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STAFF REPORT: RECREATION DEPARTMENT



REPORT TO: Infrastructure and Recreation
MEETING DATE: May 14, 2013
REPORT NO.: DOR 13 28
SUBJECT: Food Cart Request
PREPARED BY: Shawn Everitt, Director of Recreation

A. Recommendations

THAT Council receive Staff Report DOR 13 28, “Food Cart Request” for information purposes.

AND THAT Council provide direction to staff how to proceed with the request to permit a food cart type of operation on Town Property.

B. Background

Staff has received a request to permit a food cart type business as an extension of the Bruce Wine Bar for the 2013 summer season. The locations identified for the food cart are the Thornbury Pier and Thornbury Harbour areas. Recreation Department Management requested that the information be provided to the Thornbury Business Improvement Area (BIA) for their review. A letter was presented to the Chair of the BIA on April 30th, 2013 outlining the request.

In 2007, a similar request was made to allow for a Hot Dog Cart to set up a business location at the corner of Highway 26 and Elma Street however the Town’s Zoning By-law did not permit an eating establishment accessory use at that location. The request was also made to permit the business to set up at other locations including town owned property and that request was declined. At the time, Committee declined the request for use of Town Owned Property due to the proximity to other businesses in the immediate area as well as the proximity to the downtown core. Since that time the Town has adopted a Parks Use By-Law that regulates these types of activities, however businesses are still within the immediate area.

For the purposes of this report staff referred to By-Law No. 2008-44 to provide for the management, controls, regulations, maintenance and usage of all parklands, trails, open space properties and other public facilities owned and or leased by the Town of the Blue Mountains. The following excerpt from By –Law No. 2008-44 states:

PART VII – COMMERCIAL ENTERPRISES

Section 39. (1)

Unless authorized by Recreation Department Management, Committee and/or Council, no person shall, while in a park, sell or offer or display for sale;

- (a) Any food, drink or refreshment;

- (b) Any goods, wares, merchandise or articles, including promotional material, souvenir and novelties;
- (c) Any flower, fruits or vegetables; or
- (d) Any art, skill, service or work.

By –Law No. 2008-44 also identifies the ability to Regulate and Enforce by way of a Permit and License under Section 45 that provides the ability to permit a Vending/Catering Truck in a Park. For the purposes of this request staff recommends that the Food Cart be considered comparable to a Vending or Catering Truck.

By –Law No. 2008-44 Section 46.3 (1) states “A written request for Authorization of a Park Permit must be submitted to the Recreation Committee”. The By-Law identifies that this request could be subject to a Permit/License that Council could approve. At the time of this report being prepared, staff has received this single request for the 2013 summer season for the Thornbury Harbour and Thornbury Pier areas.

Similar to the process that was used for permitting a Commercial Enterprise at Northwinds Beach in 2011, this request could be used as a Pilot project for 2013. By-Law 2008-44 does provide the opportunity under Section 46.2 (1.), which states “Each year, Council by recommendation of the Director shall designate the area(s) in the Town in which Vending/Catering trucks are permitted to operate in the Park(s).

Staff suggests that if approved, a signed agreement between the Owner(s) and the Town would be developed. The agreement would detail the specific regulations and requirements that are enforced by the Health Unit for the safe handling and serving of food, as well as require the provision of a Certificate of Insurance identifying the Town as an additional insured. Acknowledgement of the Town’s Health and Safety Policy and provision of a WSIB certificate would also be required.

C. The Blue Mountains’ Strategic Plan

Supporting the development of social and recreational programs to meet the broad range of needs in the community.

D. Environmental Impacts

To ensure sustainable and appropriate use of Town Parkland and open space.

E. Financial Impact

Thornbury BIA Levy	\$ 747.66
Seasonal Commercial Fee	<u>\$1,500.00</u>
Total	\$2,247.66

In consultation with Manager of Revenue, Ruth Prince it is suggested that the BIA Levy in the amount of \$747.66 be charged to this operation.

It is suggested that similar to 2013 User Fees that have been set for Seasonal Commercial Operations at Northwinds Beach and Lora Bay Beach be applicable.

A Seasonal Fee of \$1,500 would be applied to this 2013 Pilot Project.

F. In Consultation With

Troy Speck, CAO
Robert Cummings, Director of Finance
Ruth Prince, Manager of Revenue
Ryan Gibbons, Harbour/Cemetery Manager
Greg Miller, Manager of Building & By law

G. Attached

1. April 30, 2013 – Bruce Wine Bar Request
2. By-Law No. 2008-44

Respectfully submitted,

Shawn Everitt, Director of Recreation
For more information please contact:
519-599-3131 ext. 281
519-599-7723
severitt@thebluemountains.ca

BRUCE WINE BAR
8 BRUCE ST
THRONBURY
N0H2P0
(behind the bank)
y

April 30.13

Dear George and BIA members

We at Bruce Wine Bar have decided that this year we would like to purchase and run a food cart. We have spoken with Shawn Everett from the town who will take it to the board on May 9th. He suggested that the written support of the BIA would be an asset.

