

**THE CORPORATION OF THE TOWN OF WHITBY**  
**BY-LAW NO. 5066-02**

**BEING A BY-LAW TO REGULATE AND CONTROL THE USE OF PUBLIC PARKS AND PARK BUILDINGS**

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WHEREAS, Subsection 207(52) of the Municipal Act, R.S.O. 1990, c. M.45, as amended, provides that by-laws may be passed by the councils of local municipalities for acquiring land for and establishing and laying out public parks in the municipality and, in respect of land acquired for any such purpose that is not under the general management, regulation and control of a board of park management, for exercising all or any of the powers that are conferred on boards of park management by the Public Parks Act;

AND WHEREAS, the Council of the Corporation of the Town of Whitby considers it appropriate to pass such a by-law to regulate and control the use of public parks and park buildings;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

**DEFINITIONS**

1. In this by-law,
  - (a) "Director" means the Director of Parks and Recreation of the Corporation of the Town of Whitby or his or her designate;
  - (b) "fire-arm" means any barrelled 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 barrelled weapon and anything that can be adapted for use as a firearm;
  - (c) "fireworks" means devices containing combustible chemicals that cause explosions or spectacular effects;
  - (d) "game" includes any activity which involves an object which is thrown, hurled, or propelled and includes, without limiting the generality of the foregoing, baseball, softball, fastball, cricket, golf, archery, football, soccer, rugby, field hockey, javelin, discus, caber or hammer throwing, racquet games, hockey and lacrosse;
  - (e) "hunt" includes chase, pursue, follow after or on the trail of, search for, shoot at, stalk or lie in wait for, worry, molest, take or destroy any animal or bird, whether or not the animal or bird be then or subsequently captured, injured or killed;
  - (f) "litter" includes dumping, throwing, placing, depositing or leaving, or causing to be dumped, thrown, deposited or left any refuse, garbage or debris of any kind or any object or substance which tends to pollute, mar or deface;
  - (g) "motor vehicle" includes an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power;

- (h) "park" includes playgrounds, sportsfields, memorial squares, gardens, waters, marinas, boat launches, and any other area or areas owned and used by the Corporation of the Town of Whitby for active or passive recreational purposes or for any purpose ancillary thereto;
- (i) "park building" includes recreation centres, arenas, indoor swimming pools and any other building owned and used by the Corporation of the Town of Whitby for active or passive recreational purposes or for any purpose ancillary thereto;
- (j) "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
- (k) "structure" means any construction or any production or piece of work artificially built up or composed of parts joined together in some definite manner and without limiting the generality of the foregoing includes a wading pool, monument, fountain, bridge, fence, wall, gate, pavement, sidewalk, walk, swing, slide, playground apparatus, table, seat, bench, shelter, barbecue, sign, vase and recreational equipment;
- (l) "Town" means the Corporation of the Town of Whitby;
- (m) "vegetation" includes trees, flowers, flower beds, bushes, shrubs, plants, sod and grass; and,
- (n) "weapon" means anything used, designed to be used or intended for use in causing death or injury to any person, or anything used, designed to be used or intended for use for the purpose of threatening or intimidating any person and, without restricting the generality of the foregoing, includes any fire-arm.

#### **GENERAL**

2. No person, except a person acting under the authority of a permit issued by the Director, shall,
- (a) enter into or remain in a park between the hours of 11:30 p.m. local time in the afternoon and 6:00 a.m. local time in the forenoon from the 1st day of April to the 30th day of September, inclusive, in any calendar year;
  - (b) enter into or remain in a park between the hours of 10:00 p.m. local time in the afternoon and 6:00 a.m. local time in the forenoon from the 1st day of October to the 31st day of March, inclusive, in any calendar year;
  - (c) enter into or remain in a park building when the park building is closed to the public;

