

For Information Only

Draft By-Law to Establish/Regulate Use of Off-Leash Dog Park

Presented To: Community Services Committee

Presented: Monday, Jun 25, 2012

Report Date Thursday, Jun 14, 2012

Type: Managers' Reports

Recommendation

For Information Only

Finance Implications

The capital funds to develop the off-leash dog park in the amount of \$116,659 have been previously approved. As part of the total project cost, council approved a one-time allocation of \$47,255 to complete phase 1. The balance of the capital will be funded from Ward 11 Healthy Community Initiative fund. Operational funds in the amount of \$6,700 have also been approved and included as part of the base budget.

Background

The off-leash dog park to be located at the corner of Donna Drive and Second Avenue North is scheduled to open late in August, 2012. A by-law is required to create an area in the city where dogs will be permitted to be leash free on city property without contravening the City's Animal Control By-law (2002-285) and setting the terms and conditions, including rules under which persons and their dogs may utilize the off-leash dog park. The off-leash by-law will be presented to council on July 10, 2012 for final approval. The draft by-law has been attached to the report for the purpose of providing Council with an opportunity to review the draft and provide input into finalizing the by-law.

Public Consultation Session Survey

As part of developing a draft parks by-law, public consultation sessions were held in May, 2012. There was strong support to establish off-leash dog parks throughout the City of Greater Sudbury. Many have expressed concerns related to enforcement of the poop/scoop by-law and unleashed dogs. The Minnow Lake CAN D.O.G.S. Committee have been involved in providing feedback in developing the Off-Leash Dog park draft by-law.

Legislative Landscape Relating to Dogs

There are several pieces of legislation which relate to dog handling. The provincial Dog Owners' Liability

Signed By

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Recommended by the Department

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Act and its regulations regulate the ownership, transfer and control of certain types of dogs, as well as addressing liability in relation to dog bites or attacks. The Health Protection and Promotion Act and its regulations regulate the immunization of dogs for rabies. The City's Animal Control By-law regulates dog running at large and the requirement to register dogs with the City, in addition to the requirement for dogs to wear the dog tag issued by the City.

Signage

Signage governing the operation of the dog park will be installed and will detail:

- Rules and regulations
- Schedule: The proposed schedule of operation is 7 days per week, 6:00 a.m. to 9:00 p.m. Winter maintenance will include parking lot maintenance and plowing a pathway in the dog park.

Evaluate/Review

The off-leash dog park by-law will be evaluated within 12 months of operation in order to determine if any amendments or modifications are required.

A BY-LAW OF THE CITY OF GREATER SUDBURY
TO ESTABLISH AND REGULATE
THE USE OF OFF-LEASH DOG PARKS

WHEREAS section 5 of the *Municipal Act, 2001*, S.O. 2001, c. 25 requires that a municipal power be exercised by by-law;

AND WHEREAS section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may pass by-laws respecting the social well-being of the municipality, animals and protection of persons and property;

AND WHEREAS the municipal council of the City of Greater Sudbury considers it desirable for the public to enact a by-law providing for off leash Dog Parks in the City;

AND WHEREAS section 11 of the *Dog Owners' Liability Act*, R.S.O. 1990, c. 16 provides that if there is a conflict between a provision of that Act or of a regulation under that Act and a municipal by-law relating to pit bulls the provision that is the most restrictive in relation to controls or bans on pit bulls prevails.

NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:

PART I: GENERAL

Interpretation

Definitions

1. In this By-law:

“Animal” includes any mammal, bird or reptile, but does not include a Dog;

“Animal Control By-law” means By-law 2002-285 being A By-law of the City of Greater Sudbury to Regulate the Keeping of Animals and the Registration of Dogs and Cats, as amended or replaced from time to time;

“Authorized Hours of Use” means the hours of use for a Dog Park and the times during which persons, other than authorized City officials, employees or agents, may enter a Dog Park, as determined by the General Manager;

“Authorized Sign” means a sign authorized by the General Manager posted in accordance with the Sign By-law;

