



By-Law 90-92

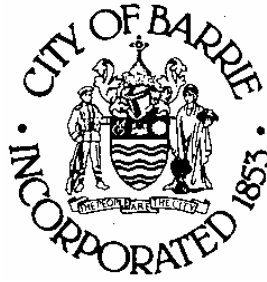
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To prohibit the obstruction of drains and watercourses, to require the repair and maintenance of drains and watercourses, and to regulate the altering of drains and watercourses in the City of Barrie

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Bill No. 109

BY-LAW NUMBER 90-92

A By-law of The Corporation of the City of Barrie to prohibit the obstruction of drains and watercourses, to require the repair and maintenance of drains and watercourses, and to regulate the altering of drains and watercourses in the City of Barrie

WHEREAS drains and watercourses are essential for the collection and conveyance of water through the City;

AND WHEREAS the obstruction and lack of repairs and maintenance to drains and watercourses may result in damage to building and property;

AND WHEREAS the regulation of alterations to drains and watercourses is considered essential to ensure the continued efficient conveyance of water through the City;

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

Definitions:

1. In this By-law
 - a) "Corporation" means the Corporation of the City of Barrie.
 - b) "drain" means any municipal work or facility or part thereof constructed by any person for the purpose of the management and/or conveyance of stormwater including groundwater naturally occurring at the surface, surface and roof runoff, non-contact cooling water, and runoff resulting from natural precipitation; and drain includes a depression, open channel, ditch, and piped conveyance system, but does not include swales constructed pursuant to a drainage plan for any required grading of lands and construction of private works in order to permit stormwater runoff from such lands.
 - c) "Engineering" means the City of Barrie Engineering Department under the authority of the Director of Engineering.
 - d) "maintain" means to do all things necessary to keep a drain or watercourse in its original, natural or enhanced condition, including the removal and clearing of any material or thing of any kind whatsoever located on or found in a drain or watercourse that has the effect of impeding or preventing the efficient flow of water
 - e) "obstruct" means to place or deposit any material or thing of any kind whatsoever that has the effect of impeding or preventing the efficient flow of water.
 - f) "repair" means to restore to original condition as determined by Engineering.
 - g) "storage area" means any pond, depression or swamp either natural or artificial which retains or detains runoff and natural precipitation and cooling waters for any purpose.
 - h) "watercourse" means any natural route or alterations thereto including streams, creeks and channels in which the flow of stormwater, groundwater, runoff and precipitation flow is either intermittent or continuous; encompassing that area occupied by the Regional Storm and/or 1:100 year Storm floodlines established per the most current Drainage and Storm Sewage Policies and Criteria (as approved by the Engineering Department) OR 15 metres each side of the watercourse center line, whichever is greater.
 - i) "watershed" means the whole area from which a watercourse or drain receives water.

General

2. That the Corporation will continue to undertake drainage projects including erosion protection for drains and watercourses, grading, alignment, retention or detention systems, storm sewers and culverts, and ongoing maintenance based on the recommendation of the current Drainage and Storm Sewer Policies and Criteria and the Master Drainage Plans.
3. That the Corporation continue to progressively acquire land or an interest therein (easements) for drains, watercourses and storage areas crossing or upon private lands, where it is considered to be in the Corporation's interest to do so.
4. That local sewers and stormwater from land development shall discharge to the nearest appropriate and sufficient drain or watercourse within the natural watershed at a rate acceptable to Engineering.
5. That works on watercourses and drains such as realignment, widening and control structures may be required to the satisfaction of Engineering under the subdivider's agreement or as conditions for site plan development plans.
6. Watercourses and drains shall be kept open wherever possible except at points crossing under roads, highways, railways and other rights-of-way and entrances at which piping of sufficient capacity (as deemed by Engineering) will be installed by the Owner of the land upon which the watercourse or drain is located.

Maintenance and Repairs

7. The owner of land upon which a watercourse, drain or storage area is located shall repair and maintain the portion of the watercourse drain or storage area across or upon his/her land.

Alterations

8. No person shall straighten, change, divert or obstruct in any way existing drains, watercourses or storage areas, except in accordance with this by-law.
9. Owners or contractors proposing to straighten, divert or in any way change or obstruct a drain, watercourse or storage area shall file with Engineering plans as prepared by a qualified registered Professional Engineer licensed to practice in the Province of Ontario showing existing conditions, proposed conditions, profiles, cross-sections, construction dates along with any other supplementary documentation as requested by Engineering. No work shall proceed until Engineering has sufficient plans and documentation showing that the proposed works will not obstruct drainage. Construction of proposed works shall be supervised by the Professional Engineer who designed the works. The Professional Engineer shall prepare and submit "as built" drawings of the works to Engineering upon completion.
10. No permit for any building or structure requiring a building permit shall be issued for a building or structure proposed within a drain or watercourse.

Enforcement and Penalties

11. If an owner
 - a) does not maintain and repair the portion of a watercourse or drain across his/her lands; OR
 - b) proceeds to straighten, change, divert or obstruct in any way existing drains, watercourses or storage areas without filing with Engineering the necessary plans and documentation showing that the proposed works will not obstruct drainage; OR
 - c) proceeds to straighten, change, divert or obstruct in any way existing drains, watercourses or storage areas in non-conformance with the plans and documentation filed with Engineering for the proposed works,

then written notice of the infraction of Paragraphs (a), (b) or (c), or a combination thereof, will be delivered to the owner of the land, or the person carrying out the work on the owner's behalf, and if the infraction is not rectified within 30 days of receipt of such notice, the Corporation may correct the infraction at the owner's expense and may recover the costs in such a manner as municipal taxes. If the Corporation determines that the situation is threatening to life or property in any manner, then the above-noted 30 day period may be waived unilaterally by the Corporation, and the Corporation may immediately correct the infraction at the sole expense of the owner.

Enforcement and Penalties (Cont'd.)

12. For the purpose of correcting the cause of the infraction under this By-law, the Corporation, its servants, and agents may enter upon any land where an infraction has occurred.
13. Any person who contravenes any of the provisions of this By-law shall be guilty of an offence under the Provincial Offences Act, R.S.O. 1980, c. 400 and shall be liable upon conviction to a fine not exceeding five thousand (\$5,000.00) dollars, exclusive of costs, for each such offence, and every such penalty shall be recoverable under the Provincial Offences Act.
14. Administration of this By-law is under the authority of Engineering. The City Engineer and his designated staff are appointed officers to enforce this By-law. Engineering shall be responsible for the preparation of policies and procedures pertaining to this By-law.
15. When any notice is required to be given under the provisions of this By-law, the date of receipt of such notice shall be deemed to be the date upon which:
 - a) the notice is delivered for registered mailing City of Barrie at a post office in the City of Barrie; OR
 - b) the notice is personally delivered to the owner or contractor.
16. Should any provision of this By-law be declared by a court of competent jurisdiction to be void or ultra vires for any reason, the remaining provisions shall nevertheless remain valid and binding and shall be read as if the offending section or subsection had been struck out.
17. That By-law 2786 and By-law 2814 are hereby repealed.

THIS By-law shall come into force and take effect immediately upon the final passing thereof.

READ a first and second time this 19th day of March A.D. 1990.

READ a third time and finally passed this 19th day of March A.D. 1990.

THE CORPORATION OF THE CITY OF BARRIE

“ORIGINAL SIGNED”

MAYOR – JANICE LAKING

“ORIGINAL SIGNED”

CLERK – JOHN E. CRAIG

BY-LAWS AMENDING 90-92

By-law #

Amendments

2004-101

1b, 1h, City Engineer