Our plan is this, to operate a food cart as an extension of Bruce. We will serve sandwiches and hot dogs. Possibly some salads. All the toppings will be house made. Soft drinks will also be available. We picture operating around the harbour, mostly at the pier and the boat launch.

The cart would also be available for special functions ie, street dances and fall fairs.

We would run the cart seven days a week in the summer months and on weekends possibly thru to Thanksgiving.

We would appreciate your support in this venture.

Thank you for your consideration

Yours Truly

Steven Vipond
Jennifer Vipond
Shaun Edmonstone

TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. 2008 - 44

Being a by-law to provide for the management, controls, regulations, maintenance and usage of all parklands, trails, open space properties and other public facilities owned and or leased by the Town of The Blue Mountains

(Hours & Code of Conduct – Town Parks & Public Recreation Facilities)

WHEREAS Section 8 of The Municipal Act, 2001, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on a municipality to enable the municipality to govern their affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

WHEREAS Section 9 of the Municipal Act, 2001 as amended provides that a Municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act: (hereinafter the "Act")

AND WHEREAS Section 11 (3) of the Municipal Act, 2001 provides that lower tier municipalities may pass by-laws respecting matters within the spheres of jurisdiction;

AND WHEREAS Section 11(3) of the Municipal Act, 2001 includes as matters within the spheres of jurisdiction culture, parks, recreation and heritage.

AND WHEREAS Section 119 of the Municipal Act, 2001 provides that a local municipality may, for the purpose of public safety, prohibit or regulate the discharge of guns or other firearms, air guns, spring-guns, cross-bows, long-bows or any other weapon;

AND WHEREAS Section 128 of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS The Corporation of the Town of The Blue Mountains is the owner and/or responsible party of public parks and other public facilities in the Town of The Blue Mountains (hereinafter called the "Town");

AND WHEREAS it is deemed desirable that municipal parklands, open space and other public facilities be maintained and controlled for the enjoyment and benefit of the citizens of the Town of The Blue Mountains, and it's visitors;

AND WHEREAS it is the duty and responsibility of the Director of Recreation to administer the management, control, regulations, maintenance, development, standards and usage of all parklands and properties, and recommend revisions, additions, or amendments to the by-law for improvement of same;

AND WHEREAS the Council of the Town of The Blue Mountains deems it expedient to manage, control, regulate and maintain the use of all parklands and Town owned properties in the Town of The Blue Mountains;

NOW THEREFORE, the Council of the Corporation of the Town of The Blue Mountains enacts and be it enacted as follows:

DEFINITIONS

1. In this By-law:

"Alcoholic beverage" means spirits, liquor, Beer, wine or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage alone or in combination with any other substance;

"Animal" means any member of the animal kingdom, other than a human, and includes birds;

"Authorized Parking Area" means an area of a park or recreation 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;

"Authorized Sign" means any sign, notice, or other device placed or erected in or upon a park, under the authority of this By-law;

"Barbeque" means a portable or fixed device designed and intended solely for the cooking of food in the open air, but does not include outdoor fireplaces and campfires;

"Bicycle" includes a tricycle, unicycle and a MAC (Motor Assisted Cycle). A MAC is a two-wheeled or three-wheeled cycle with a seat, pedals and an electric motor that is 500 watts or less AND bicycle-style pedals for manual primary propulsion. MAC's are cycles that combine the pedal power of bicycles with power assistance of an electric motor; "Bicycle" does not include an internal combustion motor assisted bicycle or LSM (Limited Speed Motorcycle). An LSM is a low-powered motorcycle, moped or scooter that relies on motor power and is generally not equipped with bicycle style pedals.

"Boat" includes a canoe, dingy, rowboat, punt, sailboat, outboard and inboard motor boat, windsurfing board, and personal watercraft;

"Building" means any and all buildings as defined by the Building Code, owned or made available by lease agreement or otherwise to the Town;

"Camp" means to erect a structure, hut, or tent for the purpose of providing shelter;

"Change Rooms" 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;

"Control" includes care and custody;

"Council" means the Council of the Town of The Blue Mountains;

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

"Director" means the Director of Recreation of the Town of The Blue Mountains or authorized designates, unless otherwise specified;

"Environmentally Significant Area" means an area as designated in the Official Plan, including designations for "Escarpment", "Public Open Space", "Hazard", and "Wetland Hazard" for the Town of The Blue Mountains and which is under public ownership and/or management, containing features and/or attributes of environmental and natural significance that warrant their retention in a natural state;

"Hours of Operation in Parks" shall mean municipal parks' open hours of operation be deemed to be between the hours of 06:00 and 22:00 hours each day.

