

Does a law like the excerpts from the Occupational Health and Safety Act below “fit” with the reality of how people at Dufferin Grove and elsewhere enjoy or wish to enjoy their parks?

What message do these requirements give to the city - as an employer - and city staff who supervisor parks - about how they respond to park friends with ideas, energy and efforts to make our parks welcoming, lively places?

Duties of employers

25. (1) An employer shall ensure that,

- (a) the equipment, materials and protective devices as prescribed are provided;
- (b) the equipment, materials and protective devices provided by the employer are maintained in good condition;
- (c) the measures and procedures prescribed are carried out in the workplace;
- (d) the equipment, materials and protective devices provided by the employer are used as prescribed; and
- (e) a floor, roof, wall, pillar, support or other part of a workplace is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the Building Code Act. R.S.O. 1990, c. O.1, s. 25 (1).

(2) Without limiting the strict duty imposed by subsection (1), an employer shall,

- (a) provide information, instruction and supervision to a worker to protect the health or safety of the worker; ...
- (c) when appointing a supervisor, appoint a competent person;
- (d) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;
- (f) only employ in or about a workplace a person over such age as may be prescribed;
- (g) not knowingly permit a person who is under such age as may be prescribed to be in or about a workplace;
- (h) take every precaution reasonable in the circumstances for the protection of a worker;

Duties of supervisor

27. (1) A supervisor shall ensure that a worker,

(a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and

(b) uses or wears the equipment, protective devices or clothing that the worker's employer requires to be used or worn.

Additional duties of supervisor

(2) Without limiting the duty imposed by subsection (1), a supervisor shall,

(a) advise a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware;

(b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker; and

(c) take every precaution reasonable in the circumstances for the protection of a worker.

Would it be possible to exempt parks from some parts of those laws that may hinder people's fullest enjoyment of parks, as in the example below of the Occupier's Liability Act?

Occupier's duty

3.(1)An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.

(2)The duty of care provided for in subsection (1) applies whether the danger is caused by the condition of the premises or by an activity carried on on the premises.

(3)The duty of care provided for in subsection (1) applies except in so far as the occupier of premises is free to and does restrict, modify or exclude the occupier's duty. R.S.O. 1990, c. O.2, s. 3.

Risks willingly assumed

4.(1)The duty of care provided for in subsection 3 (1) does not apply in respect of risks willingly assumed by the person who enters on the premises, but in that case the occupier owes a duty to the person to not create a danger with the deliberate intent of doing harm or damage to the person or his or her property and to not act with reckless disregard of the presence of the person or his or her property.

Trespass and permitted recreational activity

(3)A person who enters premises described in subsection (4) shall be deemed to have willingly assumed all risks and is subject to the duty of care set out in subsection (1),

- (a) where the entry is prohibited under the Trespass to Property Act;
- (b) where the occupier has posted no notice in respect of entry and has not otherwise expressly permitted entry; or
- (c) where the entry is for the purpose of a recreational activity and,
 - (i) no fee is paid for the entry or activity of the person, other than a benefit or payment received from a government or government agency or a non-profit recreation club or association, and
 - (ii) the person is not being provided with living accommodation by the occupier.

Premises referred to in subs. (3)

(4)The premises referred to in subsection (3) are,

- (a) a rural premises that is,
 - (i) used for agricultural purposes, including land under cultivation, orchards, pastures, woodlots and farm ponds,
 - (ii) vacant or undeveloped premises,
 - (iii) forested or wilderness premises;
- (b) golf courses when not open for playing;
- (c) utility rights-of-way and corridors, excluding structures located thereon;
- (d) unopened road allowances;
- (e) private roads reasonably marked by notice as such; and
- (f) recreational trails reasonably marked by notice as such. R.S.O. 1990, c. O.2, s. 4.