“Dog” means a male or female of the domesticated canine species;

“Dog Park” means the lands enclosed by fence in a Designated Dog Park Area as set out in Schedule “A to this By-law”;

“Dog Tag” means a Dog tag issued pursuant to the Animal Control By-law;

“General Manager” means the General Manager, Community Development as appointed by the City of Greater Sudbury and includes his or her authorized designate;

“Leash Free” means without human control by a device, such as a leash, lead, chain, harness, line or rope or devices of a similar nature;

“Municipal By-law Enforcement Officer” means a person appointed by the Council of the City of Greater Sudbury to enforce the provisions of this By-law and includes a police officer;

“Restricted Dog” means a restricted dog under the *Dog Owners’ Liability Act*, R.S.O. 1990, c. D.16 or a Dog deemed vicious under the Animal Control By-law;

“Sign By-law” means By-law 2007-250 being A By-law of the City of Greater Sudbury to Regulate the Erection of Signs and Advertising Devices, as amended or replaced from time to time.

Miscellaneous

2. (1) When this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
- (2) References to items in the plural include the singular, as applicable.
- (3) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them.
- (4) Headings are inserted for ease of reference only and are not to be used as interpretation aids.
- (5) Specific references to laws in this By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario as at the time the By-law was enacted, as they are amended from time to time.

Establishment of Dog Park, Rules and Code of Conduct

3. Dog Parks are established in the fenced areas on the lands described in Schedule “A” of this By-law as Designated Dog Park Areas.
4. In addition to the provisions in this By-law, rules for the use of a Dog Park and acceptable behaviours of persons and Dogs in a Dog Park are established in Schedule “B” to this By-law.
5. Use of a Dog Park is a privilege and not a right.

Use of Dog Park

Off Leash Permitted

6. (1) Despite sections 12 and 13 of the Animal Control By-law, a person may permit or cause a Dog wearing a Dog Tag issued for the current year to be Leash Free in a Dog Park.

(2) Despite subsection (1), a person may not permit or cause more than 3 Dogs to be Leash Free in a Dog Park.

Restricted Dogs Prohibited

7. Despite subsections 6(1) and 6(2), no person shall permit or cause a Restricted Dog to enter or be in a Dog Park.

Dogs Leashed inside Double Gates

8. (1) No person shall permit or cause a Dog to be leash free inside the double gated access opening to the Dog Park.

Possession of Leash at All Times

9. A person that has permitted or caused a Dog to be leash free in a Dog Park shall possess a leash for each Dog that he or she has permitted or caused to be leash free.

Dog Must be Supervised at All Times

10. No person shall leave a Dog that he or she has permitted or caused to be leash free in a Dog Park unattended.

Sporting Activities Prohibited

11. No person shall play or practice any sporting activity except walking in a Dog Park.

Glass, Breakable Materials Prohibited

12. No person shall convey to or on, or enter or be in any area in a Dog Park while in the possession of any bottles, containers or any other articles, equipment, or utensils, made of glass, china, ceramic or any other breakable substance.

Other Animals Prohibited

13. No person shall permit or cause any animal other than a Dog to be in a Dog Park.

Park Closure

14. No person shall be in a Dog Park when a Dog Park is closed in accordance with section 17 or during a time outside the Authorized Hours of Use.

Failure to Comply with Signs

15. (1) No person shall fail to comply with an Authorized Sign.

Persons Must Identify Self

16. (1) When requested to do so by a Municipal By-law Enforcement Officer, no person shall fail to identify him or herself to a Municipal By-law Enforcement Officer.

