

THE CORPORATION OF THE MUNICIPALITY OF EAST FERRIS

BY-LAW NO. 2021-19

**BEING A BY-LAW FOR THE USE, REGULATION AND PROTECTION OF
MUNICIPAL PARKS AND RECREATION AREAS FOR THE MUNICIPALITY OF
EAST FERRIS**

WHEREAS Section 8 of the *Municipal Act*, 2001 provides that Sections 8 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and, (b) enhance their ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act*, 2001, S.O. 2001, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act;

AND WHEREAS Section 10 of the *Municipal Act*, 2001 provides that a single-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

WHEREAS Sections 9 to 10 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws regulating and prohibiting with respect to culture, parks, recreation and heritage;

AND WHEREAS Section 10 (2) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, permits a municipal council to pass by-laws and to make regulations for the health, safety and well-being of persons;

AND WHEREAS Section 35 of the *Liquor Licence Act* R.S.O. 1990, c. L.19 as amended, provides that the council of a municipality may by by-law designate recreational areas within the municipality owned or controlled by the municipality as places where possession of liquor is prohibited;

AND WHEREAS it is desirable to regulate, protect and govern the use of parks, and public open space within the Municipality of East Ferris;

NOW THEREFORE the Council of The Corporation of the Municipality of East Ferris enacts as follows:

1. That Schedule "A", attached hereto form part of this By-law
2. That this By-law come into effect upon adoption

READ A FIRST AND SECOND TIME this 27th day of April, 2021.

READ A THIRD TIME AND FINALLY PASSED this _____ of _____, 2021.

Mayor
Pauline Rochefort

Clerk
Monica L. Hawkins

**Schedule "A" to
By-law No. 2021-19**

SECTION 1

1.1 This By-Law may be referred to as the '*Park Use By-Law*'

SECTION 2 - DEFINITIONS

2.1 In this By-Law:

- (a) **BICYCLE** includes a tricycle and unicycle but does not include a motor assisted bicycle;
- (b) **CONTROL** means care and custody;
- (c) **CORPORATION** means the Corporation of the Municipality of East Ferris;
- (d) **COUNCIL** means the Council of the Corporation of the Municipality of East Ferris;
- (e) **DESIGNATED AREA** means an area within a park designated by the Municipality for a specific use or purpose either permanently or for a specific time duration or occasion, which may include posted conditions;
- (f) **HIKING TRAIL** means that part of a park that has been marked, posted or blazed for the purpose of hiking, cross country skiing or running by the public, is not pavement or concrete and on which the use of in-line skates, skateboards, bicycles, power-assisted bicycles, motor vehicles is prohibited. Hiking trails may or may not be accessible to motorized wheelchairs depending on topographic restrictions;
- (g) **LIQUOR** means spirits, wine and beer or any other alcoholic beverage;
- (h) **MOTORIZED 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;
- (i) **MOTORIZED RECREATIONAL VEHICLE** means a snowmobile, go-cart, trail bike, mini bike, all-terrain vehicle, or similar vehicle;
- (j) **MUNICIPALITY** means the Corporation of the Municipality of East Ferris;
- (k) **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 wear uniforms;
- (l) **PARK** means any land established by Council as a public park, or other lands maintained by the Municipality and shall include any body of water in connection therewith, or adjacent thereto. This includes but is not limited to: Vrebosch Park, Memorial Park, beaches and boat launches and any other municipal green space;
- (m) **PARKING AREA** means a part of a park that is designated and intended to park motor vehicles;
- (n) **PERMISSION or PERMIT** means the express prior written permission of the Municipality and in accordance with the rules and conditions set out in a permit issued by the Municipality or as posted in the park;
- (o) **PERSON** means an individual person or any association, corporation or partnership but does not include any person charged with the maintenance of public order or the maintenance or supervision of a park;
- (p) **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;
- (q) **REFRESHMENT VEHICLE** means a motor vehicle or any vehicle drawn, propelled or driven by any kind of power, including muscular power, from which refreshments may be sold for consumption by the public;

(r) **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;

(s) **RECREATION AREA** means an area or building or combination of both, under the control of the Municipality which is maintained and/or supervised by employees of the Municipality and includes any tennis court, outdoor skating rink, play area, sports field, park, building or portion of a building which is owned, leased or used by the Municipality, including a school and school grounds, for the purpose of offering recreation to the public;

(t) **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 disability or impediment;

(u) **SEXUAL ACTIVITY** means any physical contact of a sexual nature involving genitalia, or buttocks by one or more individuals;

(v) **VEHICLE** includes a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as 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;

(w) **VENDOR** means anyone with a retail-vending license selling refreshments or goods of any type for public use or consumption.

