

BY-LAW NO. 111-2008

A By-Law for the use, protection and
regulation of Public Parks and Recreation
Areas in the City of St. Thomas.

AS AMENDED BY:

By-Law No. 163-2009

November 2nd, 2009

CITY OF ST. THOMAS

BY-LAW NO. 111-2008

A By-Law for the use, protection and regulation of Public Parks and Recreation Areas in the City of St. Thomas.

WHEREAS s. 11 of the *Municipal Act, 2001, S.O. 2001, c. 25* provides that a municipality may pass by-laws respecting matters within the sphere of jurisdiction of culture, Parks, recreation and heritage;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF ST. THOMAS ENACTS AS FOLLOWS:

Part 1

DEFINITIONS

1.1

In this by-law:

Authorized Parking Area - defined

"Authorized Parking Area" means an area of a Park or Recreation Area Designated, set aside for or established, for the parking of Motor Vehicles, which may have posted regulations with respect to the use of the area.

Bicycle - defined

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

Boulevard – defined

"Boulevard" means any part of a municipal road allowance except for the traveled portion of the road, the shoulder of the road or the sidewalk.

Change Rooms – defined

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

City – defined

"City" means the Corporation of the City of St. Thomas.

Control - defined

"Control" includes care, custody and responsibility for supervision.

Council - defined

"Council" means the Municipal Council of the Corporation of the City of St. Thomas.

Designated - defined

"Designated" means an area defined or constructed for a specific use which may include posted conditions.

Director - defined

"Director" means the person appointed from time to time by the Council of the Corporation of the City of St. Thomas as "Director of Parks and Recreation" or his/her designated representative.

Environmentally Significant Area - defined

"Environmentally Significant Area, (ESA)" means an area in the City of St. Thomas which is City public ownership or management, containing features and/or attributes of environmental and natural significance that warrant their retention in a natural state and is Designated as such through a posted notice.

Hiking Trail - defined

“Hiking Trail” means that part of a Park or Environmentally Significant Area that has been marked, posted or blazed for the purpose of hiking by the public, and is not hard-surfaced.

Leash Free Dog Park – defined

“Leash Free Dog Park” means a Park or portion of a Park that is partitioned by a fence or other means and which is designed to permit a dog to Run at Large.

Liquor – defined

“Liquor” shall have the same meaning as defined in the *Liquor Licence Act*, R.S.O. 1990, c. L-19 as amended.

Motor Vehicle - defined

"Motor Vehicle" has the meaning attributed to it in the *Highway Traffic Act*.

Multi-Use Pathway - defined

"Multi-use Pathway" means that part of a Park that has been improved with a hard surface and intended for a variety of uses including pedestrians, in-line skating and Vehicles, excluding Motor Vehicles, horses and horse drawn conveyances of any sort and motorized snow vehicles.

Natural Park Area - defined

"Natural Park Area" means an area which may be an entire Park or part of a Park, preserved in its natural or near natural state or an area created to retain a natural state as open space and available for use by the public.

Park - defined

"Park" means land and land covered by water and all portions thereof owned or made available by lease, agreement, or otherwise, to the City, that is or hereafter may be established, dedicated, set apart, or made available for use as public open space, including a Public Park, Natural Park Area and an Environmentally Significant Area as defined in this by-law, that has been or hereafter may be placed under the jurisdiction of the City, including any buildings, structures, facilities, erections and improvements located in or on such land.

Player’s Benches – defined

“Player’s Benches” shall mean the sitting or waiting area for the use of players who participate, but are not fielded, in a team sporting activity such as baseball, football, basketball or soccer. (B/L 163-2009)

Playground Equipment – defined

“Playground Equipment” includes slides, swings and other equipment provided for the use of young children within a defined area delineated by sand or other cushioning material. (B/L 163-2009)

Public Park – defined

“Public Park” means land owned by the City and Designated as a Park or parkette and identified as such by posted signs.

Refuse - defined

"Refuse" includes but is not limited to paper wrappers, discarded papers or cardboard items, food containers, discarded food, disposable eating utensils, newspapers, drink containers of all kinds, disposable diapers, broken glass, grass clippings, furniture appliances, machinery, building materials automotive components and inert fill of any kind.