"Motor Vehicle" means a motor vehicle within the meaning of the Highway Traffic Act, R.S.O. 1990, c.H.8, as may be amended from time to time;

"Motorized Recreational Vehicle" means a snowmobile, go-cart, trail bike, mini bike, all-terrain vehicle, LSM's (Limited Speed Motorcycle) or similar vehicle, propelled or driven by an internal combustion engine;

"Municipal Law Enforcement Officer" means any Municipal Law Enforcement Officer or By-law Enforcement Officer, or other person designated by the Council of the Town of The Blue Mountains to administer and enforce the provisions of the by-law;

"Organized Sport or Activity" means a sport, game or activity pre-planned by a group or organization whether or not formally constituted and whether or not the players or members wear uniforms;

"Park" shall mean any parkland owned or leased by the Town of The Blue Mountains that is or hereafter established, dedicated, set apart or made available for the purposes of recreational facilities, including but not limited to amphitheatres, sports fields, outdoor ice rinks, pavilions, picnic areas, playgrounds, open spaces, tennis courts, toboggan hills, and such other recreational uses as may be established from time to time and shall include parking lot provided in conjunction with a public park not to include the Georgian Trail and Beaver Valley Community Centre.

"Parkland" means land and land covered by water and all portions thereof owned by 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 as public open space, and that has been or hereafter may be placed under the jurisdiction of the Recreation Department including any and all building, structures, facilities, erections and improvements located in or on such land, save and except Plan 529 and where such land is governed by other By-laws of the Town

"Parking Area" means a part of a park that is designated and intended to park motor vehicles;

"Permit" means any written authorization of Council, a Committee established by Council or the Director where such power has been delegated;

"Person" means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law;

"Police Officer" means an officer with the Ontario Provincial Police, or such other police force as may provide police services within the Town of The Blue Mountains from time to time.

"Post" or **"Posted"** refers to the erection or presence of permissive, regulatory, restrictive warning or prohibitive signs and "posted area" means an area where such signs are erected;

"Posted Area" means any area that is posted by sign, notice, or other device for a specific purpose or to restrict certain activities in or on Town parks under the authority of this by-law;

"Property" means any and all property not designated as a park and owned by the Town;

"Refuse" includes but is not limited to paper wrappers, food containers, discarded food, disposable eating utensils, newspapers, drink containers of all kinds, disposable diapers, broken glass, grass clippings and inert fill of any kind;

"Roadway" means that part of a park or recreation area that is improved, designed or ordinarily used by vehicles and motor vehicles;

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

"Section" means the Recreation Department Section of Council's General Committee as appointed by resolution by the Council of the Town of the Blue Mountains;

"Service Animal" includes a guide dog and other trained service animal identifiable by a harness and used principally to assist persons with a visual, hearing or other impediment;

"Service Vehicle" means any municipal vehicle, fire emergency vehicle, law enforcement vehicle or contractor's vehicle used in the maintenance of a park;

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

"Skateboard" means a form of conveyance without self-propulsion consisting of any number of wheels attached to a flat surface which is designed to support the weight of a rider;

"Sports Field" means an area in a park set aside for use in sports, such as football, soccer, rugby, field lacrosse, baseball, requiring open space;

"Structure" means any and all structures, equipment, trees, shrubs, horticultural displays, benches, walkways, tennis courts, waste disposal containers, playground apparatus, Skate Board park apparatus, shelters, fencing, lighting, boat ramps, docks, parking areas or other such structures that may be placed or erected on Town of the Blue Mountains parklands;

"Town" means the municipal corporation of the Town of The Blue Mountains or the geographic area of the Town of The Blue Mountains as the context requires;

"Town Employee" means any person employed by the Town of The Blue Mountains for the purposes of park maintenance or municipal law enforcement, including persons hired under contract.

"Town Road" means a highway under the jurisdiction of the Town of The Blue Mountains which has been assumed for public use and including a road allowance in a plan of subdivision which has been accepted for maintenance purposes

"Vehicle" includes a motor vehicle as defined under the Highway Traffic Act, R.S.O. 1990, c.H.8, including trucks, automobiles, trailers, buses, motorcycles, mopeds, snowmobiles, ATV (all terrain vehicles), LSM (Limited Speed Motorcycle) or any other mode of transportation of a like nature and may be amended from time to time, and any bicycle, carriage, wagon, sleigh or other vehicle or conveyance of every description, whatever the mode of power, and includes in-line roller skates and skateboards, but excludes a wheelchair or similar device (powered or otherwise) used by an individual due to a disability, baby carriage or cart, child's wagon, child's stroller, child's sleigh or other conveyance of like nature;

"Vending/Catering Truck" means a motor vehicle from which ice cream, ice cream cones, iced milk or other iced confection, refreshments or foodstuffs are sold or offered for sale to the public, for the purpose of this by-law any vending machine or vending equipment will be included in this definition;

"Waste" means paper, bottles, broken glass, cans, rags, garbage, rubbish, debris or refuse or any kind;

"Washroom" means any permanent or temporary structure or portion of a structure that contains toilets or urinals and wash basins and which is owned, leased or operated by the Municipality;

"Watercraft" means any device for conveyance in or on water and includes but is not limited to boats, row boats, sailboards, canoes, kayaks, or dinghies.

