

OVERVIEW OF DRAFT CITY OF GUELPH PUBLIC NUISANCE BY-LAW

September 17, 2012

(Note: This overview is not a legal document and constitutes only a general summary of the draft by-law. For the full wording, please consult the text of the draft by-law itself. This overview is not to be used in the interpretation of any by-law that may be ultimately adopted by the City.)

A. BACKGROUND

Under the *Municipal Act*, municipalities are allowed to pass by-laws to protect:

- The public;
- Municipal property; and
- Private property.

Municipalities are also allowed to prohibit public nuisances.

B. CITY PROPERTY THAT WOULD BE COVERED

The by-law would apply to all City property, indoors and outdoors, including:

- City streets and sidewalks;
- City squares (such as Market Square in front of City Hall);
- City parks; and
- City buildings (such as Recreation Centres).

C. MAIN PROHIBITIONS IN THE DRAFT BY-LAW

The draft by-law contains four main prohibitions:

1. It would prohibit people from doing certain things on City property that would unreasonably interfere with other people legitimately enjoying City property.
2. It would prohibit people from doing certain things on City property that would unreasonably interfere with the City property.
3. It would prohibit people from entering restricted areas of City property.
4. It would prohibit people from holding parties that would unreasonably interfere with other people.

Here are some more particulars about those four prohibitions.

1. Prohibition against doing certain things on City property that would unreasonably interfere with other people

(a) Purpose

Protect the public.

(b) Specific activities prohibited

Eighteen listed activities, all of which would ordinarily be considered as nuisances, and maybe even dangers, to the public:

- Be violent
- Endanger people or property
- Fight
- Obstruct a sidewalk
- Distribute handbills
- Sell things
- Carry on a business
- Install vending machines
- Cause annoyance to people
- Possess a weapon
- Interfere with other people's lawful activity
- Use wrong washroom
- Loiter in washroom
- Take pictures in washroom
- Bring dangerous animals
- Disobey signs
- Knock over waste containers
- Conduct a protest for more than 24 hours

(c) Five exceptions

- The City itself would be exempted from these rules while it is carrying out City business. For example, the City would be allowed to block a sidewalk (such as if it were carrying out repairs).
- Police officers carrying out police activities would be allowed to do things the public is prohibited from. For example, police officers on patrol would be allowed to possess firearms.
- People who obtain permission from the City may be exempted from these rules. For example, the City might issue a permit to an organization to have horses in a park for a special occasion.

- Activities that would otherwise be prohibited would be allowed if the City facilities were specifically designed for such activities. For example, people would be allowed to play baseball on a baseball diamond.
- Activities specifically allowed by a sign would be permitted. For example, if a sign permits people to enter a water feature, then they may do so.

2. Prohibition against doing certain things on City property that would unreasonably interfere with the City property

(a) Purposes

Protect the public from injuring themselves on City property.

Protect City property.

(b) Specific activities prohibited

Fourteen listed activities, all of which would ordinarily be considered as harmful to the City property or dangerous to the people carrying out the activities:

- Damage City property
- Harm flowers or trees
- Damage buildings or equipment
- Apply graffiti
- Litter
- Dump snow
- Dump foreign substances
- Build fires
- Camp
- Install structures
- Enter fountains
- Climb buildings
- Land aircraft
- Park cars except in parking spaces

(c) Five exceptions

- The City itself would be exempted from these rules while it is carrying out City business. For example, the City could move flowers and trim trees.
- Police officers carrying out police activities would be allowed to do things the public is prohibited from. For example, police officers investigating a crime scene could park their cars not in designated parking spaces.

- People who obtain permission from the City may be exempted from these rules. For example, the City might issue a permit to an organization to bring in and dump snow for a snow sculpture event.
- Activities that would otherwise be prohibited would be allowed if the City facilities were specifically designed for such activities. For example, people would be allowed to enter a splash pad designed as a splash pad.
- Activities specifically allowed by a sign would be permitted. For example, if a sign indicated that public notices may be posted in a certain location, then they may be posted there.

3. Prohibition against entering restricted areas on City property

(a) Purposes

Protect the public from injuring themselves on City property.

Protect City property.

(b) Specific activities prohibited

Entering parts of City property where a sign, barrier or barricade indicates that entry is prohibited.

(c) Three exceptions

- The City itself would be exempted from these rules while it is carrying out City business. For example, City staff may enter areas where they work, but where the public is not allowed.
- Police officers carrying out police activities would be allowed to do things the public is prohibited from. For example, Police officers may cross barricades stopping traffic.
- People who obtain permission from the City may be exempted from these rules. For example, if an organization has rented a City facility, it may enter the facility even though the public is not allowed to enter.

4. Prohibition against holding parties that would unreasonably interfere with other people

(a) Purposes

Protect the public who live or work near such a party.

Protect City and private property near such a party.

(b) Specific activities prohibited

Small number of activities prohibited:

- Holding such a party
- Attending such a party
- As the owner of the property, permitting such a party there
- Remaining at such a party when ordered by the Police or City to leave
- Using a street near the party if the street has been closed by the Police or City

(c) Special penalty

The City could require anyone who hosts such a party to pay the City's costs of responding to the party and cleaning up afterwards.

D. ASPECTS OF ENFORCEMENT

The by-law would create regulatory (provincial) offences which:

- Would be less formal or serious than criminal (federal) offences;
- Could be charged by way of tickets (once the ticketing procedures are put in place) without requiring a mandatory court appearance; and
- Could be brought by City by-law enforcement officers as well as by Police.

As with all charges, investigating officers would have the discretion of merely warning people where the offence appears to have been accidental.

Although the typical ticket amount would probably be relatively low, the fines for serious offences could be several thousand dollars.