Administration

17. (1) The administration of this By-law is assigned to the General Manager who is also delegated the authority to make all decisions required of the General Manager under this By-law and to perform all administrative functions identified herein and those incidental to and necessary for the due administration of this By-law, including the authority to:

- (a) establish parts of a Dog Park for the exclusive use of Dogs to be determined based on a Dog's height;
 - (b) authorize the placement, form, positioning and content of an Authorized Sign in a Dog Park, whether on a permanent or temporary basis;
 - (c) close a Dog Park in whole or in part on a temporary basis to prevent overcrowding, to perform maintenance or where the General Manager determines it is necessary for the health or welfare of the public or the protection of property;
 - (d) close a Dog Park in whole or in part for specific months of the year; and
 - (e) set Authorized Hours of Use.
- (2) The General Manager may delegate the performance of any one or more of his or her functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The General Manager may continue to exercise authority granted in subsection (1) despite any such delegation.
- 18.** (1) After the one year anniversary of the first Dog Park designated in Schedule "A" to this By-law, the General Manager shall bring a report to the Community Services Committee reviewing the operation of the Dog Park and, if necessary, suggest recommendations to improve the operation of the Dog Park, or Dog Parks, if applicable.

Enforcement, Offences, Penalties, Fines

19. (1) A Municipal By-law Enforcement Officer may:

- (a) enforce the provisions of this By-law; and

- (b) may, where the Municipal By-law Enforcement Officer has reason to believe that a By-law has been contravened, ask a person in or on a Dog Park or Designated Dog Park Area to leave the Dog Park or Designated Dog Park Area.

20. (1) Any person who contravenes any provision of this By-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

(2) For the purposes of subsection (1), each day on which a person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence under this By-law.

(3) An offence and subsequent conviction under this By-law pursuant to the *Provincial Offences Act* or the *Municipal Act, 2001*, shall not be deemed in any way to preclude the City from issuing a separate legal proceeding to recover charges, costs and expenses incurred by the City and which may be recovered in a Court of competent jurisdiction.

Notice and to Cease, Leave Park, Etc.

21. (1) Where a person contravenes a provision of this By-law, the permission of such person to remain in a Dog Park is revoked.

22. (1) A Municipal By-law Enforcement Officer or the General Manager or his or her delegate may issue a verbal or written notice to a person believed to be in contravention of this By-law to cease the activity that is in contravention of the By-law.

(2) A Municipal By-law Enforcement Officer may make a written order to a person believed to be in contravention of this By-law to:

- (a) cease an activity that is in contravention of the By-law; or
- (b) leave the Dog Park or Designated Dog Park Area.

(3) No person shall fail to comply with an order issued by a Municipal By-law Enforcement Officer under subsection (2).

23. (1) Where a person is believed to have contravened 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.

Severability / Conflict

24. (1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or *ultra vires*, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

(2) Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the City.

(3) Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of persons or the environmental well-being of the municipality shall prevail.

Schedules

25. (1) Each of the following Schedules is incorporated into and forms part of this By-law:

Schedule "A"	Designated Dog Park Areas
Schedule "B"	Dog Park Rules and Conduct

Short Title

26. (1) The short title of this By-law is the "Dog Park By-law".

Effective Date

27. This By-law shall come into force and effect upon passage.

READ AND PASSED IN OPEN COUNCIL this 10th day of July, 2012

Mayor

Clerk

SCHEDULE “A”

Designated Dog Park Areas

1. The following areas are designated as Dog Park Areas:

MUNICIPAL ADDRESS	LEGAL DESCRIPTION

DRAFT

SCHEDULE “B”

Dog Park Rules and Conduct

1. No person shall cause or permit an unhealthy or injured Dog or a Dog in heat to enter or stay in a Dog Park.
2. Persons causing or permitting a Dog to be in a Dog Park shall immediately remove a Dog demonstrating aggressive behavior.
3. Persons shall not permit a Dog that he or she has caused or permitted to enter or be in a Dog Park to dig in the Dog Park or Designated Dog Park Area.
4. Persons who permitted or found that the Dog that he or she permitted to be in the Dog Park dug earth in the Dog Park must return the earth removed by the Dog to its place.
5. No person shall permit or cause a Dog under 4 months of age to enter or be in the Dog Park.
6. No person shall cause or permit human food to enter or be consumed by a human or a Dog in the Dog Park.
7. Persons shall exercise caution when giving a Dog a toy or treat to be played with or consumed in the Dog Park.