

Town of Whitby Staff Report

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Report Title: Proposed Amendments to the Public Parks and Park Building By-law

Report to: Committee of the Whole

Date of meeting: April 7, 2025

Report Number: CMS 05-25

Department(s) Responsible:

Community Services Department

Submitted by:

John Romano, Commissioner,
Community Services

**Acknowledged by M. Gaskell, Chief
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1. Recommendation:

1. That Report CMS 05-25 be received;
2. That the proposed amendments to the Town's Public Parks and Park Buildings By-law #7419-18, as appended as Attachment 1, be brought forward to Council for consideration; and,
3. That NUB GG-0001, pertaining to Fishing in Town Parks, will be removed from the New and Unfinished Business List.

2. Highlights:

- The Parks By-law requires minor amendments to clarify some of the existing provisions and to include additional conditions to address gaps based on feedback that was received from various departments, a review of the 2024 Parks and Recreation Master Plan and a public survey on fishing.
- The key amendments include:
 - Clarifying the wording related to the use of barbecues and large gatherings;

- Adding provisions related to fishing, encroachment of park property, as well as posting and enforcing conditions on park signs; and
- Adding provisions for the newly adopted Administrative Penalty System.

3. Background:

The existing Parks and Park Buildings By-law (the “Parks By-law”) was adopted in 2018. Since coming into effect, fishing along the waterfront was identified as one activity that is not regulated in the Parks By-law. Through Council Resolution MD-4431, staff were directed to undertake a review of fishing regulations and bring forward any recommended changes to the Parks By-Law. The review of fishing regulations is discussed further in Part 4 of this report.

The review of fishing regulations also provided an opportunity for staff from Parks Planning and Development, Legal and Enforcement Services, Parks Operations, Recreation, Transportation and Risk Management to review other sections of the By-Law to identify any potential gaps, clarifications and additions that may be needed. Several key topics were identified through this review, including:

- Clarifying the permissions required for the use of barbecues and organized gatherings of twenty persons or more in all parks;
- Adding general provisions prohibiting dangerous activities;
- Ensuring that signs posted with rules and conditions applicable to a specific park are enforceable;
- Clarifying regulations regarding encroachments into parks and the installation of gates to access park property;
- Adding provisions around enforcement and attaching a schedule of penalties; and
- Adding a use at your own risk provision.

4. Discussion:

The current Parks By-law requires a number of minor amendments to improve the clarity and application of the regulations. The key amendments have been informed through discussions with internal staff from various departments, a public survey on fishing and a review of similar regulations utilized by other municipalities. Proposed revisions and clarifications to the by-law, aside from the fishing provisions, were deemed minor in terms of community impact; therefore, additional targeted community consultation was not considered necessary. The discussion below outlines the key recommendations and rationale by topic.

Fishing

Staff consulted the public through an online survey and completed a jurisdictional scan to help inform potential rules and regulations related to fishing along Whitby’s waterfront

and in other parks. The Fishing in Whitby survey was posted on Connect Whiby in the Fall of 2021. There were 205 respondents to the survey. The survey respondents consisted of approximately 58% who fish and the remaining 42% who do not. Approximately 94% of responses were supportive of continuing to permit fishing within parks and along the waterfront, expressing the many benefits of fishing, including the fact that it is an affordable and family-friendly activity that encourages time outdoors. The primary concerns related to fishing, identified by the survey, included the potential of leaving behind garbage and safety conflicts with other park users.

A review of Parks By-laws from neighbouring municipalities, including Ajax, Barrie, Clarington, Oshawa, Pickering and Vaughan, found that a common approach to regulating where fishing occurs, is to generally permit it in municipal parks unless signage is posted to prohibit based on site specific considerations. Staff are recommending this approach be added to Whitby's Parks By-law so that fishing can continue to be enjoyed by residents and visitors but give the Town discretion to prohibit fishing in areas that are considered unsafe or inappropriate, such as busy pedestrian areas. In addition, staff will continue to monitor the waterfront to identify and mitigate potential conflicts.

At this time, there are no locations identified for the banning of fishing. Fishing activities would also be subject to the Federal Fisheries Act and Provincial legislation. Accordingly, staff have included language that fishing in Town parks are still required to comply with all applicable regulatory legislation.

Barbecues

The Town's current Parks By-law specifies that a permit is required for the use of barbecues within Kiwanis Heydenshore Park, Cullen Central Park or at Special Events. The barbecue provisions were introduced as part of CMS 29-18, in order to mitigate the issues caused by charcoal barbecue use and over-crowding of Heydenshore Park. The barbecue regulation and permitting system managed by the Town has worked well in these locations, but the current Parks By-law does not clearly specify whether a permit is required for barbecuing in other parks.

