

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW NUMBER 31-2022

A By-Law to Regulate and Control the Use of Parks and Park Buildings.

WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the "Act") allows a Municipality to pass a by-law to regulate matters not specifically provided for by the Act for purposes related to health, safety, and well-being of the inhabitants of the municipality;

AND WHEREAS, the Act provides the Town with broad authority to pass By-laws within various spheres of jurisdiction, including a By-law respecting culture, parks, recreation, and heritage;

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

1. SHORT TITLE

1.1 This By-law may be cited as the Parks By-Law.

2. DEFINITIONS

2.1 In this By-law,

- (a) "barbecue" means a barbecue, grill, or frame that could be used for the cooking of food over heat or flame, produced by gas, electricity, wood, charcoal, briquettes, or any other heat source; and includes a hibachi, disposable hibachi, portable grills, tandoor oven, cooking grates, rock grates, kettle, Mangal, or any hybrid thereof;
- (b) "busking" means the practice of performing in public places for gratuities;
- (c) "cannabis" means cannabis as defined in the Cannabis Act (Canada);
- (d) "change facility" is a room or area designated by the Town for changing one's clothes and may serve to separate persons of different genders while they are not clothed and includes, but is not limited to, washrooms and satellite washrooms;
- (e) "Crossing of Parkland Permit" means a permit issued by the Town to

authorize the crossing of a park for the purpose of accessing property for construction, repair, or improvement of such property;

- (f) "damage" means break, injure, deface, move, or remove;
- (g) "expense" means the cost of carrying out the work to be done and an administrative charge as outlined in the Town of Shelburne User Fees and Charges By-law;
- (h) "firearm" means any barreled weapon from which any shot, bullet or other projectile can be discharged and includes any frame or receiver of such a barreled weapon and anything that can be adapted for use as a firearm; and shall also include bows;
- (i) "fireworks" means devices containing combustible chemicals that cause explosions or spectacular effects;
- (j) "game" means any activity which involves an object being 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;
- (k) "hazardous material" includes but is not limited to bio-medical waste, whether solid or liquid, including but not limited to, any discarded, animal or human organ or part thereof; bone, muscle or other animal or human tissue or part thereof; used bandages, poultices, dressings, medicines, vitamins, drugs, vaccines, needles, syringes, vials or any other similar material or substance which contains or may contain pathogenic micro-organisms or which may be hazardous or dangerous and any household hazardous waste product, material or item labelled as "corrosive", "toxic", "reactive", "explosive", "oxidizing", "poisonous infectious" or "flammable";
- (l) "hunt" means 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;
- (m) "litter" means dumping, throwing, placing, depositing, or leaving, or causing to be dumped, thrown, placed, deposited, or left any refuse, garbage or debris of any kind or any object or substance which tends to pollute, mark, or deface;
- (n) "motor vehicle" means an automobile, motorcycle, motor assisted bicycle, or any other vehicle propelled or driven other than by muscular power;
- (o) "motorized recreational vehicle" includes, but is not limited to, a go-cart, e-bike, trailbike, minibike, all-terrain vehicle, or similar vehicle powered by an

engine or other mechanical or electrical device and includes a self-propelled implement of husbandry;

- (p) "motorized snow vehicle" means a self-propelled vehicle designed to be driven primarily on snow;
- (q) "Officer" means a Municipal Law Enforcement Officer appointed by Council or a member of the Police Service that serves the Town;
- (r) "open air burning" means any burning of any kind, of any material, for any purpose that takes place outside of a building, structure, accessory building, or commercial establishment;
- (s) "park or parkland" includes any land or premises within the Town used for park or recreational purposes including but not limited to green spaces, trails, walkways, sports fields, water features, swimming pools, water retention ponds, wooded areas and land covered by water and all portions thereof owned by, under the control of, or made available by lease, agreement, or otherwise to the Town, that is or hereafter may be established, dedicated, set apart or made available for use by the public including any park buildings, buildings, structures, facilities, erections and improvements located in or on such lands;
- (t) "park buildings" includes, but not limited to, any recreation centers, change facilities, arenas, indoor swimming pools and any other buildings used for active or passive recreational purposes or for any purpose ancillary thereto;
- (u) "Park Special Event Permit" means a permit issued by the Town for the temporary use of any park for the purposes of conducting certain short-term events including but not limited to art displays, musical events, fund-raising events, community events, weddings, religious gatherings, walkathons, marathon runs, exhibitions, or related activities;
- (v) "person" means a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee in possession;
- (w) "possess" means to have as belonging to one, to own, to have control of, to take responsibility for the control or ownership of;
- (x) "pollute" means to make foul, or unclean;
- (y) "posted area" means an area where permissive, warning or prohibition signs are erected;
- (z) "property" means a building or structure or part of a building or structure and

includes the lands and premises appurtenant thereto and all mobile structures, outbuildings, fences, and erections thereon, whether heretofore or hereafter erected and includes vacant property;

