



BY-LAW NUMBER 2004-142

A By-law of The Corporation of the City of Barrie to regulate the use of City property and to repeal By-law 2002-292 and By-law 88-260, section 4.16.0.0.0.

WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 8, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 9, provides that Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and, (b) enhance their ability to respond to municipal issues;

AND WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 11, provides that a single-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein, *inter alia*; highways;

AND WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 126, provides that Council may regulate cultural, recreational and education events including public fairs;

AND WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 127, provides that Council may prohibit the depositing of refuse or debris from the land without the consent of the owner or occupant of the land;

AND WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 128, provides that Council may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council are or could become or cause public nuisances;

AND WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 150, provides that Council may regulate matters not specifically provided for by this Act or any other Act for the purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS, the Municipal Act, S.O. 2001, c. 25, Section 425 establishes that any person who contravenes any by-law of the municipality or of a police services board, as the case may be, passed under the Act, is guilty of an offence;

AND WHEREAS, the Trespass to Property Act, R.S.O. 1990, c. T.21, allows the City of Barrie as "occupier" to prohibit entry by notice to that effect;

AND WHEREAS, the Trespass to Property Act, R.S.O. 1990, c. T.21 provides a broad authority to the Municipality to post signs prohibiting activities within an area, as is deemed appropriate by the City;

AND WHEREAS, the Trespass to Property Act, R.S.O. 1990, c. T.21, Section 2 makes it an offence for every person who is not acting under right or authority conferred by law and who, without the express permission of the occupier, the proof of which rests on the defendant, enters on premises when entry is prohibited under the Act or further engages in an activity on the premises when the entry or activity is prohibited under the Act;

AND WHEREAS, the Provincial Offences Act, R.S.O. 1990, c. P33, Section 93 sets out special provisions for dealing with offences that are committed by a young person within the definition of the Act;

AND WHEREAS by Resolution 04-G-216 as amended by 04-A-211 the Council of The Corporation of the City of Barrie deems it expedient to regulate certain activities within the community which are deemed to be or potentially may become public nuisances and further to regulate certain activities on highways within the City of Barrie;

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

DEFINITIONS:

1. For the purpose of this By-law, the following definitions shall apply:

ADULT CUSTODIAN – shall mean a person 18 years of age or older, who has been authorized by the parent or legal guardian to provide care and control of the the person under 16 years of age.

BICYCLE – shall mean and includes a tricycle and unicycle but does not include a motor assisted bicycle.

BUSK or BUSKING – shall mean and includes performances by street singers or other itinerant entertainers.

CITY – shall mean The Corporation of the City of Barrie.

FOUL or FOULING – shall mean and includes spitting, urinating, defecating or other act of defacing property.

HIGHWAY – shall mean a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof. Shall also include a sidewalk located within the specified area intended or used by the general public for the passage of persons, or a boulevard.

MOTORIZED VEHICLE – shall mean and includes an automobile, motorcycle, motor assisted bicycle or any other vehicle propelled or driven otherwise than by muscular power, but does not include a motor assisted wheelchair.

MUSCULARLY POWERED VEHICLE – shall mean and includes a vehicle propelled or driven by muscular power, but does not include a wheelchair.

PARENT or LEGAL GUARDIAN – shall mean a person who has demonstrated a settled intention to treat a person under 16 years of age as a member of his or her family.

PEDESTRIAN WAY – shall mean that portion of the highway designed for the passage of persons and includes that part of the road where pedestrians have priority over traffic.

PERSON – shall mean and include any individual, corporation, partnership, company, association or party and the heirs, executors, administrators, or other legal representative of such person, to whom the context can apply according to law; shall include any group of persons comprising a society or other organization and shall include the plural wherein the context requires. Wherever the word “he” or “him” is used, it shall mean and include the feminine or neuter gender wherever the context so requires.

ROADWAY – shall mean the part of the highway that is improved, designed and ordinarily used for vehicular traffic, but does not include the shoulder, and where a highway has two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadways collectively.

SHALL – is mandatory and not directory; words in the singular include the plural; words in the plural include the singular; words in the present tense include future, or past tense.

