



REPORT

Council

Meeting Date: August 15, 2023

FROM: Municipal Enforcement Services Department

DATE: August 1, 2023

SUBJECT: Fighting Kite – Response to Staff Direction

LOCATION: Town-wide

WARD: Town-wide

Page 1

RECOMMENDATION:

1. That By-law 2023-104 a by-law to amend Parks By-law 2013-013, respecting the regulation of kite flying and to prohibit the use of kite string made of hazardous materials as set out in Appendix A to the report from Municipal Enforcement Services dated August 1, 2023, be passed.
2. That budgetary requirements to enforce By-law 2023-104 be referred to the 2024 Budget process for consideration.
3. That staff monitor kite fighting on private and public property and the use of kite fighting string in parks and report back to Council in Q2 2024 with an update.

KEY FACTS:

The following are key points for consideration with respect to this report:

- This report responds to a request from Council to report back on the potential of banning fighting kites within the Town on public and private property
- The Legal Department has confirmed that the Town has the authority to ban kite fighting under the nuisance provisions of the Municipal Act, 2001 if the activity, in the opinion of Council, is, could become or causes a public nuisance
- Three options to regulate kite fighting/kite fighting string have been prepared for Council's consideration:

- Option #1 – the recommendation contained in this report to amend the Parks By-law to regulate kite flying in parks and to prohibit the use of kite string made of abrasive material
- Option #2 – prohibiting kite fighting on private and public property
- Option #3 – a public education campaign to promote safety in the parks and the proper disposal of kite strings

BACKGROUND:

At the Council meeting of June 19, 2023, Council directed that staff report back on the potential of banning fighting kites within the Town on public and private property.

Kite fighting is an activity where two or more participants fly kites with the aim of cutting an opponent's kite string. The final kite remaining in the air is the winner of the fight. The string used for kite fighting is abrasive and includes, but is not limited to material made of metal, wire, piano wire, fishing line or types of nylon string that can be or is chemically treated or coated with glass particles. When these strings are not properly disposed of, they can be a risk to health and safety, cause injuries to people, pets and wildlife and damage parks equipment.

COMMENT/OPTIONS:

In response to Council's direction, staff have prepared three options for consideration.

Option #1 – Amend the Parks By-law to Regulate Kite Flying in Parks

Recreational kite flying is popular, and persons participating in this hobby should do so in a safe and responsible manner while in a park. Under the Parks By-law, a park includes public parks, gardens, gorges, trails, valleys, squares, athletic fields, harbor lands, and recreation grounds. At this time, the Parks By-law does not regulate kite flying.

The City of Toronto and the City of Mississauga have both amended their parks by-laws to regulate kite flying and to prohibit the use of kite string made of hazardous materials. Amending By-law 2023-104, attached as Appendix A, is in keeping with regulations from these municipalities.

Amending By-law 2023-104:

- prohibits the use of kite string made of abrasive material, including but not limited to metal, wire, piano wire, fishing line, or any type of nylon that can be or is chemically treated or coated with glass particles;

- prohibits kite flying in a parking lot or on roadways or pathways within a park;
- prohibits kite flying where posted by signage;
- requires that any part of a kite, including the string or other type of tethering material, be discarded in a waste disposal container; and
- requires a permit for organized competitive kite flying. The requirement for a permit is consistent with other organized activities conducted in a park such as team practices and games and fitness classes.

Staff would like to take this opportunity to make a housekeeping amendment to the Parks By-law to include stormwater management ponds in the definition of a “park”. This will assist with enforcing prohibitions on skating, fishing and swimming in stormwater management ponds and help to protect the environment around the pond.

Enforcement of the Parks By-law

Regulations under the Parks By-law are enforced by Mobile Compliance Officers (“Officers”). When enforcing new kite flying regulations, Officers will use progressive enforcement measures starting with education and proceeding to issuing charges if non-compliance is of a significant nature.

The Parks By-law provides for a \$300 administrative penalty for non-compliance. Further enforcement action may be taken for subsequent violations, including escalated penalties in the amount of \$400 for a second offence and \$500 for a third or subsequent offence.

2024 Budget

Municipal Enforcement Services’ operating budget can accommodate costs for the enforcement of Option #1 for 2023, however, its operating budget for 2024 will be impacted. As such, these budgetary requirements will be presented as part of the 2024 budget process.

Option #2 – Prohibit Kite Fighting on Private and Public Property

The Legal Department has confirmed that the Town has the authority to prohibit kite fighting under the public nuisance provisions of the Municipal Act, 2001. To do so, it must be Council’s opinion that kite fighting is, could become or causes a public nuisance.

Further, the Municipal Act, 2001 provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property.