Recreation Area - defined

"Recreation Area" means an outdoor area or building or combination of both, under the Control of the City which is maintained and/or supervised by employees of the City and includes all Parks and every tennis court, arena, skating rink, swimming pool, wading pool/Splash Pad, play area, community centre, skateboard facility, sports field, building or portion of a building which is owned, leased or used by the City, including a school and school grounds, for purposes which include offering recreation to the public.

(B/L 163-2009)

Roadway - defined

"Roadway" means that part of a Recreation Area that is designed for use by Vehicles and Motor Vehicles.

Run at Large – defined

"Run at large" means to be found in any place other than the premises of the owner of the dog and not under the physical control of any person by means of a leash held by the said person.

Sexual Activity – Defined

"Sexual Activity" means any physical contact of a sexual nature involving genitalia, buttocks, or female breasts by one or more individuals.

Smoking - defined

"Smoking" includes exhaling of tobacco smoke, the carrying of lighted personal use smoking paraphernalia commonly employed to contain lighted tobacco, whether or not the lighted substance is tobacco, including cigars, cigarettes, pipes, or any other lighted smoking equipment. (B/L 163-2009)

Splash Pad - defined

"Splash Pad" shall mean a concrete surface with no standing water depth and water sprinkler nozzle which, when operating, sprays water upwards and down on the concrete surface and is intended to have a cooling effect. (B/L 163-2009)

Trained Service Animal – Defined

"Trained Service Animal" includes a guide dog or other Trained Service Animal identifiable by a harness used principally to assist persons with a visual, hearing or other impediment.

Tree – Defined

"Tree" means all Trees, shrubs and saplings now or hereafter growing or planted upon any City owned land including Parks, Recreation Areas, Environmentally Significant Areas, and street Boulevards;

Unauthorized Public Meeting – defined

"Unauthorized Public Meeting or gathering" means a picnic, organized gathering or event of more than twenty five persons, where the authorization of the City has not been obtained. Unauthorized Public Meeting or gathering shall not include labour related events undertaken by or on behalf of a provincially or federally recognized labour organization.

Vehicle – defined

"Vehicle" means a truck, automobile, motor cycle, motor scooter, minibike, trailer, Bicycle, carriage, wagon, sleigh, snowmobile, or any Vehicle or conveyance of every description and whatever the motive power, except a baby carriage or cart, child's wagon, child's sleigh, wheelchair or motorized assistive devices for persons with disabilities.

Washroom – defined

"Washroom" means any permanent or temporary structure or portion of a structure located in Recreational Area that contains toilets or urinals and wash basins.

Part 2

BY-LAW APPLICATION AND ADMINISTRATION

2.1 By-law Applicability - defined

This by-law applies to all Recreation Areas, Parks, Environmentally Significant Areas as defined in this by-law and any premises located therein which are under the ownership or management of the City, together with the avenues, Boulevards, drives, ravines, trails, streets and approaches thereto and connecting the same.

2.2 Emergency - Maintenance Vehicles - excepted

Notwithstanding any provision of this by-law, Vehicles operated on behalf of an emergency medical service, fire department, police department, public utility, and the City shall have full access to all parts of a Recreation Area at all times where such access is possible.

2.3 By-law administration

This by-law is administered by the Parks and Recreation Department or such successor as City Council may designate.

2.4 In Line Skating and Skateboarding

The City may prohibit in-line skating or skateboarding in any Recreation Area, and shall direct that signs be posted prohibiting such activity.

