate a Vehicle in a Park in excess of the posted speed limit.

38. All roadways in a Park shall have a maximum speed limit of 25 kilometers per hour for all Vehicles.

PART X: ENFORCEMENT

39. An Enforcement Officer or Parks Staff may order any person believed to be contravening or have contravened any provision of this By-law:

- (a) to immediately cease and desist the activity constituting or contributing to such contravention;
- (b) to immediately remove from the Park any animal or thing owned by or in the control of such Person which is involved in such contravention; or
- (c) to leave the Park immediately.

40. While in a Park, every Person shall obey every order of:

- (a) employees or agents of ambulance, fire and police services acting in the scope of their duties to provide emergency or enforcement services;
- (b) any Enforcement Officer acting in the scope of their duties to provide emergency or enforcement services; and
- (c) any Parks Staff acting in the scope of their duties.

41. Every Person who contravenes any provision of this By-law is guilty of an offence and is liable upon conviction to a fine and any other penalties imposed pursuant to the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.

PART XI: VALIDITY

42. If a court of competent jurisdiction declares any section or part of a section of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force and effect.

PART XII: INTERPRETATION

43. For the purposes of this By-law, unless the context requires otherwise:
- (a) Words imparting the singular number shall include the plural and words imparting the masculine gender shall include the feminine and vice versa.
- (c) Where a form of words or expression are prescribed in this By-law, deviations therefrom not affecting the substance or calculated to mislead do not vitiate them.

PART XIII: REPEAL

44. By-law No. 86-40, as amended, and any other By-law of the Town of Lincoln inconsistent with his By-law is hereby repealed.

PART XIV: ENACTMENT

45. Schedule "A" attached hereto and forming part of this By-law, as may be approved or modified by an Order of the Chief Judge of the Ontario Court of Justice (Provincial Division) pursuant to the provisions of the Provincial Offences Act and the rules of the Ontario Court of Justice, shall come into force and take effect upon approval or modification by the said Chief Judge.

46. This By-law shall come into force and take effect upon the date of passage

PART XV: SHORT TITLE

47. This By-law may be referred to as the "Parks By-law".

BY-LAW read a FIRST time this 22nd day of July, 2008.

BY-LAW read a SECOND time this 22nd day of July, 2008.

BY-LAW read a THIRD time and FINALLY PASSED this 22nd day of July, 2008.



 MAYOR: BILL HODGSON



 CLERK: WILLIAM J. KOLASA

THE CORPORATION OF THE TOWN OF LINCOLN

Schedule "A" to
BY-LAW NO. 08-66
BEING A BY-LAW TO REGULATE THE USE OF MUNICIPALLY-OWNED PARKS

PART I PROVINCIAL OFFENCES ACT

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	(Enter/Remain in) park after closing	11.(a)	\$75.00
2	(Enter/Remain in) prohibited area of a park	11.(b)	\$75.00
3	Engage in (riotous/boisterous/violent/ threatening/indecent/illegal) activity in a park	12.(a)	\$75.00
4	Create Public Nuisance in a park	12.(b)	\$75.00
5	Carry or discharge a firearm in a park	12.(d)	\$300.00
6	Disobey official sign in a park	12.(e)	\$75.00
7	Carry or discharge fireworks in a park	12.(f)	\$300.00
8	Use skateboard in non-designated area in a park	12.(i)	\$30.00
9	Use rollerblades in non-designated area in a park	12.(j)	\$30.00
10	Strike a golf ball in a park	12.(k)	\$75.00
11	Erect a structure without a permit in a park	12.(l)	\$75.00
12	Camp in a park	12.(m)	\$75.00
13	Interfere with organized sport or activity in a park	12.(r)	\$75.00
14	(Dump/deposit) waste in park	13.(a)	\$75.00
15	(Dump/deposit) (construction materials/ debris/fill/snow/soil in park without a permit	13.(b)	\$200.00
16	(Damage/deface/remove) vegetation in a park	15.(a)	\$75.00
17	(Climb/damage/deface/remove) (bench/fence/fixture/fountain/monument/seat/ sign/table) in a park	15.(c)	\$75.00
18	(Damage/deface) (building/structure/ equipment) in a park	15.(e)	\$75.00
19	(Light/build/stoke) a fire in a park without a permit	16.(a)	\$300.00
20	Interfere with permitted (picnic/organized gathering/event) in a park	17.(b)	\$75.00
21	Operate sound amplifying equipment in a park without a permit	19.(a)	\$75.00
22	Enter swimming pool in a park when prohibited	22.(a)	\$175.00
23	(Sell/offer to sell/display for sale) goods in a park without a permit	24.(a)	\$75.00
24	(Distribute/display) (handbill/notice/advertisements) in a park without a permit	26.(a)	\$75.00
25	Allow animal to be at large in a park	28.(b)	\$175.00
26	(Hunt/injure/kill/attempt to kill/trap/pursue/ molest) animal in a park	29	\$175.00
28	Operate vehicle not on (roadway/designated parking area) in a park	31.(a)	\$75.00
29	(Operate/park) prohibited vehicle in a park	31.(b)	\$75.00
30	Park motor vehicle on (landscaped area/turf grass area) in a park without a permit	33.(a)	\$75.00
31	Park vehicle in a park after closing	33.(c)	\$75.00
32	Speed in a park	37	\$75.00

Note: The penalty provision for the offences listed above is Section 41 of By-law No. 08-66, a certified copy of which has been filed.