"Wheel chair" means a chair mounted on wheels, which is propelled by muscular power or any other type of power and is used for the carriage of a person who has a disability;

PART I - CONDUCT

Restricted Areas

3. While in a park, no person shall enter into an area in a park where it is posted to prohibit or restrict admission to the public.

General Code of Conduct

4. While in a park, no person shall:
 1. Indulge in any riotous, boisterous, violent, threatening, or illegal conduct or use profane or abusive language;
 2. Cast, throw, or in any way propel any object in such a manner that may or does endanger or cause injury or damage to any person or property;

3. Create a nuisance by loitering, spying, accosting, frightening, annoying or otherwise disturbing other persons;
4. Create a nuisance or in any way interfere with the use and enjoyment of the park by other persons; or,
5. Engage in any sexual activity.

Firearms or Offensive Weapons

5. While in a park, no person shall be in possession of or use any firearm, torpedo, rocket of any type, air gun, bow and arrow, axe or offensive weapon of any kind unless authorized by Recreation Department Management, Committee and/or Council.

Fireworks

6. While in a park, no person shall ignite, discharge or set off any fireworks, except as a fireworks display authorized by Recreation Department Management, Committee and/or Council.

Injury and Damage

7. No person shall in any park:
 1. Climb any building, structure or equipment, unless it is equipment designed for climbing;
 2. Destroy, or cut, mark, break, dig, pull up or burn or in any way damage, injure, remove or deface any tree, flower, flower bed, bush, shrub, plant, sod, grass or other vegetation, soil, sand, gravel or wood or any monument, fountain, bridge, wall, seat, bench, structure or article of park equipment or any appurtenance thereof;
 3. In any manner disturb ground which is under repair, prepared for planting, has been newly seeded or sodded or is in an area posted to that effect; or,
 4. Drive, park or walk in an area posted to prohibit same.

Waste and Pollution

8. No person shall in any park:
 1. Dispose or dump garbage, litter, tree trimmings, or like refuse, except that which is generated through the normal use of the park and shall only deposit same in receptacles provided for such purpose;
 2. Dispose of or dump garden refuse;
 3. Unless authorized by permit, dump or deposit snow, fill, soil, building or construction materials;
 4. Dump or drain onto any soils or into any waters of any pool, pond, lake, stream, fountain or watercourse of any kind any material, toxic or otherwise, which may have the effect of polluting same; or
 5. Purposely release any balloons.

Protection of Wildlife

9. In recognition of the mandate of the Ministry of Natural Resources, no person shall while in a park, unless approved by Permit:
 1. Kill, attempt to kill, trap, hunt, fish, attempt to fish, pursue or in any manner disturb any animal, bird, waterfowl, fish, works or other wildlife, provided that this provision shall not apply to any person fishing the Beaver River, Mill Creek, Little Beaver River, Indian Brook, Silver Creek, Ash Creek and Georgian Bay;

2. Feed any waterfowl, except in a designated area; or
3. Fish in violation of provincial or federal statutes or regulations.

Encroachment

10. Unless authorized by permit or otherwise, no person shall encroach upon or take possession of any park by any means whatsoever including:
 - a) The construction, installation or maintenance of any fence, storage shed, retaining wall or other structure of any kind;
 - b) Keeping of any composting receptacle or pile;
 - c) Placing of any string, wire, chain, rope or similar material; or,
 - d) Plantings, of any hedge, tree, shrub or garden on park property thereon.

Alcohol

11. While in a park, no person shall consume, serve or sell alcoholic beverages unless authorized by the Town in accordance with the Towns Alcohol Risk Management Policy and/or under a permit issued by the municipality and with the approval of the Alcohol and Gaming Commission of Ontario.

PART II - PARK USE

Campfires and Barbecues

12. While in a park, no person shall:
 1. Light, build or stoke a fire or bonfire unless authorized by Recreation Department Management, Committee and/or Council;
 2. Use a solid fueled portable barbecue unless authorized by Recreation Department Management, Committee and/or Council;
 3. Use fuel other than charcoal or briquettes in a barbecue provided by the municipality;
 4. Leave a fire unattended or leave the site of the fire before the fire is completely Extinguished; or,
 5. Dispose of coals in a garbage container or any other manner which may result in a fire.

Organized Gatherings and Picnics

13. (1.) While in a park, no person shall:
 - (a) Hold a picnic, organized gathering or event for more than twenty-five persons without notification by application and payment of fees where applicable to the Municipal Recreation Department;
 - (b) Interfere with a picnic, organized gathering or event; or
 - (c) Have a picnic where the park is a municipal cemetery.

Amplifiers and Loud Speakers

14. (1.) Unless authorized by the Director, Recreation Committee and/or Council, no person shall operate loud speakers or sound amplifying equipment while in a park.
- (2.) While in a park no person shall operate, or use, any radio, tape player, compact disc

player, car radio, or any other sound reproducing system in a manner which disturbs or interferes with other persons in or near the park.