- (aa) "rental permit" means any permit issued under this By-law with regard to facilities and/or playing fields;
- (bb) "residential waste" means waste generated in a residential dwelling, and includes but is not limited to, newspapers, clothing, disposable tableware, food packaging, cans, bottles, food scraps, and yard trimmings;
- (cc) "smoking" means smoking (exhaling and inhaling) or holding lighted tobacco;
- (dd) "structure" means anything that is erected, built, or constructed of parts joined together or any such erection fixed to or supported by the soil or any other structure and includes but not limited to a wading pool, splash pad, monument fountain, bridge, fence, wall, gate, pavement, sidewalk, seat, bench, shelter, barbecue, sign, or recreational equipment;
- (ee) "tobacco" means tobacco, in whatever manner it may be used or consumed, and in any processed or unprocessed form, and includes any product made in whole or in part of tobacco and/or tobacco leaves, including without limitation, pipe tobacco, water pipe tobacco, cigarettes, cigars, and cigarillos.
- (ff) "Town" means The Corporation of the Town of Shelburne;
- (gg) "vape or vaping or vaporizing" means inhaling or exhaling the vapour produced by a lighted Electronic Cigarette or similar device regardless of the product or substance being vaped or vaporized and shall include the holding of an Electronic Cigarette or similar device whether or not such device is lighted.
- (hh) "vehicle" means a motor vehicle, trailer, traction engine, farm tractor, road building machine, bicycle and any vehicle drawn, propelled, or driven by any kind of power including muscular power, but does not include a motorized snow vehicle, motorized wheelchair, or streetcar;
- (ii) "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 firearm.

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3. HOURS OF OPERATION

- 3.1 No person shall, except as otherwise expressly provided in this By-law;

- (a) enter into or remain in a park between the hours of 11:00 p.m. and 6:00 a.m.
- (b) enter into or remain in a park building when the park building is closed to the public; or
- (c) allow a vehicle to remain in a park during any period when a park is closed or between the hours of 11:00 p.m. and 6:00 a.m.

4. **GENERAL CONDUCT**

4.1 No person shall:

- (a) play, organize, encourage, or otherwise take part in any game or activity which involves thrown, hurled, or propelled objects in areas of a park not designated for that type of game or activity and/or that may cause an element of danger to any person not involved in the same game or activity;
- (b) fly or operate any engine powered airplane, drone, rocket, or any similar type of device in a park;
- (c) skate, walk, or engage in any activities or access through or on any snow/ice-covered ponds, lakes, streams, rivers, water retention ponds or any other snow/ice-covered bodies of water;
- (d) use, ride, train or race a horse in a park;
- (e) set or maintain an open-air burning;
- (f) carry a weapon in a park;
- (g) swim, bathe or wade in a fountain, ornamental pond, or water retention pond in a park except those designated for such purposes;
- (h) pollute any stream, river, lake, pond, swimming pool, wading pool, splash pad in a park;
- (i) dress or undress in a park or park building except in a change facility;
- (j) be nude in a park or park building except when dressing or undressing in a change facility;
- (k) possess, consume, serve, or sell alcoholic beverages in a park, unless authorized by Permit;
- (l) litter in a park;