- (d) play, organize, encourage or otherwise take part in any game or activity which involves thrown, hurled or propelled objects in areas in a park not designated for that type of game or activity or that may cause an element of danger to those people not involved in the game or activity;
- (e) skate, roller skate, in-line skate or use a skate board in areas in a park that may cause an element of danger to those people not involved in the same game or activity in the park;
- (f) use, ride, train, or race a horse in a park;
- (g) fly or operate any engine powered airplane in a park;
- (h) use any apparatus, mechanism or device for the amplification of the human voice, music or other sound in a park;
- (i) carry a fire-arm or weapon in a park;
- (j) set off fireworks in a park;
- (k) beg or solicit for any purpose in a park or a park building or offer goods for sale, lease, rent or barter in a park or a park building;
- (l) distribute or display any advertisement, notice, bill or paper in a park or a park building or affix any advertisement, notice, bill or paper to any vegetation, structure or building in a park or a park building;
- (m) damage, deface or remove any vegetation, structure or building in a park or a park building;
- (n) obstruct a roadway, path or parking area in a park;
- (o) swim, bathe or wade in a fountain or ornamental pond in a park except those designated for such purposes;
- (p) pollute any stream, river, lake, pond, swimming pool, wading pool, or spray pad in a park or a park building;
- (q) dress or undress in a park or park building except in proper change facilities;
- (r) be nude in a park or park building except when robing or disrobing in a change facility provided by the Town for such purpose;
- (s) light or maintain a fire in a park;

- (t) litter in a park or park building;
- (u) erect or leave any tent, shelter or structure of any kind in a park;
- (v) possess liquor in a park or park building;
- (w) encroach onto park lands or make exclusive use of any portion of a park;
- (x) conduct himself or herself in such a manner as to be obnoxious, boisterous or objectionable to any other person in a park or park building, or use profane, indecent or abusive language in a park or park building;
- (y) hunt or kill any animal or bird in a park or injure or disturb any animal, fish or bird in a park;
- (z) damage or disturb the nest or den of any bird or animal in a park;
- (aa) knowingly or not knowingly allow an animal or pet to enter into a park unless the animal or pet is restrained by a leash;
- (bb) allow an animal under his or her control to defecate without removing and disposing of any excrement deposited by the animal on the grounds of a park;
- (cc) stop or park any vehicle in a park except in a designated parking lot and in a designated parking space, it being understood that the maximum permissible parking period shall be four hours when so posted;
- (dd) clean, polish, maintain or repair any motor vehicle in a park;
- (ee) operate an amusement ride, hot air balloon or game of chance in a park or park building; and,
- (ff) permit any dog or cat or other domesticated animal to enter any playground or any other area posted to prohibit same, it being understood this excludes any person reliant upon a service animal.

**PERMITS**

3. The Director may issue a permit to a person for the use of all or a portion of a park or park building subject to such terms and conditions as the Director may consider reasonable, desirable and appropriate.

**FEES**

4. The Town may from time to time prescribe a fee or fees for the use of a park or park building or a portion thereof and no person shall use such park or park building or portion thereof without first having paid the prescribed fee to the Town.

**EXCEPTIONS**

5. The provisions contained in Section 2 of this by-law do not apply to,
- (a) an employee of the Town while engaged in the performance of his or her municipal duties; and,
  - (b) a member of a police service while engaged in the performance of his or her police duties.

**ENFORCEMENT**

- 6.(1) Any police officer or municipal by-law enforcement officer appointed by the Town is authorized to inform any person of the provisions of this by-law and to request compliance therewith.
- (2) Any police officer or municipal by-law enforcement officer appointed by the Town whose duties include the enforcement of this by-law is authorized to order any person believed by such officer to be contravening or who has contravened any provision of this by-law,
- (a) to desist from the activity constituting or contributing to such contravention;
  - (b) to remove from the park any animal or thing owned by or in the control of such person which the officer believes is or was involved in such contravention; or,
  - (c) to leave the park.
- (3) Any police officer or municipal by-law enforcement officer appointed by the Town for such purpose may enforce the provisions of this by-law.
- (4) Where any person contravenes any of the provisions of this by-law, or fails to comply with any order referred to in Subsection 6(2) of this by-law, the permission and licence of such person to remain in the park is revoked.

**PENALTIES**

7. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction thereof is liable to a fine in the amount provided for by Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, or any successor legislation in substitution thereof.