Camping and Lodging

15. Unless authorized by the Director, Recreation Committee, and/or Council, no person shall dwell, camp, or lodge in a park.

Tents and Structures

16. (1.) Unless authorized by the Director, Recreation Committee, and/or Council, no person shall place, install or erect any temporary or permanent tent or structure in any park.
- (2.) Open sided or mesh sided tents under 100 square feet for shade may be used for temporary day use purposes.

Bathing, Swimming and Sun Bathing

17. No person shall in any park:
- (1.) Enter any public swimming pool, except at times designated for swimming;
- (2.) In or adjacent to any swimming pool, fail to abide by posted signs or to obey the instructions of any lifeguard or other authorized person;
- (3.) Swim, bathe or wade in any fountain, pond, lake or stream, except in a designated area;
- (4.) Other than an approved personal flotation device take any Inflatable device, swimming assist, snorkel or other underwater breathing device into the water in a park; or
- (5.) Utilize facilities in ways that may be offensive to the public.

Use of Wash and Change Rooms

18. No person shall enter any portion of any washroom, bathhouse, or change room in any park set apart for the opposite sex.

PART III - GAMES, SPORTS AND ORGANIZED ACTIVITIES

Organized Sports or Activities

19. (1.) While in a park, no person shall:
- (a) Arrange or engage in an organized sport or activity, except in a designated area which has been posted without notification by application and payment of fees where applicable to the Municipal Recreation Department; or
- (b) Interfere with an organized sport or activity occurring within a designated area.
- (2.) In addition to the prohibitions set out in subsection (1), while in any park, no person shall utilize a designated area without authorization by the Recreation Department Management, Committee and/or Council where same is posted to prohibit or restrict such use.

Golfing and Archery

20. While in a park, no person shall play or practice golf or archery, except in a designated area.

Model Aircraft and Rockets

21. While in a park, no person shall operate any powered models of aircraft, rockets, watercraft

or vehicles, unless authorized by the Director, Recreation Committee, and/or Council.

Skiing, Tobogganing and Sledding

22. No person shall downhill ski, toboggan, snowboard, skibob or sled in any area in any park, except in a designated area.

Roller Skates and Skate Boards

23. While in a park, no person shall:
- (1.) Operate or utilize roller skates or in-line roller skates or like conveyances where posted to prohibit or otherwise restrict the use of the same;
 - (2.) Obstruct, inconvenience or endanger other users of the park while operating or utilizing roller skates, in-line roller skates, or life conveyances; or
 - (3.) Use a skateboard, except in those locations specifically designated in Schedule "C" entitled "Permitted Skateboard Locations".

Tennis

24. No person shall enter, walk or play upon a designated area for tennis in any park, except in accordance with the posted rules and regulations.

Sports Fields

25. (1) No person shall participate in or play baseball, softball, basketball, volleyball, football, soccer, rugby, tennis, croquet, badminton, ultimate Frisbee, disk golf, skateboarding, golf, or any other sport or activity in a park except in an area designated by the Director for such respective purpose and in accordance with subsection (2).
- (2) No person shall use a sports field on any day between the 16th day of October and the 30th of April of the following year;
- (3) Despite subsection (2), the Director, Manager of Parks and Trails, or Recreation Department Staff may, at his or her discretion, amend the dates on which a ball diamond and sports field may be used, on the basis of the ground conditions of the sports field.
- (4) Despite subsection (2), the Director, Manager of Parks and Trails, or Recreation Department Staff may, at his or her discretion, restrict or permit access, at any time and to any one ball diamond or sports field, on the basis of the ground conditions of the sports field.
- (4.1) Subject to subsections (3) and (4), no person shall use or access a sports field to which has been restricted by the Director.
- (5) No person shall engage in any horse race or ride a horse in a park or an area not designated for that purpose unless authorized in writing by the Director.
- (6) Despite subsection (2), no person shall access or use sports field for winter sports during the winter months unless,
- a. the ground is snow covered,
 - b. the site is not altered, and
 - c. there is no damage to the field.

PART IV - VEHICLES

Roadways

26. (1.) The Council, or where such authority has been delegated, a Director or a Committee established by Council, is authorized to establish appropriate rules to regulate the use of the park laneways.
- (2.) Unless authorized by permit, and except as provided in respect to Section 28 with respect to bicycles, no person shall while in a park, drive, operate, pull or ride any vehicle, except on a laneway or parking area.

