

TO:	CHAIR AND MEMBERS COMMUNITY & PROTECTIVE SERVICES COMMITTEE MEETING ON JUNE 17, 2013
FROM:	WILLIAM C. COXHEAD MANAGING DIRECTOR OF PARKS AND RECREATION
SUBJECT:	PARKS & RECREATION AREA BY-LAW PR-2 AMENDMENTS To address e-bikes and Speed Limits on Multi-use Pathways, ESA Management and Enforcement, Feeding of Wildlife, Licensed Events or Gatherings, In Parks and Environmentally Significant Areas

RECOMMENDATION

That, on the recommendation of the Managing Director of Parks and Recreation, the attached proposed By-law (Appendix A) **BE INTRODUCED** at the Municipal Council meeting on June 25 2013, to amend the Parks & Recreation Area By-Law PR-2 to address the exclusion of power-assisted bicycles (“e-bikes”) from the City’s multi-use pathway system, lowering the speed limit on pathways from 30kmph to 20kmph, improving the Upper Thames Conservation Authority’s ability to act as by-law enforcement officers within the City’s Environmentally Significant Areas, the feeding of wildlife in city parks and licensed events or gatherings in city parks.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Community and Protective Services Committee:
 Parks and Recreation By-Law – Prohibition on Depositing Animal Feed - June 22, 2009
 Revised Parks and Recreation By-Law - April 25, 2005
 New Parks By-Law – July 29, 1996

BACKGROUND

The existing Parks and Recreation By-Law was last revised in 2005. Over the past 8 years, a number of issues have arisen that should now be addressed by the by-law. The key items to be addressed are outlined as follows:

e-bikes on Multi-Use Pathways: The Parks & Recreation Area By-law currently prohibits motor vehicles (as defined in the Highway Traffic Act) from multi-use pathways. In 2009 the Province amended the *Highway Traffic Act* and excluded “power-assisted” bicycles (or e-bikes) from the definition of “motor vehicle”. For purposes of the Parks & Recreation Area By-law, Civic Administration is recommending that the by-law be amended to make it clear that e-bikes are prohibited from multi-use pathways while under electrical power.

Speed Limits on Multi-Use Pathways: The Parks and Recreation Area By-Law currently allows for travel at speeds up to 30km/hr. While the City has had very few incidents with collisions and injuries on our multi-use pathway system, we have received complaints about the relative speed of bicycles on the multi-use pathways. As described above, with many users on the pathway, a speeding cyclist or in-line skater can startle and disturb other slower users and threaten their safety.

ESA Management and Enforcement: The City manages the Environmentally Significant Areas (ESAs) by utilizing the UTRCA to manage the protection of natural features and enforcing appropriate use of these sensitive natural areas. The UTRCA have requested several by-law amendments to permit them to carry out their duties in a more efficient manner. These include



enforcement activities to deal with land encroachments; damage to sensitive natural areas by off road vehicles, bicycles and off trail hiking, unauthorized camping and motorized boating to name a few.

Feeding of Wildlife: On June 22, 2009, Civic Administration brought a report forward recommending changes to the Parks & Recreation Area By-law to help Municipal Law Enforcement Officers deal with excessive feeding of wildlife in parks and natural areas. Concerns were raised over the definition to determine what “excessive feeding” was. The matter was referred back to Civic Administration to determine ways to deal with the larger problem while still allowing the feeding of birds and animals small amounts of feed.

Licensed Events or Gatherings: Two changes to Section 3.1 are proposed to include clauses that prevent groups from interfering with events or gatherings that that have been authorized by a City-issued permit. This will ensure groups that rent sportsfields or picnic areas have exclusive access and use of the park amenity that is licensed to their group without interference or disruption from an unlicensed group.

PROPOSED PR-2 BY-LAW UPDATES

By-law amendments are proposed to address five separate issues that were reviewed by Civic Administration.

1. e-bikes on Multi-Use Pathways:

The current Parks & Recreation Area By-law prohibits a person from driving, riding or operating any “motor vehicle” on a multi-use pathway. “Motor vehicle” is currently defined in the By-law as having the meaning attributed to it in the *Highway Traffic Act*, but the *Highway Traffic Act* definition of “motor vehicle” specifically excludes “power-assisted bicycles”.

As a multi-use recreational trail, there is a large range of users from small children to dog-walkers to in-line skaters to cyclists, mixed in with people who are leisurely strolling on our pathways through our parks system. Park patrons regularly raise concerns about e-bikes on the multi-use pathway. These e-bikes or power-assisted bicycles are relatively silent and can be heavier and generally faster than normal bicycles and present a greater risk to other pathway users.