**SHORT TITLE**

8. This by-law may be referred to as the Parks By-law.

**VALIDITY**

9. Should any section, subsection, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.

**REPEAL OF EXISTING BY-LAWS**

10. By-law No. 3838-96 is repealed.

**EFFECTIVE DATE**

11. This by-law shall come into force and take effect upon the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 10TH DAY OF JUNE, A.D., 2002.

  
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Donald G. McKay, Clerk

  
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Marcel L. Brunelle, Mayor

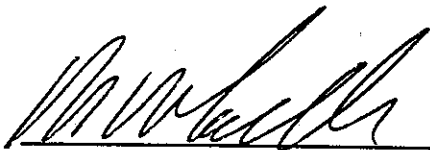
**PROVINCIAL OFFENCES ACT**

**PART I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and the By-law No.5066-02, as amended, of the Town of Whitby, attached hereto is the set fine for those offences. This Order is to take effect August 12<sup>th</sup>, 2002.

DATED at Lindsay

This 12<sup>th</sup> day of August, 2002.



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Justice R. P. Taillon  
Regional Senior Justice  
Central East Region  
Ontario Court of Justice

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (Includes costs)
1)	Enter into park after 11:30 p.m. between April 1 to September 30	2(a)	75.00
2)	Enter into park after 10:00 p.m. between October 1 to March 31	2(b)	75.00
3)	Enter into closed park building	2(c)	75.00
4)	Play game in other than designated area in park	2(d)	75.00
5)	Take part in activity in other than designated area in park	2(d)	75.00
6)	Use skate in unsafe manner in park	2(e)	75.00
7)	Use roller skate in unsafe manner in park	2(e)	75.00
8)	Use in-line skate in unsafe manner in park	2(e)	75.00
9)	User skate board in unsafe manner in park	2(e)	75.00
10)	Use horse in park	2(f)	75.00
11)	Ride horse in park	2(f)	75.00
12)	Train horse in park	2(f)	75.00
13)	Race horse in park	2(f)	75.00

Note: The penalty provision for the offences listed above is Section 7 of By-law No. 5066-02, a certified copy of which has been filed.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (Includes costs)
14)	Fly engine powered airplane in park	2(g)	75.00
15)	Operate engine powered airplane in park	2(g)	75.00
16)	Use device to amplify human voice in park	2(h)	75.00
17)	Use device to amplify music in park	2(h)	75.00
18)	Use device to amplify sound in park	2(h)	75.00
19)	Set off fireworks in park	2(i)	75.00
20)	Beg in park	2(k)	75.00
21)	Beg in park building	2(k)	75.00
22)	Solicit in park	2(k)	75.00
23)	Solicit in park building	2(k)	75.00
24)	Offer goods for sale in park	2(k)	75.00
25)	Offer goods for sale in park building	2(k)	75.00
26)	Offer goods for lease in park	2(k)	75.00
27)	Offer goods for lease in park building	2(k)	75.00
28)	Offer goods for rent in park	2(k)	75.00
29)	Offer goods for rent in park building	2(k)	75.00

Note: The penalty provision for the offences listed above is Section 7 of By-law No. 5066-02, a certified copy of which has been filed.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (Includes costs)
30)	Offer goods for barter in park	2(k)	75.00
31)	Offer goods for barter in park building	2(k)	75.00
32)	Distribute advertisement in park	2(l)	75.00
33)	Distribute advertisement in park building	2(l)	75.00
34)	Distribute bill in park	2(l)	75.00
35)	Distribute bill in park building	2(l)	75.00
36)	Distribute notice in park	2(l)	75.00
37)	Distribute notice in park building	2(l)	75.00
38)	Distribute paper in park	2(l)	75.00
39)	Distribute paper in park building	2(l)	75.00
40)	Display advertisement in park	2(l)	75.00
41)	Display advertisement in park building	2(l)	75.00
42)	Display bill in park	2(l)	75.00
43)	Display bill in park building	2(l)	75.00
44)	Display notice in park	2(l)	75.00
45)	Display notice in park building	2(l)	75.00