Parking

27. No person shall in any park:
- (1.) Park or leave a vehicle, except in a designated area for parking;
- (2.) Park or leave a vehicle between the hours of 10:01p.m. and 5:59 a.m., except in a designated area allowing for such overnight parking, or where authorized by permit;
- (3.) Stop or park a vehicle in a designated area for parking, except in a parking space and in accordance with posted conditions;
- (4.) Stop or park a vehicle in a designated disabled parking space, unless a disabled person parking permit issued in accordance with the provisions of the Highway Traffic Act, R.S.O. 1990, c.H.8, as may be amended from time to time, is properly displayed on or in the vehicle;
- (5.) Use any parking space, except while using the park;
- (6.) Use more than four (4) parking spaces allotted for each Group Photography Permit;
- (7.) Park in a designated fire route; or
- (8.) Park without consent of the Director or delegate.

Other Activities

28. No person shall make use of any laneway or designated area for parking in any park for:
- (1.) Washing, cleaning, servicing, maintaining or except in the event of an emergency, the repair of any vehicle;
- (2.) Instructing, teaching or coaching any person in the driving or operation of a motor vehicle; or
- (3.) Playing of any games and/or sports, unless with authorization from Recreation Department staff.

Bicycles

29. While in any park, no person shall:
- (1.) Ride, operate or be in possession of any bicycle where posted to prohibit same; and,
- (2.) Obstruct, inconvenience or endanger other users of the park while riding or operating a bicycle.

Motorized Recreational Vehicles

30. No person shall ride, drive, park or be in the possession or control of a motorized recreational vehicle in any park, except in a designated area.

Trucks and Commercial Motor Vehicles

31. No person shall drive, operate, pull or ride in any park:
- (1.) Any heavy machinery or equipment of any description and whatever the mode of power; or
 - (2.) Any truck, trailer or bus whatsoever, except a vehicle that is being used for the purpose of making a delivery to a point within the limits of the park while it is proceeding to or from such point of delivery.
 - (3.) A Vending/Catering truck unless:
 - (a) the owner of the Vending/Catering truck is licensed with a valid owner's license for the truck;
 - (b) the driver of the Vending/Catering truck is licensed with a valid driver's license;
- 31.1 All Vending/Catering trucks must be parked in the designated location as authorized by Recreation Department Management, Committee and/or Council.
- 31.2 For the purpose of subsections 31(3), "Owner" means the person certified as the owner of a Vending/Catering truck by the Registrar of Vehicles for the Province of Ontario or a person who is a lessee of an Vending/Catering truck pursuant to a written lease agreement with the owner of the Vending/Catering truck.

Speed

32. Unless authorized by permit, while in a park, no person shall operate:
- (1.) Any vehicle on a roadway at a speed in excess of the posted limit; or
 - (2.) A bicycle other than on a roadway at a speed in excess of 20 kilometers per hour.

PART V - ANIMALS

33. Unless authorized by Recreation Department Management, Committee and/or Council, no person shall bring any animal into a park, including a horse or pony, except a domesticated animal which includes but is not limited to a dog or a cat.
34. (1.) While in a park, no person as owner or person having control of any dog, or cat or other domesticated animal shall:
- (a) allow him/her to run at large and will ensure that he/she is on a leash or chain not exceeding 2.0 meters (6.0 feet) in length when not running at large in a designated area
 - (b) excluding persons reliant upon a service animal, permit any dog, or cat or other domesticated animal to enter any beach, pond, swimming area, garden, landscaped area, playground or sports field, or any other area posted to prohibit same, or disturb any wildlife or damage any park resources.
- (2.) While in a park, every person as owner or person having control of any dog, or cat or other domesticated animal shall:
- (a) ensure that he/she is on a leash or chain not exceeding 2.0 meters (6.0 feet) in length when not running at large in a designated area; or
 - (b)
 - (i) pick up and remove forthwith excrement left by a dog, or cat or other domesticated animal and dispose of it in a sanitary manner in a receptacle for litter or in some other suitable container;
 - (ii) the provisions of sub-paragraph (1) do not apply to a person who has control of a service animal where it is being used to aid a person with

a visual, hearing or other impediment

- (3.) While a dog, or cat or other domesticated animal is in an area designated as a leash-free zone, every person as owner or person having control of a dog, cat or other domesticated animal shall:
- (a) carry with him/her a leash;
 - (b) immediately remove a dog, or cat or other domesticated animal that shows aggressiveness toward people or other dogs, or cats or other domesticated animals or at the direction of a police officer, provincial offences officer, municipal law enforcement officer or employee of the Town designated by the Council to administer this By-law;
 - (c) ensure that the dog, or cat or other domesticated animal does not leave the designated area while off his/her leash;
 - (d) ensure that the dog, or cat or other domesticated animal while in the designated area is under voice control and within visual sight at all times; and
 - (e) pick up and remove forthwith excrement left by a dog, or cat or other domesticated animal and dispose of it in a sanitary manner in a receptacle for litter or in some other suitable container;
35. No person as owner or person having control of a dog or cat or other domesticated animal shall bring in or permit such dog, or cat or other domesticated animal enter any park if he/she may or does constitute a danger to other park users or is reasonably likely to frighten other park users and the owner and/or the person having control of the dog, or cat or other domesticated animal has previously been advised by a police officer, or employee of the municipality designated by the Council to administer this By-law not to bring the dog, or cat or other domesticated animal into a park or has been convicted of an offence related to the conduct of the dog, or cat or other domesticated animal under the Dog Owners' Liability Act, R.S.O. 1990, c.D.16 or this By-law or any other municipal by-law.