Part 3

GENERAL PROHIBITED ACTIVITIES

3.1. Activities - prohibited

In any Park or Recreation Area within the City, no person shall:

Vehicles and Parking

- (1) drive any Vehicle other than on the Designated Roadways, or drive or ride or be in the care or Control of any Vehicle on any area which is not a Roadway, or which has any signage, gate or barricade showing that such area is closed to vehicular traffic, or on any Roadway intended to be used for vehicular traffic if travelling in any other direction than that indicated by the signs placed thereon by the City;
- (2) operate any Vehicle at a rate of speed in excess of the posted speed limit or in excess of 20 kilometers per hour in un-posted areas;
- (3) drive, operate, park, leave unattended a Motor Vehicle between 12:00 midnight and 5:00 A.M. in the morning of the following day, except for special organized functions approved by the City;
- (4) use a motorized snow vehicle or motorized all terrain vehicle;
- (5) park, momentarily, any Vehicle in the traveled portion of any Roadway except where persons are entering or descending from such Vehicle;
- (6) park a Vehicle contrary to any posted parking restrictions;
- (7) use any part of a Park or Recreation Area for the purpose of washing, servicing, or maintaining any Vehicle, except for polishing a Vehicle or, in the event of an emergency, repairing a vehicle;

Personal Conduct

- (8) engage in riotous, boisterous, violent, threatening, lewd or illegal conduct or use profane or abusive language, including:
 - i) making any verbal comments or physical gestures, about or toward anyone that could reasonably be considered to be offensive, derogatory or abusive;
 - ii) making noise likely to disturb any inhabitant or interfere with the

enjoyment of the Recreation Area through the use of electronic equipment or any other means;

- (8.a) engage in smoking within 30 (thirty) metres of any Playground Equipment, Splash Pad, swimming pool, tennis court, skateboard facility or Player's Benches.
(B/L 163-2009)
- (9) urinating or defecating except in a Washroom facility;
- (10) engage in conduct that endangers the health and safety of himself, herself or others;
- (11) engage in any Sexual Activity;
- (12) remain in a Park or Recreation Area after being requested to vacate the Recreation Area by a Parks and Recreation Department Official, Municipal By-law Enforcement Officer, or Police Officer.
- (13) paint likeness, take pictures or by any method record video images or audio recordings of any person without the consent of the person, (or where the person is a minor, without consent of a parent or legal guardian), in instances where a reasonable public complaint has been received regarding such activity, except for picture or recordings by accredited members of the media or where surveillance devices have been authorized by the City or a Police Service;
- (14) enter any Washroom or Change Room, or portion thereof set apart for the opposite sex provided that this shall not apply to children who are 12 years of age or younger and who are, at that time, accompanied by a parent, guardian, caregiver or caretaker;
- (15) occupy any Washroom or Change Room without reasonable aim or purpose consistent with the purposes for which such facilities are provided, or engage in

conduct that could reasonably be considered to be offensive to other persons using the Washroom or Change Room;

- (16) hinder or obstruct, or attempt to hinder or obstruct, any person exercising or performing a duty under this by-law;

Alcoholic Beverages

- (17) consume, serve, sell or possess Liquor without proper approval of the City and the Alcohol and Gaming Commission of Ontario;

Public Meetings

- (18) hold or take part in an Unauthorized Public meeting;

Golf

- (19) play or practice golf or strike any golf ball by any means whatsoever in an area not Designated for such activities;

Hours of Use

- (20) enter or remain in a Recreation Area between 11:00p.m. and 5:00 a.m. of the following day, except to the extent that the City has specifically authorized the use of the Recreation Area beyond 11:00 p.m.

Vandalism and Damage to Property

- (21) climb, break, peel bark from, cut, remove, burn, deface or otherwise damage any Tree, shrub or bush, or pick, destroy or remove any flower, plant, roots, sod or rock;
- (22) remove, break, deface, or otherwise damage any monument, display, cage, pen, gate, seat, bench, picnic table, fence, posted sign, lock, barrier or any other equipment of the City located therein;
- (23) walk on grass in area where a sign is posted prohibiting such activity;
- (24) willfully break, deface, or otherwise damage any of the gates, locks, bolts or fences or any of the seats or benches, buildings or other property or equipment or any other City property;
- (25) willfully destroy, cut, mark, break, dig, tear up, burn, paint or write upon or in any way damage or deface any wading or swimming pool or spray pad, fountain, bridge, fence, wall, gate, Roadway, pavement, parking area, sidewalk, walk or other facility, erection or improvement, or any building, or other structure or any appurtenance thereof or any swing, slide, playground apparatus, table, seat, bench, sign, vase, or other fixture, equipment or personal property or ornament or utility;
- (26) attach to or in any manner fasten to any Tree, any wire, rope, chain, cable, or other such devices;