Note: The penalty provision for the offences listed above is Section 7 of By-law No. 5066-02, a certified copy of which has been filed.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (Includes costs)
46)	Display paper in park	2(l)	75.00
47)	Display paper in park building	2(l)	75.00
48)	Affix advertisement to vegetation in park	2(l)	75.00
49)	Affix advertisement to structure in park	2(l)	75.00
50)	Affix advertisement to park building	2(l)	75.00
51)	Affix notice to vegetation in park	2(l)	75.00
52)	Affix notice to structure in park	2(l)	75.00
53)	Affix notice to park building	2(l)	75.00
54)	Affix bill to vegetation in park	2(l)	75.00
55)	Affix bill to structure in park	2(l)	75.00
56)	Affix bill to park building	2(l)	75.00
57)	Affix paper to vegetation in park	2(l)	75.00
58)	Affix paper to structure in park	2(l)	75.00
59)	Affix paper to park building	2(l)	75.00
60)	Damage vegetation in park	2(m)	75.00
61)	Damage vegetation in park building	2(m)	75.00
62)	Damage structure in park	2(m)	75.00

Note: The penalty provision for the offences listed above is Section 7 of By-law No. 5066-02, a certified copy of which has been filed.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (Includes costs)
63)	Damage structure in park building	2(m)	75.00
64)	Deface vegetation in park	2(m)	75.00
65)	Deface vegetation in park building	2(m)	75.00
66)	Deface structure in park	2(m)	75.00
67)	Deface structure in park building	2(m)	75.00
68)	Remove vegetation in park	2(m)	75.00
69)	Remove vegetation in park building	2(m)	75.00
70)	Remove structure in park	2(m)	75.00
71)	Remove structure in park building	2(m)	75.00
72)	Obstruct roadway in park	2(n)	75.00
73)	Obstruct path in park	2(n)	75.00
74)	Obstruct parking area in park	2(n)	75.00
75)	Swim in other than designated area in park	2(o)	75.00
76)	Bathe in other than designated area in park	2(o)	75.00
77)	Wade in other than designated area in park	2(o)	75.00
78)	Pollute stream in park	2(p)	75.00
79)	Pollute river in park	2(p)	75.00

Note:

The penalty provision for the offenses listed above is Section 7 of the By-law No. 5066-02, a certified copy of which has been filed.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (Includes costs)
80)	Pollute lake in park	2(p)	75.00
81)	Pollute pond in park	2(p)	75.00
82)	Pollute pond in park building	2(p)	75.00
83)	Pollute wading pool in park	2(p)	75.00
84)	Pollute wading pool in park building	2(p)	75.00
85)	Pollute swimming pool in park	2(p)	75.00
86)	Pollute swimming pool in park building	2(p)	75.00
87)	Pollute spray pad in park	2(p)	75.00
88)	Pollute spray pad in park building	2(p)	75.00
89)	Dress in other than designated area in park	2(p)	75.00
90)	Dress in other than designated area in park building	2(g)	75.00
91)	Undress in other than designated area in park	2(g)	75.00
92)	Undress in other than designated area in park building	2(q)	75.00
93)	Light fire in park	2(q)	75.00
94)	Maintain fire in park	2(s)	75.00
		2(s)	75.00

Note: The penalty provision for the offenses listed above is Section 7 of By-law No. 5066-02, a certified copy of which has been filed.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (Includes costs)
95)	Litter in park	2(t)	75.00
96)	Litter in park building	2(t)	75.00
97)	Erect tent in park	2(u)	75.00
98)	Erect shelter in park	2(u)	75.00
99)	Erect structure in park	2(u)	75.00
100)	Leave tent in park	2(u)	75.00
101)	Leave shelter in park	2(u)	75.00
102)	Leave structure in park	2(u)	75.00
103)	Possess liquor in park	2(v)	75.00
104)	Possess liquor in park building	2(v)	75.00
105)	Encroach onto park lands	2(w)	75.00
106)	Use park exclusively	2(w)	75.00
107)	Conduct objectionable behaviour in park	2(x)	75.00
108)	Conduct objectionable behaviour in park building	2(x)	75.00
109)	Use profane language in park	2(x)	75.00
110)	Use profane language in park building	2(x)	75.00
111)	Use indecent language in park	2(x)	75.00

Note: The penalty provision for the offences listed above is Section 7 of By-law No. 5066-02, a certified copy of which has been filed.