SECTION 3 - SCOPE

3.1 This By-law shall apply to Parks and Recreation Areas in the Municipality.

SECTION 4 - GENERAL PROHIBITED ACTIVITIES

4.1 Activities - prohibited

In any park or recreation area within the Municipality, no person shall:

(1) drive, ride or operate a vehicle including skateboarding or carry on in-line skating in violation of posted signs;

(2) drive, ride or operate any motor vehicle, e-scooter or horse drawn conveyance on a multi-use pathway;

(3) drive, ride or operate a bicycle, e-bike, motor vehicle, skateboard or carry on in-line skating on a hiking trail;

(4) operate a motor vehicle except on a roadway or in an authorized parking area;

(5) park a motor vehicle in a place other than an authorized parking area;

(6) drive, operate, park, or leave unattended a motor vehicle in any part of a park or recreation area between 10:00 p.m. and 6 a.m. of the following day except at times where the Municipality has authorized use of the park or recreation area beyond 10:00 p.m.;

(7) engage in riotous, boisterous, violent, threatening, or illegal conduct or use profane or abusive language, including:

(a) making any verbal comments or physical gestures, about or toward anyone that could reasonably be considered to be offensive, derogatory or abusive;

(b) making noise likely to disturb any inhabitant or interfere with the enjoyment of the park through the use of electronic equipment or any other means;

(c) urinating or defecating except in a designated washroom facility;

(8) engage in conduct that endangers the health and safety of themselves or others;

(9) paint likeness, take pictures, record video or record audio of any persons 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 public complaint has been received regarding such activity;

(10) engage in any sexual activity;

(11) remain in a recreation area or park for the purpose of or appearance of loitering;

(12) consume, serve, sell or possess liquor without proper approval of the Municipality and the Alcohol and Gaming Commission of Ontario;

(13) hold or take part in an unauthorized public meeting or gathering;

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

(15) enter or remain in a recreation area or park between 10:00 p.m. and 6:00 a.m. of the following day, except that a person may enter or remain in a park during the times the Municipality has authorized use of the recreation area or park beyond 10:00 p.m.;

(16) operate a motorized snow vehicle except on designated trails;

(17) 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, grass, soil, earth, or rock;

(18) cause or permit any animal under their control or ownership to damage any tree, shrub, bush, flower, plant or roots;

(19) post any sign or poster on any tree, bush, or shrub;

(20) remove, break, deface, or otherwise damage any building, monument, display, cage, pen, gate, seat, bench, picnic table, fence, posted sign, lock, barrier or any other equipment of the Municipality located therein;

(21) fail to deposit refuse in containers provided or if containers are not provided fail to remove refuse from park or recreation area;

(22) fail to remove any utensils, equipment or articles taken into an area designated for picnics;

(23) cause or permit any animal under their control or ownership to swim in or enter into or foul any swimming area intended for human use only;

(24) walk on grass in area where a sign is posted prohibiting such activity;

(25) remove or injure the nest or egg of any bird;

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

(27) let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, river, or lake located in a park or recreation area;

(28) lay or cause to be laid any pipe or conduit to communicate with any pipe or main belonging to the waterworks connected with any park or recreation area or in any way obtain water without the consent of the Municipality;

(29) 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 park with the exception of natural over land flow from adjacent residential yards;

(30) loiter in any washroom or change room, or engage in conduct that could reasonably be considered to be offensive;

(31) encroach on municipally owned lands or erect fences on municipally owned lands without the written consent of the Municipality and any such object encroaching shall be removed by the abutting owner forthwith at their expense;

- (32) permit a dog under their ownership or control to run at large except in a designated leash free area;
- (33) fail to remove and dispose of excrement of a dog under their ownership or control;
- (34) interfere with a picnic, organized gathering or special event authorized by a Municipality-issued permit or rental agreement;
- (35) move park furniture from one area to another area to accommodate their picnic, organized gathering or special event;
- (36) drive, ride or operate an e-bike under motor power;
- (37) being under the age of 16 years, drive, ride or operate an e-bike;
- (38) drive, ride or operate an e-bike unless the person is wearing a bicycle or motorcycle helmet;
- (39) 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;
- (40) ignite, discharge or set off any fireworks except as a fireworks display authorized by permit and in compliance with all federal, provincial and municipal by-laws.