Animal Care and Control

- (27) cause or permit any animal under their Control or ownership to damage any Tree, shrub, bush, flower, plant or roots thereof;
- (28) cause or permit any animal under their Control or ownership to swim in or enter into or foul any swimming or wading pool or spray pad intended for human use only;
- (29) accompany any dog unless such dog is kept on a leash not more than two (2) meters in length, except in a Designated Leash Free Dog Park.
- (30) train any dog or dogs for any purpose involving the attack or potential attack of persons
- (31) permit a dog to defecate unless the owner or other person in charge of the dog forthwith removes the feces;
- (32) permit a dog under their ownership or Control to Run at Large except in a Designated Leash Free Dog Park;
- (33) fasten an animal to a Tree.

Fish and Wildlife

- (34) fish in an area not designated by the City for fishing, fish in violation of Provincial or Federal statutes or regulations;
- (35) remove or injure the nest or egg of any bird;

Trash and Recycling

- (36) fail to deposit Refuse in containers provided or if containers are not provided fail to remove Refuse;
- (37) place Refuse in a Designated recycling container not specified as acceptable for that container;

- (38) fail to remove any utensils, equipment or articles taken into an area Designated for picnics;

Water

- (39) let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, river, or lake, or from any City waterworks;
- (40) lay or cause to be laid any pipe, or conduit to communicate with any pipe or main belonging to the City waterworks or in any way obtain water without the consent of the City;
- (41) discharge or permit the discharge of any water from private properties, including pool water and water from a roof drainage system, onto, into or over any Recreation Area with the exception of natural over land flow from adjacent residential yards;

Encroachment

- (42) encroach on municipally owned lands or erect fences on municipally owned lands without the written consent of the City or fail to remove such encroaching object forthwith upon request, at the expense of the owner of the property abutting the encroachment;

Weapons

- (43) carry, use or discharge any firearm, slingshot, bow and arrow, catapult or airgun or throw any stone or missile, except under specifically written permission from the City in an area Designated for organized target or marksmanship sport activities;

3.2 Wheel chairs excepted

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

Part 4

ACTIVITIES - SUBJECT TO APPROVAL

4.1 Activities subject to approval

Unless authorized by the City, in any Park or Recreation Area within the City, no person shall:

Fires

- (1) start or maintain any fire including barbecues except for barbecues that use propane as a source of fuel;

Sports Fields

- (2) use a soccer field, ball diamond, community centre or football field for any game or practice;

Overnight Accommodation

- (3) erect a tent or shelter, or park a trailer or recreational vehicle of any kind for overnight accommodation;

Commercial Activities and Solicitation

- (4) take part in or conduct commercial worm picking;
- (5) sell refreshments or other merchandise to the public;

- (6) operate any business, game, show or amusement for paid or unpaid admission by the public;
- (7) operate or use a metal detector;
- (8) solicit funds for any charities, organizations or individuals of any kind;

Organized Meetings

- (9) hold or take part in a public or private picnic, organized gathering or event of more than twenty-five persons;
- (10) hold or take part in a meeting or gathering that obstructs the free passage of vehicular traffic;

Exclusivity

- (11) have exclusive use of any portion or all of a Park or Recreation Area;

Animals

- (12) ride, drive or lead a horse, pony, donkey or mule in an area not Designated for such activity;
- (13) use a trained dog as a means of controlling waterfowl;
- (14) allow a dog or any other domesticated or wild vertebrate animal to enter a building, facility or change room, unless the animal is a Trained Service Animal;
- (15) disturb, wound, kill, or injure any vertebrate or invertebrate animal, whether domesticated or wild, including but not limited to, birds, fish, mollusks, arthropods;
- (16) use a horse drawn Vehicle or sleigh;

Posting Notices

- (17) post any sign or poster on any pole, Tree, planter, building, fence, bench, picnic table, electrical transmission unit, lamp standard, or City or utility company equipment of any kind;

Electronic Devices

- (18) use a cellular phone, camera or any device capable of recording images in Change Rooms or Washrooms;

