



BY-LAW NUMBER 2010-033

A By-law of The Corporation of the City of Barrie to regulate and govern the use of and activities permitted within City parks, environmentally protected land, and open space and to repeal By-law 88-260, Part 4, Section 4.8.0.0.0 to 4.8.4.4.0 regarding Parks.

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

AND WHEREAS Section 9 of the Municipal Act, 2001 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 Section 11 of the Municipal Act, 2001 provides that a single-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

AND WHEREAS Section 11 (3) of the Municipal Act 2001 provides that a municipality may pass a by-law regulating parks.

AND WHEREAS by resolution 09-G-466, the Council of The Corporation of the City of Barrie deems it expedient to enact a by-law to regulate and govern the use of and activities permitted within City parks, environmentally protected land, and open space and to repeal By-law 88-260, as amended, Part 4, Sections 4.8.0.0.0 to 4.8.4.0.0 – Parks;

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

1.0.0.0.0 **DEFINITIONS**

For the purpose of this by-law:

1.2.0.0.0 **AMPLIFYING SOUND SYSTEM** – means any electronic or mechanical device used for the purpose of reproducing sound.

1.3.0.0.0 **ANIMAL** - means any non-human vertebrate or invertebrate, and includes but is not limited to reptiles, arachnids, domestic animal including but not limited to canines and felines, domestic fowl, an animal raised for commercial purposes, an animal kept as a working animal or for hobby purposes such as breeding, showing or sporting, a household pet, an exotic animal, livestock, pigeons, wild animals and birds, but excludes ducks, geese, swans or other animals that naturally inhabit a park, environmentally protected land or open space.

1.4.0.0.0 **BICYCLE** - means and includes a tricycle and unicycle but does not include a motor assisted bicycle.

1.5.0.0.0 **BUSINESS** - means a trade, business or occupation and includes the sale or hire of goods or services on an intermittent or one-time basis, the showing for the purpose of sale or hire samples, patters or specimens of any goods or service.

1.6.0.0.0 **CAMPING** - means to camp or lodge therein with one or more person, shall include but not be limited to Recreational Vehicles (RV), portable tents, etc.

1.7.0.0.0 **CITY** - means The Corporation of the City of Barrie.

- 1.8.0.0.0 **CITY EMPLOYEE** - means an officer, servant or other employee of the City but does not include:
- a) a member of Council;
 - b) a Council appointee to a local board and whose remuneration from the City results from his/her membership on such local board or other body;
 - c) an employee of a local board or other body; or,
 - d) a municipal auditor.
- 1.9.0.0.0 **DAMAGE** - means to cut, break, injure, deface or otherwise disturb an area, item, thing or structure.
- 1.10.0.0.0 **DISORDERLY CONDUCT** - means to indulge in riotous, boisterous, threatening, or indecent conduct or abusive, threatening profane language.
- 1.11.0.0.0 **ENVIRONMENTALLY PROTECTED LAND** - means land in which has been designed as protected and shall remain untouched by persons or business.
- 1.12.0.0.0 **FIREARM** - means a barreled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and for the purpose of this by-law shall also include an air gun, pellet gun, BB gun, paint ball marker, cross bow, long bow, traditional bow and compound bow or anything that can be adapted for use as a firearm.
- 1.13.0.0.0 **GAMBLING** - means play or bet at or against any game conducted dealt or carried on with cards, dice or other device for money, chips, shells, credit or any other representative of value, or maintain or exhibit any gambling table or other instrument for gambling or gaming.
- 1.14.0.0.0 **MATCHED GAME** - means the playing of any baseball, cricket, shinny, football, rugby, tennis, croquet, or any other game with a ball and bat and shall include but not be limited to include foot races, horse or animal races.
- 1.15.0.0.0 **MOTOR VEHICLE** - means any vehicle drawn, propelled or driven by any kind of power which includes but is not limited to a motor vehicle, trailer, traction engine, farm tractor, all-terrain vehicle or motorized snow vehicle but does not include a muscular powered bicycle, wheelchair or motor assisted scooter.
- 1.16.0.0.0 **MUNICIPAL LAW ENFORCEMENT OFFICER** - means a person appointed under the authority of the Police Services Act for the purpose of enforcing City by-laws.
- 1.17.0.0.0 **MUNICIPAL RESERVOIRS** - means a reservoir, lake, pond or other receptacle or water storage area connected with any park, open space or environmentally protected land.
- 1.18.0.0.0 **NUISANCE** - means any activity or action which disturbs or is likely to disturb any individual.
- 1.19.0.0.0 **OPEN SPACE** - means land in which has been designed as open space such as parks, sports fields and urban squares.
- 1.20.0.0.0 **PARK OR PARKING** - means the standing or stopping of a vehicle whether occupied or not.
- 1.21.0.0.0 **PERSON** - means and includes 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 organizations 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.
- 1.22.0.0.0 **PUBLIC PARK** - means all lands owned or operated by or belonging to the City or other public body such as school boards, Allandale Community Development Corporation or conservation authority which may be designated as Open Space or Environmental Protection Area and used by the public for active or passive recreational use including sporting activities and games, or as gathering places such as urban squares, or which may be left in their natural state for environmental reasons.
- 1.23.0.0.0 **SERVICE VEHICLE** - means any municipal vehicle used in the maintenance of a park.