2. No person shall throw, drop, place, or otherwise deposit garbage, paper, paper or plastic products, cans, rubbish, or other debris on any City property including but not limited to vacant or other lands owned by the City, a highway, roadway, sidewalk, pedestrian way, boulevard, or watercourse, unless authorized by the City.
3. No person shall throw, drop, place, or otherwise deposit garbage, paper, paper or plastic products, cans, rubbish, or other debris on any private property not owned by such person, unless so authorized by the private property owner.
4. No person shall pick over, interfere with, disturb, remove or scatter any material placed out for City refuse collection, or placed in a garbage or other refuse receptacle placed by the City intended for the collection of garbage, paper, cans, rubbish, or similar items of refuse.

5. No person shall foul or permit the fouling of any vacant or other lands owned by the City, a highway, roadway, sidewalk, pedestrian way, boulevard or watercourse.
6. No person shall sell, or offer for sale, any product or service from any public property including but not limited to vacant or other lands owned by the City, a highway, roadway, sidewalk, pedestrian way, or boulevard, unless authorized by the City.
7. No person shall give away or otherwise provide at no charge, items, products, samples of items or products, or any other similar item to members of the public from any City property including but not limited to vacant or other lands owned by the City, a highway, roadway, sidewalk, pedestrian way, or boulevard, unless authorized by the City. Notwithstanding the provisions of this section, any federally, provincially or municipally funded organization or any registered charitable organization or any individual that is giving away, or otherwise providing food, water, clothing or medical attention, at no charge to members of the public shall not be deemed to be in contravention of this section.
8. No person shall busk on any public property including but not limited to vacant or other lands owned by the City, a highway, roadway, sidewalk, pedestrian way, or boulevard, within the Downtown Business Improvement Area, unless authorized by the City. Notwithstanding the provisions of this section, busking or other performances and entertainment performed in conjunction with the Farmer's Market, and on City property within the Downtown Business Improvement Area as part of community events authorized by the City shall not be deemed to be a contravention of this section.
9. No person shall block, interfere with or otherwise impede the passage of any pedestrian on any City sidewalk or other City pedestrian-way, or portion thereof, unless authorized by the City.
10. No person shall ride a bicycle, skateboard and other muscularly powered vehicle on or over any sidewalk or pedestrian way within the Downtown Business Improvement Area as defined by by-law from time to time, except as may be authorized by the City, unless such person is under 16 years of age and accompanied by a parent or adult custodian.
11. No person shall ride a bicycle, skateboard or other muscularly powered vehicle on or over the property of the Barrie Public Library, municipally known as 60 Worsley Street, Barrie unless such person is under 16 years of age and accompanied by a parent or adult custodian.
12. No person shall ride or otherwise operate any motorized vehicle on or over any sidewalk or pedestrian way within the City unless for the purpose of maintaining such sidewalk or pedestrian way and as authorized by the City or other Provincial legislation as may be applicable to such motorized vehicle.

EXEMPTIONS:

13. The Clerk of The Corporation of the City of Barrie, may grant an exemption to any person from any provision of this by-law and impose conditions for such exemption as may be considered reasonable and necessary, provided such exemption does not interfere with the general integrity of this by-law.

ENFORCEMENT:

14. The provisions of this by-law shall be enforced by a Municipal Law Enforcement Officer, Police Officer, Peace Officer, or other individual duly appointed for the purpose of enforcing this by-law.

PENALTY:

15. Every person who contravenes the provisions of this By-law established and passed by the City, pursuant to the authority contained in the Municipal Act or any other General or specific Act, is guilty of an offence and liable upon conviction to a penalty not exceeding \$5,000.00 exclusive of costs and the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, shall apply to the said fine.

SEVERABILITY:

16. Should any section of this By-law be declared by a Court of competent jurisdiction as ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

REPEAL:

17. Upon the passing of this by-law, the following by-laws shall be deemed to be repealed:
- a. By-law 2002-292 (Retail Sales on City Property); and
 - b. By-law 88-260, Section 4.16.0.0.0 (Skateboards).

FORCE AND EFFECT:

18. This By-law shall come into force and effect on the final passing thereof.

READ a first and second time this 10th day of May, 2004.

READ a third time and finally passed this 10th day of May, 2004.

THE CORPORATION OF THE CITY OF BARRIE

“ORIGINAL SIGNED”

MAYOR - R. J. HAMILTON

“ORIGINAL SIGNED”

CLERK - JOHN R. SISSON