Fireworks

- (19) ignite, discharge or set off any fireworks;

Alcoholic Beverages

- (20) have in his or her possession alcoholic beverages, whether for consumption or otherwise, or carry alcohol beverages into any facility except in connection with approved Special Occasion Permits;

Watercraft

- (21) use or operate any motorized water-craft at any time except that such a watercraft may be used at any time in connection with an emergency;

Fees

- (22) use a Park or Recreation Area without having paid the applicable fee, if any. All applications for the use of facilities owned and operated by the City are to be made through the Parks and Recreation Department;

Trees

- (23) plant any Tree or remove, cut down or injure any Tree in any Park or connecting ravine, Recreation Area or on Boulevards related thereto.

Parking

- (24) park a Motor Vehicle in a place other than an Authorized Parking Area;

Part 5

SPECIAL PROHIBITIONS

5.1 Special prohibitions - applicability

The special prohibitions in this Part are in addition to any applicable general prohibitions in Part 3 of this by-law.

5.2 Pinafore and Waterworks Parks

The following special prohibitions shall apply to the use of Pinafore and Waterworks Park:

- (1) No person shall operate, drive or ride a Vehicle on any Roadway within the Park if the Roadways are closed by means of a barrier and or signs;
- (2) No passenger busses capable of transporting 15 or more passengers are permitted to park within the park boundaries except as authorized by the City.

5.3 Environmentally Significant Areas (ESA) - Prohibitions

The following special prohibitions shall apply to all persons entering into and using a Park Designated as an Environmentally Significant Area or as a Natural Park Area:

- (1) No person shall cut or remove any plant, aquatic vegetation, wood, turf, grass, soil, rock, sand or gravel without the written authority of the City;
- (2) No person shall carry out any scientific investigation or study without the written authority of the City which may impose specific conditions which shall be adhered to;
- (3) No person shall cause or permit any animal under their ownership or Control to enter into or foul any of the waters of any pond, stream or river;
- (4) No person shall swim in, bathe in, or pollute in any way the waters of any pond, stream or river;
- (5) No person shall camp, set up a tent, park a trailer or hold a picnic, unless the area is specifically Designated for such purpose;
- (6) No person shall deposit, dump or leave waste and/or Refuse of any kind;
- (7) No person shall operate a Vehicle or Bicycle within the boundaries of an ESA or a Natural Park Area unless signs are posted specifically allowing such activity;
- (8) No person shall ride, lead or drive any animal within the boundaries of an ESA or a Natural Park Area, except for a dog which must be on a leash;

Part 6

FEES

6.1 Use without payment - prohibited

No person shall use a Park or Recreation Area without first having paid the applicable fee, if any, or having made the appropriate arrangements for the scheduled payment of fees according to the practices established by the City and as established in the applicable fees and charges by-law.

Part 7

ENFORCEMENT

7.1 Enforcement

- (1) Where any person in a Park or Recreation Area contravenes any provisions of this by-law, such person is subject to the provisions of the *Trespass to Property Act, R.S.O. 1990, c. T.21*
- (2) Any Police Officer, Municipal Law Enforcement Officer, or person under contract with the City to enforce this by-law may enforce the provisions of this by-law.
- (3) Where any person in a Park or Recreation Area contravenes any of the provisions of this by-law, the permission of such person to remain is revoked.
- (4) The City, a police officer, a Municipal Law Enforcement Officer, or a person under contract with the City to enforce this by-law, may order a person believed to be in contravention of this by-law to:
 - (a) cease the activity that is in contravention of the by-law; and/or
 - (b) leave the Park, Recreation Area or any facility therein.
- (5) Upon the default of any person to do anything required to be done under the provisions of this By-law, or to repair any damage caused by any action prohibited by this By-law, the City may, upon giving ten days notice in writing to the said person, do the work required to be done, or repair the damages caused by the said person at the expense of the said person. All expenses incurred by the City in doing the said works, including but without limiting the generality of the foregoing materials, labour, equipment, administration and legal expenses shall be paid by the said person and may be recovered by action in any court having jurisdiction.

The expenses as aforesaid shall bear simple interest from the date incurred at the rate of 1.25% per month until paid.

7.2 Applicable Law

Users of Parks and Recreation Areas are subject to all applicable Municipal by-laws and all Provincial and Federal laws and regulations and all persons violating any by-law or law may be required to leave any Park or Recreation Area.

7.3 Permit Holders

Holders of permits for Recreation Areas shall be responsible to ensure that all applicable provisions of this by-law are upheld by all persons attending the Recreation Area in connection with such permit.

7.4 Continuation – repetition of offence – prohibited

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

Part 8

PENALTY

8.1 Contravention of By-Law

Any person contravening any provision of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, or any successor thereof.

Part 9

MISCELLANEOUS

9.1 By-law reference on signs - deemed to conform

On a sign posted by the City in a Park or Recreation Area references to predecessor By-laws shall be deemed to be references to this by-law.

9.2 Short Title

This by-law may be referred to as The Parks and Recreation Area By-Law.

9.3 Validity

It is declared that notwithstanding that any Part or Parts of this by-law, or sections thereof, may be found by any court of law to be unenforceable or illegal or beyond the power of the Council to enact, such Part or Parts or sections thereof shall be deemed to be severable and that all other Parts or sections of this by-law are separate and independent therefrom and enacted as such.

9.4 Repeal

By-law No. 41-80 and all amendments thereto, are hereby repealed.

9.5 Coming into Force

This by-law comes into force and effect on the date it is passed.

READ a First and Second time this 21st day of July, 2008.

READ a Third time and Finally passed this 21st day of July, 2008.

“Wendell Graves”
Wendell Graves, City Clerk

“Cliff Barwick”
Cliff Barwick, Mayor

By-law No. 111-2008
To provide for the use, protection and
regulation of Public Parks and Recreation
Areas in the City of St. Thomas

Part 1 Provincial Offences Act
Set Fine Schedule

Item	Short-form wording	Provision creating or defining offence	Set Fine
1.	Engage in smoking within 30 (thirty) metres of any Playground Equipment, Splash Pad, swimming pool, tennis court, skateboard facility or Player's Benches	3.1 (8.a)	\$300.00
2.	Enter/remain in recreation area between 11:00 p.m. and 5:00 a.m.	3.1 (20)	\$300.00
3.	Damage to tree, shrub, bush, flower, plat, roots, sod or rock	3.1 (21)	\$300.00
4.	Walk on grass where prohibited	3.1 (23)	\$300.00
5.	Permit a dog to Run at Large	3.1 (32)	\$75.00
6.	Permit a dog to swim in pool/spray pad	3.1 (28)	\$75.00
7.	Permit a dog a dog to defecate – fail to remove feces	3.1 (31)	\$75.00
8.	Littering	3.1 (36)	\$25.00
9.	Possess or use a weapon	3.1 (43)	\$300.00
10.	Discharge water from private property onto Park Land	3.1 (41)	\$50.00
11.	Fail to clean up after picnic	3.1 (38)	\$50.00
12.	Contaminate a recycling container	3.1 (37)	\$25.00
13.	Start a fire	4.1 (1)	\$25.00
14.	Unauthorized use of sports fields	4.1 (2)	\$100.00
15.	Unauthorized use of fireworks	4.1 (19)	\$50.00
16.	Unauthorized use of watercraft	4.1 (21)	\$500.00
16.	Dump or leave waste in an Environmentally Significant Area ("ESA")	5.3 (6)	\$300.00

NOTE: The general penalty provision for the offences listed above is found in Section 61 of the *Provincial Offences Act*, RSO 1990, c. P.33.

By-law No. 111-2008
To provide for the use, protection and
regulation of Public Parks and Recreation
Areas in the City of St. Thomas

Part II Provincial Offences Act
Set Fine Schedule

1.	Park motor vehicle between midnight and 5:00 a.m.	3.1 (3)	\$25.00
2.	Park – travelled portion of highway	3.1 (5)	\$25.00

NOTE: The general penalty provision for the offences listed above is found in Section 61 of the *Provincial Offences Act*, RSO 1990, c. P.33.