The ambiguity regarding the use of barbecues in other parks has potential to lead to safety and other challenges. Currently, there are no clear regulations in the By-law that allow the Town to enforce the safe and appropriate use of barbecues in parks beyond Heydenshore and Cullen. This could lead to potential fire hazards when users improperly dispose of spent charcoal. Additionally, the use of barbecues in unverified locations could lead to damage of park amenities and conflicts with other park users.

The intent of the current barbecue provision is to provide the Town with oversight regarding where barbecuing is appropriate and to provide specific conditions through the permitting system to ensure any barbecuing activity is undertaken in a safe manner. Therefore, staff recommend that this general approach continue to apply, but that the barbecue provision in the Parks By-law be clarified to specify that permits for the use of barbecues apply to all parks. This aligns with the policies of the neighboring

municipalities of Ajax and Oshawa, both of which require permission to operate a barbecue in any park.

Encroachments and Property Line Fences

Encroachments into Town parks and open spaces unlawfully occur in various forms. They may involve the permanent construction of structures or landscaping on Town property, cutting or maintenance of vegetation, dumping, temporary construction access or the installation of gates in property line fences to access the Town's parks or open spaces.

The encroachment of permanent structures, landscaping and dumping are prohibited under the Town of Whitby Town Lands Encroachment By-law #7389-18. However, there are instances where the installation of gates or temporary construction access through a park is necessary and appropriate. It is important for the Town to have discretion and review individual circumstances to ensure safe access can be provided and that Town property is restored as required. The Town currently has a park encroachment permitting process in place, as well as a process by which residents apply to have gates installed in rear yards bordering a Town park.

It is recommended to amend the Parks By-law to provide greater detail regarding the types of encroachment activities that may be considered, subject to an encroachment permit, in park and open spaces.

Nuisance and Dangerous Activities

Through the review of the Parks By-law, there were instances of potentially dangerous activities flagged to staff, such as kite fighting occurring in adjacent municipalities and in Heber Downs Conservation Area. Kite fighting poses several hazards and safety risks due to the sharp materials that are attached to the string and the likelihood that kites are cut and left on the ground, creating a risk to park users and animals. There were no specific provisions in the By-law that would prohibit this type of activity in Whitby's parks should it become an issue in the future. Therefore, it is recommended to introduce two general provision to prohibit dangerous or disruptive activities.

E-Scooter and E-Bike By-law and Motor Vehicles Definition

The Draft E-scooter and E-bike By-law, scheduled to be brought forward in Q2 or Q3 2025, separates e-scooters and e-bikes from the motor vehicle definition into their own definition, permitting them to be on trails and paths within the Town's Parks and Open Spaces while prohibiting other micromobility devices, such as e-skateboards, e-hoverboards, e-unicycles and Segways, from these areas. Staff recommend revising the definition of motor vehicle to be consistent with and reference the Town's E-bike and E-scooter By-law.

Posting of Signs and Abiding by Posted Conditions

There are instances in the Town of Whitby where site specific conditions apply to an individual facility or park. For example, the seasonal opening dates of racquet sport courts are typically posted at these facilities to ensure safety of users. These conditions are too specific and detailed for inclusion in the Parks By-law and it would be cumbersome to update the By-law for each new instance or change to a site or facility specific condition in the future. Therefore, to ensure the conditions posted on signs are enforceable and that Town has flexibility to post and amend conditions in the future, it is recommended to add provisions to the By-Law that authorize the posting of signs and abiding of posted conditions.

Administrative Penalty System

On March 29, 2024, the Town adopted the Administrative Penalty System (APS) to enforce by-law violations within the Town with fines set out in Schedule "A" (Attachment 1) for infractions within the Town's parks and open spaces. The use of an APS by the Town will allow for the streamlining of infraction issuance, enabling infractions to be issued more quickly and even after the time of the offence occurs. Accordingly, the Parks By-law is recommended to be revised to include references to the APS.

5. Financial Considerations:

Not Applicable.

6. Communication and Public Engagement:

The fishing provisions have been informed by the Fishing in Whitby survey results from Connect Whitby. The feedback from the fishing survey and proposed approach to adding fishing regulations to the Parks By-law have been communicated to subscribers of the Fishing in Whitby, Connect Whitby webpage. The remaining revisions and clarifications in this by-law update are considered minor, and staff do not recommend additional targeted community engagement.

7. Input from Departments/Sources:

Various internal departments have been involved in the process of preparing amendments to the Parks By-law, including Parks Planning and Development, Legal and Enforcement, Parks Operations, Recreation, Transportation and Risk Management.

8. Strategic Priorities:

The recommendations of this report advance the Town's Strategic Pillars and Actions identified in the Community Strategic Plan, including supporting Whitby's Neighbourhoods and Whitby's Natural & Built Environment. In particular, the proposed amendments to the Parks By-law support objective 1.1: Improve community safety, health and well-being, and objective 4.3: Deliver exceptional customer service and community engagement.

9. Attachments:

Attachment 1 – Amendment to Parks and Park Buildings By-law 7419-18

Attachment 2 – Summary Table of Amendments to Parks By-law