PART VI - WATERCRAFT

Boating

36. No person shall place, operate, drive or ride any watercraft in any park in any area posted so as to prohibit or restrict the type and allowable uses of watercraft.

Mooring

37. Unless authorized by permit, no person shall, subject to any right at law to do so, moor watercraft in any park:
- (1.) Except in designated area;
 - (2.) For a period longer than 48 hours, except in a marina or yacht club authorized by Council, or as otherwise posted; or
 - (3.) Contrary to posted restrictions or prohibitions or in any way that may or does endanger or inconveniences other watercraft or their use or other users of the parks.
38. In addition to any other remedy, the Town may have available to it, boats moored in contravention of Section 37 may be removed by the Town with no notice to the owner and/or occupant.

PART VII - COMMERCIAL ENTERPRISES

Sale of Merchandise, Trade or Business

39. (1) Unless authorized by Recreation Department Management, Committee and/or Council, no person shall, while in a park, sell or offer or display for sale:
- (a) Any food, drink or refreshment;
 - (b) Any goods, wares, merchandise or articles, including promotional material, souvenir and novelties;
 - (c) Any flowers, fruits or vegetables; or
 - (d) Any art, skill, service or work.
- (2) Unless authorized by permit, no person shall, while in a park, practice, carry on, conduct or solicit for any trade, occupation, business, profession or charity.

Filming and Videotaping

40. While in a park, no person shall take or permit to be taken for remuneration, any film, photograph, video tape or television broadcast unless:
- (1) Authorized by Recreation Department Management, Committee and/or Council;
 - (2) For media reporting purposes: or,
 - (3) Otherwise posted.

Circulars and Advertisements

41. (1) Unless authorized by Recreation Department Management, Committee and/or Council, no person shall:
- (a) While in any park distribute, discard or display any handbill, notice or other circular, bill or advisement; or
 - (b) Post, nail, attach, stencil or otherwise fasten or erect any poster, sign, notice, placard or other circular, bill, advertisement or paper to any park property.

PART VIII - HOURS

42. All parks shall close at 10:00 p.m., local time and shall remain closed until 6:00 a.m., local time unless otherwise posted. This section does not apply to a Municipal By-Law Officer, Police Officer or Town Employee while on duty and for the purpose of carrying out their duties
43. No person shall be or remain in a park after the closing hour or before the opening hour unless authorized by the Director or designate. Any person remaining in a Town Park during the time period when the park is closed, including any person on or in a vehicle, shall be subject to the Trespass to Property Act.
44. (1) No organized sport or activity shall commence before 8:00 a.m., local time, and shall cease all activities by 10:00 p.m., local time on all days including Saturdays, Sundays and statutory holidays unless authorized and posted.
- (2) Notwithstanding 44. (1), the use of watercourses, tributaries and bodies of water for the purpose of angling in areas that are designated or approved for those activities is permitted.

PART IX - REGULATION AND ENFORCEMENT

Permits and Licenses

45. (1) Authorization from the Recreation Committee and/or Council or Permits issued for activities contemplated in this By-law may be subject to such fees as Council shall from time to time establish by By-law.
- (2) Authorization from the Recreation Committee and/or Council or Permits issued for activities contemplated in this By-law may include conditions as to time, location, area, equipment, number of participants, type of activities, release, indemnity and insurance coverage.
- (3) Authorized persons or Permit holders requiring additional services that are above the regular services provided in parks may be subject to additional fees for such services as Council shall from time to time establish by By-law.
- (4) The issuance of Authorization or a permit pursuant to the By-law shall not relieve any person from the necessity of acquiring any other license or permit required for such activity by any governmental or public authority.
- (5) Authorized persons or Permit holders requiring assistance in obtaining regulatory approvals may be subject to such fees as Council shall from time to time establish by By-law.
- (6) The authority to issue Authorization or permits referred to in the By-law is delegated to the Director or his or her designate.

