



STAFF REPORT ACTION REQUIRED

Amendments to TMC Chapter 608 Parks

Date:	January 11 th , 2012
To:	Parks and Environment Committee
From:	Executive Director Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2012\Cluster B\MLS\PE12001

SUMMARY

The purpose of this report is to amend Toronto Municipal Code Chapter 608 Parks. The amendments address operational enforcement issues identified by staff during the course of their work. These amendments include but are not limited to, hazardous conditions which have been created to intentionally injure park patrons, situations where members of the public have removed park furniture and/or equipment to locations away from the park and to make persons utilizing fire for cooking or other purposes responsible for having appropriate extinguish capabilities available.

In addition there are amendments which bring Toronto Municipal Code Chapter 608 Parks definitions in line with Toronto Municipal Code Chapter 813 Trees.

This report was prepared in consultation with Parks, Forestry and Recreation staff.

RECOMMENDATIONS

The Acting Executive Director of Municipal Licensing and Standards recommends that City Council:

1. Amend City of Toronto Municipal Code, Chapter 608, Parks, by adopting the amendments contained in Appendix "A" attached to this report, subject to any necessary minor substantive or stylistic refinements as may be identified by the Executive Director and the City Solicitor; and
2. Direct the City Solicitor to prepare the necessary bill to give immediate effect to the recommendations in this report.

Financial Impact

The recommendations in this report will have no financial impact beyond what has already been approved in the current year's budget. Municipal Licensing and Standards currently has six officers plus one supervisor assigned to the enforcement of Municipal Code Chapter 608, Parks. The 2012 budget for the unit is \$1.4 million.

The Deputy City Manager and Chief Financial Officer have reviewed the financial implications of the recommendations and agree with the Financial Impact Statement.

DECISION HISTORY

This report has been brought forward as a result of information received from enforcement staff with regards to enforcement challenges they have been identified in Municipal Code Chapter 608, Parks.

ISSUE BACKGROUND

Municipal Licensing and Standards Parks Enforcement Staff have identified limitations contained within Toronto Municipal Code Chapter 608, Parks that have limited their ability to enforce the Chapter effectively. The recommendations contained in this report if adopted, will provide greater clarity for staff and the public as well as the tools to adequately address the issues identified.

COMMENTS

The Proposed changes to Municipal Code Chapter 608, Parks are as follows:

Item 1 of Appendix A provides three additional definitions and three amended definitions that are intended to include documentary authority from other agencies and levels of government to engage in specific activities and to provide clarity as to undesirable behaviour and which city staff are authorized to enforce this chapter. Also a definition for the new title of Section 8, Liquor has been provided to clarify that this term encompasses all alcoholic beverages and complies with the definition contained in the Liquor License Act. The definition of "Commissioner" has been replaced with "General Manager" to reflect the new staff title.

Item 2, of Appendix A is intended to replace references to the previous position of Commissioner with the existing position of General Manager.

Items 3, 4, 12 & 17, of Appendix A address a broadening scope of inappropriate behaviour that staff has encountered, including but not limited to: sexually solicitous or nude behaviours, the placing of dangerous objects (broken glass, pieces of wood with nails driven through them & razor blades) within the sand ground cover in playgrounds and low level entanglements on or across footpaths within the parks. It also clarifies who may be in possession of liquor while in a park and under what circumstances, and who may secure or remove a boat in a park.

Item 5, of Appendix A is intended to address circumstances not previously included in the Chapter, mainly the discharge of water from adjacent lands onto parklands and including but not limited to water from; draining swimming pools, sewage, and roof discharge. The primary problem concerns properties adjacent to ravine areas. Often these properties have swimming pools and these swimming pools need to be drained. It is not permitted to drain a swimming pool into a storm drain, it is required that a temporary hook up to a sanitary drain be provided so the chlorinated water can be treated. Some property owners have drained pools into ravines. The chlorinated water subsequently kills the vegetation, and the lack of vegetation can lead to soil erosion, which in turn can lead to structural issues with nearby buildings.

Items 6, 13 & 14, of Appendix A are intended to assist staff to ensure that persons trading or conducting business in a park are in possession of the appropriate authority to do so and are conducting their business within the conditions applied to the individual permit. This provides an obligation for a person who is the holder of a permit to be present while the event the permit was issued in relation to is currently is taking place. The organizers of Special Events often rent park space and bring in their own vendors who on occasion are not in possession of parks or city license's. Also there is no requirement that the organizer of a Special event be present while the event is taking place. Currently there is no authority to issue charges if the permit holder does not comply with the conditions specified on the permit or refuses to present the permit for inspection.