- 2.0.0.0.0 No person shall cut, break, injure, deface, disturb, or remove any tree, shrub, plant, rock, gravel, grass, soil, or sand from any public park as defined in this by-law.
- 3.0.0.0.0 No person shall lead or let loose any animal of any kind within a public park except where designated for such purpose by the City.
- 4.0.0.0.0 No person shall operate any motor vehicle within a public park unless authorized to do so or unless such vehicle is owned or operated by the City for the purpose of maintenance of such park or the enforcement of by-laws.
- 5.0.0.0.0 No person shall swim, bathe, wade in or pollute the waters of any fountain, pond, lake or stream except where designated for such purpose by the City.
- 6.0.0.0.0 No person shall willfully or maliciously let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, lake or other receptacle for water connected with any such public park.
- 7.0.0.0.0 No person shall kindle, set or permit the kindling or setting of any fire within a public park, except where designated for such purpose by the City.
- 8.0.0.0.0 No person shall discharge any firearm as defined by this by-law within a public park unless authorized to do so by the City.
- 9.0.0.0.0 No person shall camp within a public park unless authorized to do so by the City.
- 10.0.0.0.0 No person shall use a public park for the purpose of overnight sleeping between the hours of 11:00 pm of one day and 5:00 am of the following day.
- 11.0.0.0.0 No person shall sell or offer for sale any good, product or service within a public park unless authorized to do so by the City.
- 12.0.0.0.0 No person shall operate, maintain, carry on, conduct or solicit for any trade, occupation, business or profession within a public park unless authorized to do so by the City.
- 13.0.0.0.0 No person shall gamble within a public park.
- 14.0.0.0.0 No person shall distribute or post or provide any handbills, circulars, notice, paper or advertising device within a public park unless such notice, bill or paper, or advertising device is posted in accordance with the City of Barrie Sign By-law.
- 15.0.0.0.0 No person shall disturb, molest, wound, attempt to kill or kill any bird, fowl or animal within a public park except where authorized to do so by the City or other governing Federal or Provincial legislation.
- 16.0.0.0.0 No person shall enter any public park, place, area or location within a public park where a "No Admittance" sign has been erected.
- 17.0.0.0.0 No person shall stand or park a vehicle in any part of a public park for the purpose of hire, or solicit passengers for any vehicle for hire within a public park unless authorized to do so by the City.
- 18.0.0.0.0 No person shall indulge in riotous, boisterous, threatening, or indecent conduct or abusive, threatening or profane language within a public park.
- 19.0.0.0.0 No person shall create a nuisance within a public park.
- 20.0.0.0.0 No person shall engage in a matched game within a public park unless authorized to do so by the City.
- 21.0.0.0.0 No person shall strike, hit otherwise propel a golf ball within a public park.
- 22.0.0.0.0 No person shall operate a bicycle except on designated bicycle paths and such bicycle shall be provided with:
- 22.1.0.0.0 a) a bell or horn so arranged that it shall be under the complete control of the rider;
- 22.2.0.0.0 b) a front white light and in the rear a red light while in motion after dark.
- 23.0.0.0.0 No person shall operate more than two bicycles abreast at any time on any designated path and such operation shall not impede the pedestrian traffic in any public park.