- (m) encroach onto or make exclusive use of any portion of a park unless a rental permit has been issued for such exclusive use;
- (n) conduct oneself in such a manner as to be obnoxious, boisterous, or objectionable to any other person or use profane, indecent, or abusive language in a park;
- (o) actively or passively engage in political campaigning or broadcasting in a park;
- (p) damage or disturb the nest or den of any bird or animal in a park;
- (q) clean, polish, maintain or repair any motor vehicle in a park;
- (r) ride or drive any motor vehicle in a park except upon the roadway therein designated for public vehicular use within a park;
- (s) park any motor vehicle in a park except within a designated parking space;
- (t) ride or drive any motorized recreational vehicle or motorized snow vehicle within any park;
- (u) beg or solicit in a park for any purpose;
- (v) affix any advertisement, notice, bill, or paper to any vegetation, structure or building in a park or park building;
- (w) distribute or display any advertisement, notice, bill or paper in any park or park building;
- (x) hunt, maim, injure, trap, or disturb any animal, bird, waterfowl, worms, or other wildlife;
- (y) throw, place, or deposit residential or hazardous waste in any park, or park receptacle;
- (z) smoke or vaporize tobacco or cannabis on or within any property owned or leased by the Municipality.

4.2 The provisions of subsection 4.1 (d), (e), (k), (r), (s), (t), (v), (w) of this section shall not apply where a person, group, or organization have obtained a permit or written authorization from the Municipality.

5. CHANGE/WASHROOM FACILITY

5.1 No person shall enter into any change facility designated for the opposite sex

of such person, unless it is a child accompanied by a parent or guardian;

- 5.2 Every person shall turn off any photographic devices, including but not limited to, cameras, video equipment, and cellular phones with video or photographic functions, prior to entering any change facility, and shall keep such devices turned off while in the change facility.

6. DAMAGE TO PROPERTY

6.1 While in a park, no person shall:

- (a) plant, prune, remove or damage any plant, shrub, flower, flowerbed, tree, bush, sod, grass, or any other vegetation without written permission from the Manager of Operations, Parks, and Facilities or their designate;
- (b) climb, remove, damage, or deface any property owned by or under the control of the Town including, but not limited to, any fence, bench, seat, table, monument, fountain, or sign;
- (c) climb onto any park building, structure or equipment not intended for that purpose;
- (d) damage or deface any park building, structure or equipment;
- (e) damage or disturb in any manner grounds prepared for planting; or
- (f) remove any soil, sand, gravel, stone, rocks, wood, or any other material located in the park.

7. CROSSING OF PARKLAND

- 7.1 No person shall cross or conduct any works under, over, along, across or upon any park for any reason including but not limited to the purpose of construction, demolition, repair, alteration, works, and/or improvement of private property of any kind without first applying for and receiving a Crossing of Parkland Permit.

8. RENTAL PERMITS AND PARK SPECIAL EVENT PERMITS

- 8.1 In the absence of having a Town issued permit or written authorization from the Municipality, no person shall organize, arrange, or participate in any of the following activities in a park;
- (a) offer goods for sale, lease, rent or barter;

- (b) use any apparatus, mechanism, or device for the amplification of the human voice, music, or other sound;
 - (c) possess, consume, serve, or sell alcoholic beverages after having complied with all of the requirements of the Liquor License Act, R.S.O. 1990 c. L19;
 - (d) erect or leave any tent, shelter, or structure of any kind;
 - (e) operate an amusement ride, hot air balloon, inflatable amusement structure, or game of chance;
 - (f) participate in the act of busking;
 - (g) organize, arrange, or participate in a formal public gathering or a formal meeting of more than fifteen (15) persons;
 - (h) operate a business of any kind, whether for profit or not;
 - (i) use any area of a park or any sports field for exclusive use, play, or practice for an organized team, group, club, or private business;
 - (j) distribute or display any advertisement;
 - (k) obstruct a roadway, path, or parking area;
 - (l) set off fireworks; or
 - (m) film or commercial shoot.
- 8.2 No person shall use any type of cooking device including but not limited to a barbeque, grill, hot plate, stove top, cook top, portable stove, electric or gas burner, or any other similar type of device without first applying for and receiving a Rental Permit or Park Special Event Permit.
- 8.3 Where a Rental Permit or a Park Special Event Permit has been issued and includes the use of a barbecue, (BBQ) no person shall use any fuel other than propane with a maximum tank size of 9 kg (20 lbs.)
- 8.4 Every applicant shall complete the required application form provided by the Town, as may be changed from time to time, in accordance with the requirements of this By-law and shall provide all information requested thereon.
- 8.5 The Town may impose any conditions deemed appropriate to the permit to increase public safety or to minimize public nuisances including, but not limited to:

- (a) the permit holder reimbursing the Town for any costs incurred by the Town for retaining the services of paid duty Police Officers or private security and any equipment, including vehicles, for the purposes of increasing public safety and preventing public nuisances that may result;
 - (b) setting the maximum volume levels for music and the Town requiring a complete description of all music or sound producing equipment being used;
 - (c) limiting the size of the gathering/group size;
 - (d) establishing the times of and/or limiting the hours and duration for gatherings;
 - (e) the applicant must file with the Operations, Parks and Facilities Clerk, or their designate, a Liability Insurance Certificate for a minimum amount of \$2,000,000.00 in a form approved by the Town Treasurer, naming the Town of Shelburne as an additional insured;
 - (f) requiring an applicant to submit to the Town a Parking Control Plan; and/or
 - (g) a security deposit of not less than \$1,000.00 for repairs and clean up.
- 8.6 Every applicant for a Park Special Event Permit shall apply for the permit at least 30 days prior to the event.
- 8.7 Every applicant shall provide to the Town a copy of the Liability Insurance Certificate 21 days prior to the event, or any permit issued for such event will be revoked by the Town.
- 8.8 Every person shall comply with any and all conditions imposed by the Town contained in any permit issued by the Town.
- 8.9 Failure to comply with any provision or condition of a Rental Permit or Park Special Event Permit or this By-Law may result in the revocation of the permit by the Town, in addition to any other enforcement proceedings against the permit holder as permitted by law.
- 8.10 The applicant applying for a Rental Permit, or a Park Special Event Permit shall restore the park to the same condition or better as existed prior to the holding of the said permitted event or Park Special Event.
- 8.11 The issuance of a permit under this By-Law does not relieve any person from the necessity of acquiring any other license or permit required for carrying on an activity in a park under any other applicable laws, by-laws, regulations, and requirements of other governmental authority.

- 8.12 A permit is the property of the Town and is not transferable.
- 8.13 Every applicant for a Rental Permit or Park Special Event Permit shall have the Rental Permit or Park Special Event Permit available at all times and provide the permit to any Town employee, Police Officer, or Municipal Law Enforcement Officer upon request.
- 8.14 The provisions contained within this By-law shall not apply to activities and/or events in a park which are hosted, sanctioned, or authorized by the Town.

9. OFFENCE, PENALTY & ENFORCEMENT

- 9.1 An Officer is authorized to inform any person of the provisions of this By-law and to request compliance therewith.
- 9.2 An Officer is authorized to order any person believed to be contravening or who has contravened any provision of this By-law, to cease from the activity constituting or contributing to such contravention and/or to leave the park or park building.
- 9.3 Any Police Officer or Municipal Law Enforcement Officer appointed by the Town for such purpose may enforce the provisions of this By-law.
- 9.4 No person shall obstruct or hinder, or attempt to obstruct or hinder, any person exercising a power or performing a duty under this By-Law.
- 9.5 Where any person contravenes any of the provisions of this By-law or fails to comply with any order referred to in Section 8. of this By-law, the permission or permit of such person to remain in the park is revoked.
- 9.6 Every person who contravenes any of the provisions of this by-law is guilty of an offence.
- 9.7 Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33.
- 9.8 Where a person has been convicted of an offence under this by-law,
- a) the Ontario Court of Justice, or
 - b) any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

9.9 Every person who acts in contravention of this by-law so as to cause the Town to incur costs due to his or her actions shall, in addition to any penalty provided for herein, be liable to the Town for all expenses incurred for the purpose of repairing or replacing damaged property or removing unauthorized materials, and such expenses may be recovered by court action or in a like manner as municipal taxes.

10. **VALIDITY**

10.1 The provisions of this By-law shall apply to all lands and premises within the Town.

10.2 Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed here from and the remainder of this By-law shall continue in full force and effect.

11. **REPEAL**

11.1 The following By-laws and any of their amendments are hereby repealed: #44-2003, #42-2004 and #38-2018.

11.2 In the event of any conflict between the provisions of this bylaw and any other bylaw regarding the regulation of parks and facilities including the bylaws referred to in Section 11.1, the provisions of this bylaw shall prevail but nothing in this By-law shall invalidate the enforceability of other provisions of those bylaws.

BYLAW READ A FIRST, SECOND AND THIRD TIME AND ENACTED THIS 13th DAY OF JUNE 2022.

Mayor

Clerk