Item 7, of Appendix A, is intended to place the onus of providing an adequate amount of an appropriate fire extinguishing medium on the persons obtaining or in possession of a permit to use fire in a park.

Item 8, of Appendix A is intended to prevent the removal of parks furniture from within the bounds of a park. This is needed to prevent persons from moving parks furniture to locations on private property or moving equipment from a life saving station (i.e. floatation device, rescue line).

Items 9 & 12, of Appendix A are intended to address the unauthorized storage and/or removal of boats and to prevent persons from storing boats and/or trailers in a park when they don't have room on their own property.

Item 10, of Appendix A is intended to clarify the enforcement of the by-law with regards to off-leash areas.

Item 11, of Appendix A is intended to harmonize the definitions in Chapter 608 Parks, with the definitions of the same terms in Chapter 813 Trees to prevent confusion when interpretation is required.

Items 15 & 16, of Appendix A are intended to clearly identify the staff who are authorized to enforce the chapter. This amendment is required to clearly identify all persons who have authority to enforce the chapter and who are exempt from its provisions. In the past staff have been challenged as to their authority as they were not specifically identified in the Chapter.

Item 17, of Appendix A is intended to clarify that any animal or object when removed from a park has to be placed in a pound or storage facility. This amendment is required to clarify the procedure for dealing with seized objects or animals. During court proceedings Justices of the Peace have expressed concerns that the procedure for removal/recovery was not explicit, in that at this time it is only necessary that seized animals and objects need only be removed from park property, there being no necessity to specify where an animal or object may be recovered. Members of the public have demanded that seized objects/animals be returned to them directly on leaving the park.

Enforcement

To facilitate enforcement, the set fines for offences under Chapter 608 should be revised to include the additional offences arising out of the recommended changes to Chapter 608 in this report. The new set fines, which must be established by order of the Regional Senior Justice of the Ontario Court of Justice, will permit Municipal Licensing and Standards By-law Enforcement Officers to issue offence notices ('tickets') under the *Provincial Offences Act*. The amendments to Chapter 608 would come into effect on the day after the set fine order is issued. Municipal Licensing & Standards staff recommends that the amount of the fines to be requested should be requested by the Executive Director in consultation with the General Manager of Parks, Forestry & Recreation.

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SIGNATURE

Bruce Robertson
Executive Director (Acting)

No:	Proposed Amendment	Existing
2.	That “Commissioner” be replaced with “General Manager” in the following subsections of Chapter 608: 26A; 39 in the definition of “Injure”; 40A(1);40(A)3 and (4); 40B(1) and (2); 41 A and B; 42B(1) and (2); 43; 48B; 49B; 50 (including title of Article); 51; 52A(2); 53E; 55 and all other instances where it may occur.	None at this time.
3.	That the following be added to section 608-3A as subsections (5) & (6): (5) Engage in any form of sexual behaviour; or (6) Be nude.	None at this time.
4.	Section 608-3 Conduct be amended by re-indexing the existing paragraphs B and C as paragraphs D and E and adding the following as new paragraphs B and C: B. For the purposes of Subsection A(6), a person is nude who is clad as to offend against public decency or order. C. No person shall plant, tie, bury, insert or in any manner place an object that may endanger or cause injury to person or property while in a park.	None at this time.
5.	That the following be added as section 608-7: 608-7.1 Discharge No person shall cause or permit the discharge of water or waste water from sewage, any roof drainage system, hot tub, swimming pool or pond into or onto a park.	None at this time.
6.	Section 608-8. Alcohol be deleted and replaced with the following: 608-8 Liquor While in a park no person shall: A. Have in their possession an	§ 608-8. Alcohol. While in a park, no person shall consume, serve or sell alcoholic beverages unless in designated areas, authorized by permit, and with the

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	<p>open container of any liquor, unless in a designated area, authorized by permit and with the approval of the Alcohol and Gaming Commission of Ontario; or</p> <p>B.</p> <p>(2) Provide, supply or in any way make liquor available to persons who on the basis of age are not permitted to be supplied with liquor pursuant to the <i>Liquor Licence Act</i>.</p>	<p>approval of the Liquor Licence Board of Ontario.</p>
7.	<p>Section 608-10B be amended by adding the following as subsection (E):</p> <p>(E) Light, build, use or stoke an open fire, bonfire, bake oven, fixed or portable barbeque without having in his or her possession a sufficient amount of an appropriate extinguishing medium to extinguish any flame when required.</p>	<p>None at this time.</p>
8.	<p>Section 608-11 be amended by adding the following as paragraph D:</p> <p>D. Remove park furniture, equipment, signs, or any other property of the City from the park without a permit or written authorization.</p>	<p>None at this time.</p>
9.	<p>Section 608-28 be amended by adding the following as paragraph C:</p> <p>C. The storing of a boat or trailer without a permit.</p>	<p>None at this time.</p>
10.	<p>Section 608-34C be amended by adding the following as a new section C(7) to read as follows:</p> <p>(7) Not allow a dog to enter a designated off-leash area except in accordance with the posted conditions of use.</p>	<p>None at this time.</p>
11.	<p>Section 608-39 Definitions be amended by deleting the current</p>	