- 24.0.0.0.0 No person shall use a long nosed racing skate on any natural ice surface in a public park unless the same is protected by a toe guard.
- 25.0.0.0.0 No person shall while using a natural ice surface in a public park, engage in racing or speeding so as to endanger or interfere with any other person using the surface.
- 26.0.0.0.0 No person shall carry a cane or stick of any kind while on the ice surface in a public park except where such surface has been designated for the playing of hockey.
- 27.0.0.0.0 No person shall operate or use any apparatus, mechanism or device for the amplification of the human voice, music or sound within a public park unless authorized to do so by the City.
- 28.0.0.0.0 **EXEMPTIONS**
- 28.1.0.0.0 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.
- 29.0.0.0.0 **ENFORCEMENT**
- 29.1.0.0.0 A Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer, or other duly appointed individual shall enforce the provisions of this by-law.
- 29.2.0.0.0 No person shall obstruct, hinder, or otherwise interfere with a Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer or other duly appointed individual in the lawful carrying out of their duties and responsibilities under the provisions of this by-law.
- 30.0.0.0.0 **SEVERABILITY**
- 30.1.0.0.0 Should any section of this by-law be declared by a Court of competent jurisdiction to be 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.
- 40.0.0.0.0 **PENALTIES**
- 40.1.0.0.0 Every person who contravenes any provision of this by-law is guilty of an offence and liable on conviction to a penalty not exceeding \$5,000, exclusive of costs and the provisions of the *Provincial Offences Act, R.S.O 1990, c P.33*, as amended, shall apply to said fine.
- 40.2.0.0.0 Every person who contravenes the provisions of any section of this By-law and every Director or Officer of a Corporation, who knowingly concurs in the contravention by the Corporation, is guilty of an offence under the provisions of the *Municipal Act, S.O. 2001, c.25*.
- 40.3.0.0.0 Every person who contravenes the provisions of any section of this by-law and every Director or Officer of a Corporation, who knowingly concurs in the contraventions by the Corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the *Municipal Act, S.O. 2001, c. 25*.
- 40.4.0.0.0 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the *Municipal Act, 2001, S.O. 2001, c. 25*.
- 40.4.1.0.0 Despite paragraph 40.3.0.0.0 and the provisions of the *Municipal Act, 2001, S.O. 2001, c. 25*, the total of all daily fines for the offence is not limited to \$100,000.
- 40.5.0.0.0 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the *Municipal Act, 2001, S.O. 2001*.
- 40.5.1.0.0 Despite paragraph 40.4.0.0.0 and the provisions of the *Municipal Act, 2001, S.O. 2001, c. 25*, the total of all daily fines for the offence is not limited to \$100,000.

40.6.0.0.0 **REPEAL**

40.6.1.0.0 That By-law 88-260, Part 4, Section 4.8.0.0.0 to 4.8.4.4.0 regarding Parks be repealed.

40.7.0.0.0 **FORCE AND EFFECT**

40.7.1.0.0 **THAT** this By-law shall come into force and take effect immediately upon passing.

READ a first and second time this 22nd day of February, 2010.

READ a third time and finally passed this 22nd day of February, 2010.

THE CORPORATION OF THE CITY OF BARRIE



MAYOR - DAVE ASPDEN



CITY CLERK - DAWN A. MCALPINE