

THE CORPORATION OF THE TOWN OF TECUMSEH

By-law Number 2009-13

A By-law to regulate Parks

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# THE CORPORATION OF THE TOWN OF TECUMSEH

## By-law Number 2009-13

### A By-law to regulate Parks

**WHEREAS** sections 9 to 11 of the *Municipal Act 2001, S.O. 2001 c. 25*, as amended, (*"Municipal Act"*) confer the power to a municipality to pass by-laws regulating and prohibiting with respect to culture, parks, recreation and heritage;

**AND WHEREAS** sections 9 to 11 of the *Municipal Act* confer the power to a municipality to pass by-laws regulating and prohibiting with respect to parking on municipal parking lots and structures;

**AND WHEREAS** sections 9 to 11 of the *Municipal Act* confer the power to a municipality to pass by-laws regulating and prohibiting with respect to animals;

**NOW THEREFORE** the Council of the Corporation of the Town of Tecumseh hereby enacts as follows:

#### DEFINITIONS

1. In this By-law:

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

"Bicycle" includes a tricycle and unicycle but does not include a motor assisted Bicycle;

"Control" includes care and custody;

"Council" means the Council of the Corporation of the Town of Tecumseh;

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

"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, or similar Vehicle, propelled or driven by an internal combustion or electrical engine;

"Municipality" means The Corporation of the Town of Tecumseh;

"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" means land and land covered by water, and all portions thereof, owned by or made available by lease, agreement, or otherwise to the Municipality, that is or hereafter may be established, dedicated, set apart or made available for use as public open space, golf course or municipal cemetery, including any and all buildings, structures, facilities, erections and improvements located in or on such land, save and except where such land is governed by other by-laws of the Municipality;

"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 employee of the Municipality where such power has been delegated;

"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;

"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.

"Vehicle" includes a Motor Vehicle as defined under 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;

### SCOPE

2. This By-law shall apply to all Parks in the Municipality.

## **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.

### 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 as 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; or
  - (4) create a nuisance or in any way interfere with the use and enjoyment of the Park by other persons.

### 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 Permit.

### Fireworks

6. While in a Park, no person shall ignite, discharge or set off any fireworks except as a fireworks display authorized by Permit and in compliance with By-law Number 1999-33, as amended, being a by-law to regulate the sale and use of fireworks.

### 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;
    - (a) any tree, flower, flower bed, bush, shrub, plant, sod, grass or other vegetation, soil, sand, gravel or wood;

- (b) 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 except in a Designated Area thereof;
- (3) dump or drain onto any soils or into any waters of any pool, pond, lake, stream, fountain or watercourse of any kind of material, toxic or otherwise, which may have the effect of polluting same.

#### Protection of Wildlife

9. While in a Park no person shall:

- (1) kill, attempt to kill, trap, hunt, fish, attempt to fish, pursue or in any manner disturb any animal, bird, waterfowl, fish, worms or other wildlife;
- (2) feed any waterfowl except in a Designated Area.

#### Encroachment

10. Unless authorized by Permit or otherwise, no person shall encroach upon or take possession of any Park by any means whatsoever, including the construction, installation or maintenance of any fence or structure, the dumping or storage of any materials or plantings, or planting, cultivating, grooming or landscaping thereon.

#### Alcohol

11. While in a Park, no person shall consume, serve or sell alcoholic beverages unless in compliance with the alcohol policy of the Municipality and as authorized by a Permit and with the approval of the Liquor Licence Board 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 Permit;
- (2) use a solid fuelled portable barbecue unless authorized by Permit or where Posted to allow same;
- (3) use fuel other than charcoal or briquettes in a barbecue provided by the Municipality; or
- (4) leave a fire unattended or leave the site of the fire before the fire is completely extinguished.

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 obtaining a reserved use Permit;
  - (b) interfere with a picnic, organized gathering or event authorized by Permit.
- (2) Where a picnic, organized gathering or event is for:
- (a) 26 to 299 people, the reserved use Permit, which shall be obtained, will be that of a Small Group Permit; and
  - (b) 300 people or more, the reserved use Permit, which shall be obtained, will be that of a Large Group Permit.

Amplifiers and Loud Speakers

14. (1) Unless authorized by Permit 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 Permit, no person shall dwell, camp, or lodge in a Park.

Tents and Structures

16. Unless authorized by Permit, no person shall place, install or erect any temporary or permanent tent or structure in any Park.

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 pond, lake or stream, except in a designated area;
  - (4) other than with 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 without being properly attired including appropriate swimwear.

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; 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 a Permit where same is Posted to prohibit or restrict such use.