Staff have prepared a Kite Fighting By-law 2023-105, attached as Appendix B, that prohibits:

- persons or groups of persons from engaging in kite fighting on any private property or public property within the Town; and
- the flying of kites with string made of hazardous material on private property or public property within the Town (“hazardous material” is defined as material that is abrasive, and includes but is not limited to metal, wire, piano wire, fishing line, or any type of nylon that can be or is chemically treated or coated with glass particles).

If the proposed Kite Fighting By-law is approved, amendments must be made to Administrative Penalties for Non-Parking Violations and Orders By-law 2021-038 and Lot Maintenance By-law 2023-075 as set out in Appendix C to this report. Staff are not aware of any municipal examples that regulate kite fighting on private property.

Enforcement of the Proposed Kite Fighting By-law

Regulations under the proposed Kite Fighting By-law will be enforced by Mobile Compliance Officers (“Officers”). Officers have the authority under the Municipal Act, 2001 to inspect private property, including Crown lands, at any reasonable time to determine whether the by-law is being complied with.

Officers will use progressive enforcement measures to enforce the proposed Kite Fighting By-law, starting with education and proceeding to issuing charges if non-compliance is of a significant nature.

A \$300 administrative penalty for non-compliance with the by-law is proposed. Further enforcement action may be taken for subsequent violations, including escalated penalties in the amount of \$400 for a second offence and \$500 for a third or subsequent offence.

2024 Budget

Municipal Enforcement Services’ operating budget can accommodate costs for enforcement of Option #2 for 2023, however, its operating budget for 2024 will be impacted. As such, these budgetary requirements will be presented as part of the 2024 budget process.

Substitute Recommendation

Should Council choose Option #2, the following recommendation should be substituted for the report's recommendation:

1. That By-law 2023-105, a by-law to prohibit kite fighting on private property and public property, attached as Appendix B to the report from Municipal Enforcement Services dated August 1, 2023 be passed.
2. That By-law 2023-106, a by-law to amend Administrative Penalties for Non-Parking Violations and Orders By-law 2021-038 and Lot Maintenance By-law 2023-075, attached as Appendix C to the report from Municipal Enforcement Services dated August 1, 2023 be passed.
3. That budgetary requirements to enforce By-law 2023-105 be referred to the 2024 Budget process for consideration.

Option #3 – Public Education Campaign to Promote Safety in the Parks and the Proper Disposal of Kite String

Option #3 recommends the development and implementation of a public education campaign through the Parks and Open Space Department to promote safety in the parks and the proper disposal of kite strings. Since this option does not include an amendment to the Parks By-law, staff will monitor the effectiveness of current regulations respecting the littering of kite string.

Should the issue persist after the implementation of the public education campaign and the monitoring period, staff will be better able to identify regulations and enforcement programs to address the concern.

2024 Budget

Option #3 will impact Parks and Open Space's budget. These budgetary requirements will be presented as part of the 2024 budget process.

Substitute Recommendation

Should Council choose Option #3, the following recommendation should be substituted for the report's recommendation:

That Council request that the Parks and Open Space Department provide as part of the 2024 Budget process the budget implications for the implementation of a public education campaign to promote safety in the parks and proper disposal of kite strings as outlined in the Fighting Kites report from Municipal Enforcement Services dated August 1, 2023.

Communicating New Regulations to the Public

Should Council choose Option #1 or Option #2, staff will develop and undertake a campaign to ensure that the public understands the new regulations in the Parks By-law or that alerts the public of the adoption of the Kite Fighting By-law. Information will be provided via social media and on oakville.ca.

CONSIDERATIONS:

(A) PUBLIC

Notice of this report was provided to residents who contacted Municipal Enforcement Services regarding kite fighting.

(B) FINANCIAL

Municipal Enforcement Services' 2023 budget will accommodate Option #1 or Option #2. Impacts to the 2024 budget for Municipal Enforcement Services and Parks and Open Space will be referred to the 2024 Budget process for consideration.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Municipal Enforcement Services, Parks and Open Space and Legal have been involved in the review process. Should Council choose Option #3, Parks and Open Space along with Corporate Communications staff would evaluate work required to provide a public education campaign in 2023 and include necessary resources in the 2024 Parks and Open Space operating budget request. Upon budget approval, staff will prepare and launch a public education campaign to promote safety in the parks and proper disposal of kite strings.

Municipal Enforcement Services will work with Corporate Communications staff on messaging if Council chooses Option #1 or Option #2.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

- Continuously improve our programs and services
- Provide outstanding service to our residents and businesses

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A - By-law 2023-104 a by-law to amend Parks By-law 2013-013
respecting the regulation of kite flying and to prohibit the use of kite
string made of hazardous materials

Appendix B - By-law 2023-105 a by-law to prohibit kite fighting on private property
and public property

Appendix C - By-law 2023-106 a by-law to amend Administrative Penalties for Non-
Parking Violations and Orders By-law 2021-038 and Lot Maintenance
By-law 2023-075

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