4.2 Motor Vehicle Exceptions

- (1) 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.
- (2) Despite any regulation in this by-law restricting the use of motor vehicles in parks, the following persons in execution of their duties may use motor vehicles in all Parks and Recreation Areas:
 - (a) Emergency Service Personnel (Police, Fire Departments, Emergency Medical Personnel);
 - (b) Municipal Public Works and/or Parks and Recreation staff; and
 - (c) Other law enforcement personnel including, but not limited to, the Ministry of Natural Resources and Forestry officers and Municipal By-Law Enforcement Officers.

4.3 Activities Prohibited - subject to approval

Unless authorized by the Municipality, no person shall engage in any of the following activities in a park or recreation area:

- (1) start or maintain a fire, except for the purposes of cooking food in a barbecue;
- (2) use a sports field for any game or practice;
- (3) erect a tent or shelter, or park a trailer of any kind for overnight accommodation;
- (4) hold or take part in a picnic, organized gathering or event of more than twenty-five persons;
- (5) hold or take part in a meeting or gathering that obstructs the free passage of vehicular traffic;
- (6) have exclusive use of any portion or all of a park or recreation area;
- (7) ride or lead a horse, pony, donkey or mule in an area not designated for such activity;
- (8) drive, lead or use a horse drawn wagon or sleigh;
- (9) post any sign or poster on any pole, planter, building, fence, bench, picnic table, electrical transmission unit, lamp standard, or Municipal or Hydro equipment of any kind;

- (10) sell refreshments or other merchandise to the public;
- (11) operate any business, game, show or amusement for admission by the public;
- (12) operate or use a metal detector;
- (13) solicit funds for any charities, organizations or individuals of any kind;
- (14) use a trained dog as a means of controlling waterfowl;
- (15) allow a dog or any other domesticated or wild vertebrate animal to enter a recreation area, unless the animal is a trained service animal;
- (16) disturb, wound, kill, or injure any vertebrate or invertebrate animal, whether domesticated or wild, including but not limited to, birds, fish, mollusks, and arthropods;
- (17) use a cellular phone, camera or any device capable of recording images in change rooms or washrooms.

SECTION 5 – HOURS OF OPERATION

5.1

- (1) All municipal parks shall be open for normal operation on the Friday leading into the third weekend of May (Victoria Day Weekend). All Municipal Parks shall be closed to normal operation no earlier than the second Monday in October (Thanksgiving Weekend).
- (2) Municipal parks and open spaces will not be maintained to the same standards as between the third weekend in May and the second Monday in October.
- (3) All Municipal parks shall be deemed closed between 10:00 p.m. and 6:00 a.m.

SECTION 6 – ENFORCEMENT

6.1 Powers

- (1) Where any person 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 or municipal law enforcement officer employed by or under contract with the Municipality to enforce this by-law may enforce the provisions of this by-law.
- (3) Where any person contravenes any of the provisions of this by-law, the permission of such person to remain in that park or recreation area, is revoked.
- (4) A police officer or municipal law enforcement officer employed by or under contract with the municipality 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 or recreation area, and not return for a specified amount of time.

6.2 Orders

- (1) If a municipal law enforcement officer or a police officer is satisfied that this by-law has been contravened, the officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, to discontinue the contravention.
- (2) An Order to Discontinue Activity shall set out:
 - (a) the address of the property or name of the park on which the contravention occurred;

(b) the date of the contravention;

(c) the reasonable particulars of the contravention of the by-law; and

(d) the date by which there must be compliance with the order.

(3) The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

(4) No person shall contravene an “Order to Discontinue Activity.”

6.3 Applicable Law

Park and recreation area users 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.

6.4 Recreation Area Permit Holders

Holders of permits for recreation areas shall be responsible to ensure that all applicable provisions of this by-law are upheld.

6.5 Continuation – repetition of offence – prohibited

The court in which the conviction has been entered 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.

SECTION 7 - PENALTY

7.1 Contravention of By-Law

Any person contravening any provision of this by-law is guilty of an offence and on conviction is liable to such penalty as is provided for under the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended from time to time.

SECTION 8 - SEVERABILITY

8.1

(1) If a court of competent jurisdiction should declare any section or part of any 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 and it is hereby declared the remainder of the by-law shall remain valid and in force.