Vending/Catering Truck Park Permit

- 46.1 For the purposes of Sections 46.1 to 46.5
- (1.) "Authorization" means approval of a specific request made to the Recreation Committee by means of a Recommendation by the Director of Recreation that can add or delete requirements of any request put forth.
- (2) "First Year" means the period of time between June 1st of the year in which Authorization or a Park Permit is issued and May 31st, of the following year.
- (3) "Owner" means the person certified as the owner of an ice cream truck by the Registrar of Vehicles for the Province of Ontario or a person who is a lessee of a Vending/Catering truck pursuant to a written lease agreement with the owner of the ice cream truck.
- (4) "Park Permit" means Authorization or a permit that is issued by the Recreation Committee through a written request to this Committee to an owner of a Vending/Catering truck to operate a Vending/Catering truck in the designated parks that are located in the Town.
- 46.2 (1.) Each year, Council by recommendation of the Director shall designate the area(s) in the Town in which Vending/Catering trucks are permitted to operate in the Parks.
- (2.) Each year, Council by recommendation of the Director shall designate the Park(s) in the designated area(s) in the Town in which Vending/Catering trucks are permitted to operate.
- (3.) There shall be a maximum of one Authorization of Operation or a Park Permit issued for all the designated parks in each designated area of the Town.
- (4.) There shall be a maximum of one Authorization of Operations or a Park Permit issued to each owner of the Vending/Catering truck(s).
- 46.3 (1.) A written request for Authorization or a Park Permit must be submitted to the Recreation Committee.

- (2.) Each request for Authorization or a Park Permit must be submitted to the Recreation Department Office prior to 4:00 p.m. at least two weeks prior to the Recreation Committee meeting normally scheduled for the third Thursday of each month for Committee consideration.
- 46.4
- (1.) In the event that more than one owner requests Authorization or a Park permit in the same area, a public tendering process will be conducted by the Recreation Department to determine the successful applicant.
 - (2.) Council by Recreation Committee recommendation may issue Authorization or a Park Permit to the successful applicant of the public tendering process described in subsection (2).
 - (3.) The appropriate fees as submitted with the application(s) will be refunded in full without interest to the unsuccessful applicant(s) in the tendering process described in Subsection (2).
- 46.5
- (1.) Each Authorization or Park Permit shall list the designated parks within the designated area where a Vending/Catering Truck is authorized to operate.
 - (2.) Each Authorization or Park Permit will be limited to exact dates, and a request will be required for each additional date and year.
- 46.6 Every Owner shall prominently display the Authorization or Park Permit when the Owner's Vending/Catering truck(s) is operating in a park.

Posting of Signage

47. The Director or designate is authorized to post signage of permission, regulation, restriction, warning or prohibition with respect to uses of or activities in any park in accordance with the provisions thereof.

Temporary Closure

48. The Director or designate is authorized to close off for such temporary period as the Director or designate deems appropriate any park or part or parts thereof to relieve or prevent overcrowding or traffic congestion, or in the interests of public safety, or as may be authorized by Council. Any closure of roads requires approval from the Director of Engineering and Public Works, Engineering and Public Works Committee as well as Council executing a by-law for the Closure of the required Road(s). Notification must be made to all Emergency Services as well.

Exclusions and Exemptions

49. This By-law shall not apply to the drivers, operators or other personnel of ambulances, police or fire department vehicles; or employees or agents of the municipality while engaged in works or services undertaken for or on behalf of the Town.

Enforcement

- 50.
- (1.) Any police officer, provincial offences officer, municipal law enforcement officer or employee of the municipality designated by the Director to administer this By-law is authorized to inform any person of the provisions of this By-law and to request compliance therewith.
 - (2.) Any police officer, provincial offences officer, municipal law enforcement officer or employee of the municipality designated by the Director to administer this By-law is authorized to order any person believed by such officer or employee 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 or employee believes is or was involved in such contravention; or

- (c) To leave the park.
- (3.) Any police officer, provincial offences officer, or municipal law enforcement officer may enforce the provisions of this By-law.
- (4.) Where any person contravenes any provisions of this By-law or any person in a group to which Authorization or a permit and/or license has been issued, or fails to comply with an order referred to in subsection (2) hereof, the Authorization or permit and/or license of such person or group to remain in that park is revoked.
- (5.) Where an owner of a Vending/Catering truck to whom Authorization or a Park Permit has been issued fails to adhere to, or causes or permits a breach of the terms of the permit or any section of this By-law, the Authorization or Park Permit may be revoked by the Director.
- (6.) In the event that an owner of a Vending/Catering truck to whom Authorization or a Park Permit has been issued no longer holds a valid owner's license issued as pursuant to Town of The Blue Mountains By-law, the Authorization or Park Permit shall be revoked by the Director.

Penalties

51. (1.) Any person contravening any of the provisions of this By-law, other than Subsection 31(1) resulting from the operation of a motor vehicle, and Section 27 is guilty of an offence and on conviction is liable for a fine in such amount provided by the Provincial Offences Act R.S.O. 1990, c. P.33, as may be amended from time to time.

Severability

52. If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law, it shall be severed and it is hereby declared that the remainder of the By-law shall be valid and shall remain in full force and effect.

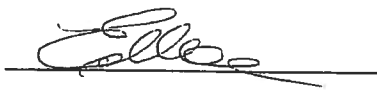
Short Title

53. THAT this By-law shall be referred to as the "Parks & Facilities Regulation By-law".

Effective Date

54. This By-law shall come into force and take effect upon the enactment thereof.

ENACTED AND PASSED this 12 day of May, 2008



Mayor, Ellen Anderson



Clerk, Stephen Keast

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