#### Special Events

19 A. Notwithstanding anything to the contrary contained herein, section 16 (herein the "varied sections") shall not apply to the guests, invitees and organizers of events that are by resolution of Council identified as special events under this section. Such resolution shall identify the date and time of commencement and end of the special event and the name of the special event. It may stipulate that the sections are suspended generally without condition or suspended with conditions including limitations with respect to certain proposed activities, structures, locations within the Park or a portion or portions of the period of the special event. Such conditions may include a provision requiring the organizer of the event or the individual representing the organizer of the event to execute an agreement or undertaking in writing respecting such matters as Council may consider appropriate including, without limitation, liability and insurance

#### 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, or Vehicles unless authorized by Permit.

#### Skiing, Tobogganing and Sledding

22. No person shall ski, toboggan, snowboard, skibob or sled in any area in any Park Posted to prohibit same.

#### 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 like conveyances; or
  - (3) use a skateboard.

#### 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.

**PART IV - VEHICLES**Roadways

25. (1) The Council, or where such authority has been delegated to a Municipal Employee or a Committee established by Council, is authorized to establish appropriate rules to regulate the use of Park roadways.
- (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 roadway or parking area.

Parking

26. 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 during which a Park is closed, as set out in Section 36, except in a Designated Area allowing for such overnight parking;
  - (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) park in a designated fire route; or
  - (7) park without consent of the Council, Committee established by Council or Municipal Employee where such authority has been delegated by Council.

Other Activities

27. No person shall make use of any roadway 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.

Bicycles

28. While in any Park, no person shall:
- (1) ride, operate or be in possession of any Bicycle where Posted to prohibit same; or
  - (2) obstruct, inconvenience or endanger other users of the Park while riding or operating a Bicycle.

Motorized Recreational Vehicles

29. 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

30. 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.

**PART V - ANIMALS**

31. Unless authorized by Permit 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.
32. (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, except 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 two (2) metres (six (6) feet, six (6) inches) in length when not running at large in a Designated Area; or
  - (b) (i) pickup 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 (i) 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) There shall be attached to this By-law a Schedule "A" being comprised of maps indicating thereon the Designated Areas of Parks which have been established by Council as leash-free zones, being areas of the Parks in which dogs, or cats or other domesticated animals may run at large.
- (4) While a dog, or cat or other domesticated animal is in an area designated as a leash-free zone as set out in Schedule "A" to this By-law, 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 Municipality designated by 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; and
  - (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.

33. 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 to 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, provincial offences officer, municipal law enforcement officer or employee of the Municipality designated by 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- COMMERCIAL ENTERPRISES

### Sale of Merchandise. Trade or Business

34. (1) Unless authorized by Permit, 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, souvenirs 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, practise, carry on, conduct or solicit for any trade, occupation, business, profession or charity.

### Circulars and Advertisements

35. (1) Unless authorized by Permit, no person shall:
- (a) while in any Park distribute, discard, or display any handbill, notice, or other circular, bill or advertisement; 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 VII- HOURS

36. (1) All Parks shall close at 10:00 p.m. during daylight savings time, commencing the second Sunday of March through and until the first Sunday of November, annually, and shall remain closed until 7:00 a.m., the following morning unless otherwise Posted.
- (2) All Parks shall close at 6:00 p.m. during standard time, and shall remain closed until 7:00 a.m., the following morning unless otherwise Posted.
37. No person shall be or remain in a Park after the closing hour or before the opening hour.
38. No organized sport or activity shall commence before eight o'clock (a.m.) in the forenoon, local time on Saturdays, Sundays and statutory holidays.

## PART VIII - REGULATION AND ENFORCEMENT

### Permits and Licences

39. (1) 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) 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) 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 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) 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 Permits referred to in the By-law is delegated to the Director, Public Works and Environmental Services or his or her designate.

#### Posting of Signage

40. The Director, Public Works and Environmental Service 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 hereof.

#### Temporary Closure

41. The Director, Public Works and Environmental Services is authorized to close off for such temporary period as the Director, Public Works and Environmental Services 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.

#### Exclusions and Exemptions

42. This By-law shall not apply to:
  - (1) the drivers, operators or other personnel of ambulances, police or fire department Vehicles; or
  - (2) employees or agents of the Municipality while engaged in works or services undertaken for or on behalf of the Municipality.
- 42A Council may upon an application from any person, authorize minor variances from this By-law, if in the opinion of Council the general intent and purpose of the By-law are maintained

#### Enforcement

- 43.(1) Any police officer, provincial offences officer, municipal law enforcement officer or employee of the Municipality designated by Council 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 Council 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 a Permit and/or licence has been issued, or fails to comply with an order referred to in subsection (2) hereof, the Permit and/or licence of such person or group to remain in that Park is revoked.

#### Penalties

44. (1) Any person contravening any of the provisions of this By-law, other than subsection 30 resulting from the operation of a Motor Vehicle, and section 26 is guilty of an offence and on conviction is liable to 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.
- (2) Any person contravening the provision contained in subsection 30 of this By-law resulting from the operation of a Motor Vehicle, is guilty of an offence under the *Highway Traffic Act*, R.S.O. 1990, c.H.8, and, pursuant to the provisions thereof, on conviction is liable to a fine in such amount provided for by the *Highway Traffic Act*, R.S.O. 1990, c.H.8 as may be amended from time to time.
- (3) Any person contravening a provision contained in section 26 of this By-law shall be deemed to have contravened the applicable parking by-law of the Municipality and the contravention shall be enforced under said By-law.

#### Severability

45. 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

46. This By-law shall be referred to as the "Parks By-law".

#### Repeal and Transition

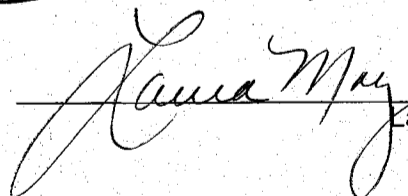
47. By-law 2002-98 is hereby repealed.

#### Effective Date

48. This By-law shall come into force and effect on the date it is enacted by Council.

READ a first, second, third time and finally passed this 27<sup>th</sup> day of January, 2009.

  
Gary McNamara, Mayor

  
Laura Moy, Clerk

THE CORPORATION OF THE TOWN OF TECUMSEH

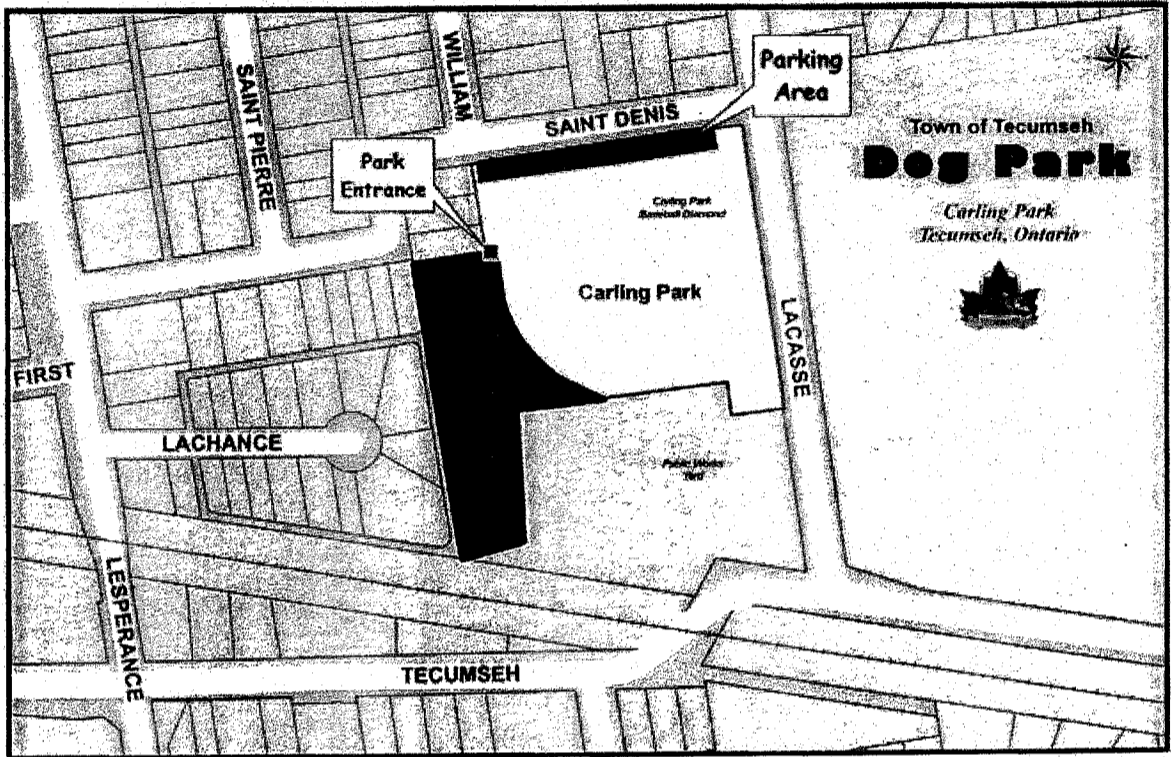
By-law Number 2009-13

A By-law to regulate Parks

SCHEDULE "A"

Maps – Designated Areas - Leash Free Zones

Carling Park



Tecumseh Arena