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	<p>definitions for the terms, “Destroy” and “Standards” and replacing them with the following and inserting a definition for the term “Imminently Hazardous Tree”</p> <p>DESTROY - To remove, cut down or in any other way injure a tree to such an extent that it is deemed by the General Manager to be an imminently hazardous tree or it becomes necessary to remove the tree.</p> <p>IMMINENTLY HAZARDOUS TREE- A destabilized or structurally compromised tree that is in imminent danger of causing damage to life or property.</p> <p>STANDARDS - Minimum requirements or guidelines established by the General Manager pertaining to the protection and preservation of trees.</p>	<p>DESTROY — To remove, cut down or in any other way injure a tree to the extent that it is considered necessary to remove or cut down the tree.</p> <p>STANDARDS — The minimum requirements or guidelines established by the Commissioner for the protection and preservation of trees.</p>
12.	<p>Section 608-45.D. be amended by deleting the first sentence and substituting the following :</p> <p>D. Unless authorized by permit, no person shall, subject to any legal right to do so, moor, anchor, tie-up, or in any other way secure a vessel to or remove it from the shoreline or the seawall in a park.</p>	<p>D. Unless authorized by permit, no person shall, subject to any right at law to do so, moor watercraft in a park:</p>
13.	<p>Subsection 608-46 B be amended by adding the phrase "without being in possession of a City Permit" so the section reads:</p> <p>B. Unless authorized by permit, no person shall, while in a park practice, carry on or solicit for a trade, occupation, business or profession.</p>	<p>B. While in a park, no person shall practise, carry on, conduct or solicit for a trade, occupation, business or profession.</p>
14.	<p>Section 608-49 be amended by:</p> <p>(1) adding the term "and Documents"</p>	<p>None at this time.</p>

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	<p>to the title so it reads “Permits, Licences and Documents”; and</p> <p>(2) by re-indexing the current subsection E as subsection G and adding the following as new subsections E and F:</p> <p>E. Any person issued a permit or document shall be responsible for ensuring that all of the terms and conditions mentioned upon or related to the permit or document are complied with.</p> <p>F. When a permit or document has been issued, the permit or document shall, if possible, be displayed in a manner that renders it to be easily read and if not possible, it shall be produced for inspection at the request of an officer.</p>	
15.	<p>Subsection 608-52A be amended by adding “An officer” at the beginning of subsection (1) so that it reads as follows:</p> <p>(1) An officer or personnel of Emergency Medical Services or Fire Services while engaged in the performance of their duties.</p>	<p>This chapter does not apply to:</p> <p>(1) Personnel of Emergency Medical Services, Toronto Police Services or Fire Services while engaged in the performance of their duties;</p>
16.	<p>Section 608-53 A and B be amended by deleting the term “Any provincial offences officer or employee whose duties include the enforcement of this chapter”, and replacing them with the term “Any officer” so the subsections read as follows:</p> <p>A. Any officer is authorized to inform a person of the provisions of this chapter and request compliance with it.</p> <p>B. Any officer is authorized to order a person believed by the officer to be contravening or who has contravened any provision of this chapter to:</p>	<p>A. Any provincial offences officer or employee of the City designated by the Commissioner is authorized to inform a person of the provisions of this chapter and to request compliance with it.</p> <p>B. Any provincial offences officer or employee of the City whose duties include the enforcement of this chapter is authorized to order a person believed by the officer or employee to be contravening or who has contravened any provision of this chapter to:</p>
17.	Subsection 608-53B (2) be amended	B. (2) Remove from the park any animal

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	<p>by removing the term “or employee” and adding the term “to a pound or storage facility” so the subsection reads as follows:</p> <p>B. (2) Remove from the park to a storage facility any or thing owned by or in control of the person who the officer believes is or was involved in the contravention, or:</p>	<p>or thing owned by or in the control of the person which the officer or employee believes is or was involved in the contravention; or</p>