The intent of the by-law amendment is to clearly prohibit “power-assisted bicycles” (e-bikes) from using multi-use recreational pathways. This is accomplished by treating them like motorcycles which are prohibited already. A definition for “power-assisted bicycle” and amending certain subsections to prohibit power-assisted bicycles from hiking trails and ESAs, and prohibiting them from multi-use pathways while under electrical power are added. Other municipalities such as Windsor, Ottawa and Calgary currently ban e-bikes from their pathway system.

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.

It should be noted that e-bikes will not be precluded from operation on designated commuter bicycle paths and lanes within the right of way of major roads.

2. Speed Limits on Multi Use Pathways:

Currently, the speed limit on roads and pathways in our parks is 30km/h. Due to the varied types of users and the recreational nature of the trail system it is believed the safety and enjoyment of all users would benefit from a lower speed limit. Civic Administration has reviewed other Municipalities rules regarding speed limits in parks and has determined that many cities have lower speed limits and that a decrease in speed on our pathways is warranted.



CITY	SPEED LIMIT
Brampton	Site specific posting
Hamilton	Site specific posting
Mississauga	25
Ottawa	20
Pickering	20
Toronto	20
Waterloo	None specified
Windsor	20

The proposed by-law amendment would change the speed limit from 30kmph to 20kmph on our multi-use recreational pathways and in areas where there is no posted limit. New speed limit signs will be added to selected sites along the pathway system and park roads to identify the new speed limit.

3. ESA Management and Enforcement:

Current management efforts to protect the Environmentally Significant Areas in London Parks require the following amendments be made to the Parks and Recreation By-law:

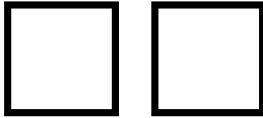
- To better protect significant natural habitat areas, Part 3 General Prohibited Activities, will now include 'Walking off managed hiking trails'. Staff will seek a \$50 set fine for this prohibited activity;
- Drive, ride or operate a motorized boat will be added to the list of Part 3 General Prohibited Activities to reflect appropriate use in natural ponds. Staff will seek a \$50 set fine for this prohibited activity.
- Staff will seek to reduce the 'permit a dog under their control to run at large, except in a designated leash free area' prohibited activity fine from \$220 to \$75 to permit an appropriate level of enforcement. The current fine is believed to be too harsh relative to other fines and enforcement officers receive a great deal of pushback when trying to lay the current fine.
- Add the ability for Municipal Law Enforcement Officers to issue an 'Order to Discontinue', to better control unauthorized activities or uses such as campsites in and along parks and rivers, and;

Municipal Law Enforcement Officers will use these enforcement tools when routine education efforts to protect park and ESA environments are not successful.

4. Feeding of Wildlife

While most wildlife regulations are governed by the Ministry of Natural Resources, the feeding of wildlife on municipal lands can be regulated by the Municipality. The Ministry of Natural Resources recommends that the feeding of wildlife be discouraged as it can increase disease transmission and decrease natural foraging skills. Deposited foods are typically nutritionally incompatible with normal wildlife diets and create a reliance on human interaction. The feeding of deer can also creating unnatural herding and migration patterns in many natural areas which can cause damage to neighbouring properties.

Wildlife in the city is a natural occurrence and for the most part, Londoners have learned to live with various forms of wildlife and have grown to appreciate most. On occasion, wildlife becomes a nuisance to park users, adjacent home owners and city maintenance activities. This was the case with the feeding of deer in Sifton Bog which lead to an overpopulation of deer in the Bog causing environmental damage. There have also been calls in the past to control the dumping of bread to feed geese along the river which have caused traffic delays and unsafe road conditions.



The intent of a 2009 report in this regard was to propose the addition of a new section to prohibit the feeding of animals in parks and natural areas. This recommendation was referred back to staff to find a clearer way to deter the excessive dumping of feed while not prohibiting the occasional feeding of small amounts of food to animals like squirrels and ducks. Upon further review by multiple service areas, it was determined that the existing Section 3.1 (23) offence of “Failing to deposit refuse in containers or failing to remove refuse from parks” already covers feeding of wildlife, since the “refuse” definition includes “discarded food”. This offence carries a set fine of \$100.00. Therefore there is no need to amend the by-law to enforce developing refuse regulations.

Further, the proposed by-law amendment clarifies the definition of “Park” and “Environmentally Significant Area” and therefore clarifies that the by-law can be enforced by the City and UTRCA Enforcement Officers in parks that are jointly managed by the City even if the City does not hold title to the land (for instance, a large portion of Sifton Bog) is owned by the UTRCA.

5. Licensed Event or Gathering

To better protect event permit holders in parks, a clause has been added to section 3.1 which will prevent unlicensed groups from interfering with an authorized licensed event.

This report was prepared with the review and/or input from Lynn Marshall, City Solicitors Office and Joy Jackson, Risk Management and Orest Katolyk, By-law Enforcement.

CONCLUSION

The proposed By-law changes are required to address changing use patterns and recurring issues within the City’s park and open space system. Updating the By-law to address these issues will help manage activities in our parks and natural areas. Please note that the by-law will come into effect on August 1st to allow time for new set fine orders to be attained.

PREPARED BY:	PREPARED BY:
SCOTT STAFFORD DIVISION MANAGER–PARKS AND COMMUNITY SPORTS	ANDREW MACPHERSON MANAGER– ENVIRONMENTAL & PARKS PLANNING
RECOMMENDED BY:	
WILLIAM C. COXHEAD MANAGING DIRECTOR OF PARKS AND RECREATION	



APPENDIX A

Bill No.
2013

By-law No.

A By-law to amend By-law No. PR-2, entitled "A by-law relating to the use, protection and regulation of PUBLIC PARKS AND RECREATION AREAS IN THE CITY OF LONDON"

WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting Health, safety and well-being of persons, and Protection of persons and property;

AND WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

1. Section 1.1 of By-law PR-2 is amended by deleting the definition of "Environmentally Significant Area" in its entirety and replacing it with a new definition, as follows:

"Environmentally Significant Area" means those areas delineated as ESAs on a Map Schedule of the Official Plan for the City of London Planning Area adopted by the Municipal Council and amended from time to time, and which are under the control or management or joint management of the City;

2. Section 1.1 of By-law PR-2 is amended by inserting the phrase "power-assisted bicycles," after the phrase "bicycles," in the definition of "Hiking trail".
3. Section 1.1 of By-law PR-2 is amended by deleting the definition of "Park" in its entirety and replacing it with a new definition, as follows:

"Park" means land and land covered by water and all portions thereof under the control or management or joint management of the City, that is or hereafter may be established, dedicated, set apart, or made available for use as public open space, including a natural park area and an environmentally significant area as defined in this by-law, including any buildings, structures, facilities, erections and improvements located in or on such land.

4. Section 1.1 of By-law PR-2 is amended by inserting a new definition of "power-assisted bicycle" as follows:

"power-assisted bicycle" has the meaning attributed to it in the *Highway Traffic Act* and is commonly referred to as an electric bicycle or e-bike, and for greater certainty, has affixed to it pedals that are operable;

5. Section 2.1 of By-law PR-2 is amended by deleting the section in its entirety and replacing it with a new section, as follows:

2.1 By-law applicability - defined

This by-law applies to all recreation areas, parks and any premises located therein which are under the control or management or joint management of the City, together with the avenues, boulevards, drives, streets and approaches thereto and connecting the same.

6. Subsection 3.1(3) of By-law PR-2 is amended by deleting the number "30" and replacing it with the number "20".



7. Subsection 3.1(4) of By-law PR-2 is amended by inserting the phrase “, power-assisted bicycle unless it is propelled solely by muscular power,” after the phrase “motor vehicle”.
8. Subsection 3.1(5) of By-law PR-2 is amended by inserting the phrase “power-assisted bicycle,” after the phrase “bicycle,”
9. Subsection 3.1(37) of By-law PR-2 is amended by deleting the punctuation “.” and replacing it with “;”.
10. By-law PR-2 is amended by inserting new subsections 3.1 (38), 3.1(39), and 3.1(40) as follows:
 - (38) interfere with a picnic, organized gathering or special event authorized by a City-issued permit;
 - (39) move park furniture from one area to another area to accommodate their picnic, organized gathering or special event;
 - (40) drive, ride or operate a motorized boat.
11. Subsection 5.4(7) of By-law PR-2 is amended by inserting the phrase “, power assisted bicycle,” after the term “bicycle”.
12. Subsection 5.4(9) of By-law PR-2 is amended by deleting the punctuation “.” and replacing it with “;”.
13. By-law PR-2 is amended by inserting new subsection 5.4(10) as follows:
 - (10) No person shall hike, run, jog, or cross country ski other than on a hiking trail.
14. By-law PR-2 is amended by inserting a new section 7.1.1 as follows:
 - 7.1.1 (a) If a Municipal Law Enforcement Officer, a Police Officer, or person under contract with the City to enforce this by-law 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.
 - (b) An Order to Discontinue Activity shall set out:
 - (i) the address of the property or name of the park on which the contravention occurred;
 - (ii) the date of the contravention;
 - (iii) the reasonable particulars of the contravention of the by-law; and
 - (iv) the date by which there must be compliance with the order.
 - (c) 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.
 - (d) No person shall contravene an Order to Discontinue Activity.
15. This by-law shall come into force and effect on August 1, 2013.

PASSED in Open Council , 2013

Joseph Fontana
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading -