

REPORT

Council

Meeting Date: September 16, 2024

FROM: Transportation and Engineering Department
Legal Department

DATE: September 3, 2024

SUBJECT: Sports Activities and Equipment within Municipal Rights-of-Way

LOCATION: Town Wide

WARD: Town-wide

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RECOMMENDATION:

1. That the playing of sport activities on town roads continue to be prohibited per Uniform Traffic By-law 1984-1 and Municipal Right of Way By-law 2009-072.
2. That staff be directed to prepare a Sports Activities and Equipment within Municipal Rights-of-Way Procedure outlining the conditions under which enforcement of the prohibition of sports activities and equipment on municipal roads will occur.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Sports activities (i.e. basketball, road hockey) are currently prohibited on town roads under the Uniform Traffic By-law 1984-1 and Municipal Right of Way By-law 2009-072.
- In November 2022, Council requested that staff report to Council on opportunities to allow sports activities to take place on local residential streets in Oakville, including any changes to by-laws or other regulations that would be required to allow for these activities to happen.
- Council has considered previous reports on this matter, including at the September 18, 2017 Council meeting. The report entitled "[Sports Activities on Roads](#)" dated August 18, 2017 was received by Council for information.
 - Staff's recommendation was that the general prohibition against sports activities on roads/sidewalks should be retained.

- Staff recommend maintaining the prohibition of sports activities on town roads and that an enforcement procedure be developed to outline how complaints about such activities will be investigated.
- Two options are provided in this report should Council wish, instead, to lift the general prohibitions against sports activities on town roads.
- An accompanying confidential report from the Legal Department is also on tonight's Council agenda.

BACKGROUND:

At its meeting of November 7, 2022, Council provided the following direction:

“That staff report to Council on opportunities to allow sports activities (i.e. road hockey, basketball or similar activities) to take place on local residential streets in Oakville, and that the report identifies any by-law amendments or other changes that would be required to allow for these activities to happen.”

Provincial and Local Laws

Provincial and local laws governing the use of roads and sidewalks prohibit sports activities on roads and sidewalks. The key principles of this being that roads and sidewalks are for the movement of people and vehicles and that sports activities are best suited to parks, playing fields, community centres and similar locations.

In Oakville, the Uniform Traffic By-law 1984-1 is consistent in this regard in Section 2(c):

Games or Sports

- 2(c) No person shall play or take part in any game or sport upon a highway.

Furthermore, Sections 1(a), (c), (f) and (t) of Oakville's Municipal Right-of-Way (By-law 2009-072) stipulate that certain activities are prohibited within the right-of-way unless otherwise authorized by a permit; this includes sports activities such as road hockey or basketball. The relevant sections are:

1. No person shall, unless otherwise authorized by by-law or a permit issued by the Town in accordance with the Use of Municipal Right of Ways and Municipal Parking Lots Policy as may be amended or replaced:
 - (a) Place equipment or materials of any kind upon or within a municipal right of way;
 - (c) Undertake any activity that negatively impacts the use and function of a municipal right of way;
 - (f) Encumber or damage a municipal right of way by any means;
 - (t) Congregate, sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any walkway or roadway regulated by this by-law;

Reasons for Maintaining the Prohibitions on Sports Activities within the Municipal Right-of-Way (MRW)

Council previously considered a similar [staff report](#) which was presented to Community Services Committee in September 2017. That report included staff's recommendation to maintain the prohibition of sports activities within MRW. **The 2017 report presented several reasons for maintaining the prohibition on sports activities within MRW which are still valid today and include:**

- The conflict between motorists/pedestrians and sports participants creating a safety hazard.
- Sports equipment, such as hockey or basketball nets and illegal markings/painting on roads are obstructions and encroachments, which create safety hazards for pedestrians and motorists and interferes with the primary function of roads and sidewalks for transportation.
- Sports activities within MRW can lead to noise, nuisances, disputes, property damage (including damage to parked vehicles), and injury and resulting liability to road authorities.

In addition, the risks associated with lifting the prohibition on sports activities within MRW are included in the confidential report prepared by the Legal Department that accompanies this report.

An overview of options to permit sports activities within MRW was provided in the 2017 report. The report was received for information and no further action was taken on this matter until Council requested a new report in November 2022 as noted above.

Reactive Enforcement Related to Sports Activities within MRW

By-law enforcement for sports activities and storage of sports equipment within the MRW is provided on a reactive basis, where officers may address a single complaint related to the sports activity(ies) and/or equipment, and all sports activities and equipment within line of sight of the original complaint. Owners are directed to remove the sports equipment from the MRW due to safety and/or obstruction concerns. In Oakville, there have never been tickets issued for playing sports on the road as it is difficult to capture the event in time, and only Halton Region Police can interact with minors, however, tickets have been issued for storage of sports equipment in the MRW. Town staff from Municipal Enforcement Services do not seek out infractions related to sports activities or sports equipment; enforcement is on a reactive, not proactive, basis.

Permits for Organized Sports Activities within MRW

Under the Municipal Right-of-Way By-law 2009-072, road permits can be obtained for organized special events consisting of, or including, sports activities on the roads

within closed/barricaded areas at limited times. These events are scheduled with prior public consultation, appropriate notice, vehicle access arrangements, detour routes for motorists/cyclists/pedestrians, and appropriate executed releases in favour of the municipality to avoid liability and mitigate risk.

COMMENTS/OPTIONS:**Review of Municipalities that Allow Sports Activities within MRW**

An updated review of neighbouring, and other Canadian, municipalities was completed in 2023 to determine if, and under which conditions, sports activities are permitted on their road networks. Similar to the review completed for the “Sports Activities on Roads” report in 2017, the 2023 review found that most of Oakville’s neighbouring municipalities maintain the overall general prohibition against sports activities and equipment on municipal roads, including Milton, Burlington, and Mississauga. Halton Hills is the only municipality in Halton Region that prohibits sports equipment in the MRW but does not mention sports activities in their Traffic By-law. Nearby municipalities to Oakville that permit some level of sports activities within the MRW are Hamilton, Toronto, and Kingston. Other municipalities, such as Ottawa, Beloeil and Gatineau, are also found to permit sports activities with specific restrictions. A summary of the permitted sports activities and restrictions in these municipalities is included as Appendix A to this report.

While a few municipalities permit limited types of sport activities, it is important to note that it may present a discrimination of other activity types if not properly supported.

Staff Review and Recommendations

Staff have reviewed the 2017 report, completed additional research regarding municipalities that allow sports activities on their roadways, consulted with the Parks, Recreation and Library Facilities Master Plan team, and reviewed historic complaints and requests for enforcement to understand if any of the key principles behind the existing prohibition of sports activities within MRW have changed.

It is recognized that some sports activities, such as basketball or street hockey, do take place on smaller residential streets, despite the by-laws that prohibit those activities. The health benefits of outdoor, active play, and the challenges of taking children to parks or community centres due to the multiple demands on a parent or caregiver’s time are also recognized. Resident complaints about sports activities on municipal roads come from both sides, with those in support citing the physical and mental health benefits of play and the convenience of having their children outside but nearby, and those against raising noise, nuisance, safety and travel delays due to moving equipment out of the way.

Based on the above reviews, staff recommend that the general prohibition of sports activities within the MRW be maintained. However, it is also recommended that staff prepare a procedure that outlines how and when the prohibitions against sports activities and sports equipment in the MRW will be enforced. Enforcement would be on a complaint/reactive basis when there is:

- A road safety concern or traffic delays;
- A service impact, such as waste collection or snow removal or utility or municipal work, etc.;
- Property damage, such as to vehicles or plants or lawns or utility/municipal property/infrastructure or private properties;
- Injury to individuals;
- A hazardous condition in the MRW while equipment is in use or on private property when stored away;
- Sports equipment not in use and is placed in the MRW.

This recommendation is supported by the following:

- Under Section 44 of the Municipal Act, the municipality has an obligation to keep roads in state of repair that is reasonable in the circumstances. The prohibition of sports activities on town roads/sidewalks may increase the standard of repair applicable to the municipal roads.
- There are questions as to whether the Municipal Right-of-Way By-law can successfully transfer the liability to the activity participants. It will not be successful if the participants are minors.

Options for Oakville to Allow Sports Activities within MRW

Should Council wish instead to lift the general prohibition, staff offer 2 options for consideration. These options are similar to those presented in the 2017 “Sports Activities on Roads” report, with minor changes. These 2 options are not staff-recommended nor are they listed in any order of priority.

1. Lift the general prohibition in a limited fashion to allow sports activities with some general guidance.
2. Lift the general prohibition in a limited fashion to allow sports activities on only specific types of roads and at certain times of day.

In either case, participants and equipment would not be permitted to interfere with operations and maintenance activities, waste collection, access to/from driveways, or with the normal operations of the roadway or sidewalk, or to cause obstructions to sightlines. To that end, a Sports Activities and Equipment within Municipal Rights-of-Way Procedure outlining the conditions under which enforcement of the prohibition of sports activities and equipment on municipal roads will occur is also recommended for either Option 1 or 2.

In the event Council chooses Option 1 or 2 above, then staff will prepare the required by-law amendments and report back to Council regarding the by-law requirements, and the resourcing needs.

Table 1 below summarizes the required by-law changes and enforcement support for the recommendations by staff and the 2 options. In each option, an accompanying procedure would be developed.

Table 1 – Required By-law and Resourcing Changes Related to Options for Sports Activities on Town Roads

By-Law Sections / Enforcement Support	No Change to Existing By-laws (Recommended)	Option 1	Option 2
1. Uniform Traffic By-law Sec 2c: No person shall play or take part in any game or sport upon a highway	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • Permitted for all sports if not in contravention of MRW By-law Sec 1(a), (c), (f), and (t) 	<ul style="list-style-type: none"> • Permitted for: <ul style="list-style-type: none"> ○ All Sports ○ Local Roads only ○ 9 a.m. to 7 p.m. ○ Weekdays and weekends
2. MRW By-law Sec 1(a): No person shall...place equipment or material of any kind upon or within a MRW	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause
3. MRW By-law Sec 1(c): No person shall... undertake any activity that negatively impacts the use and function of a MRW	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause
4. MRW By-law Sec 1(f): No person shall... encumber or damage a MRW by any means	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause
5. MRW By-law Sec 1(t): No person shall...congregate, sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any walkway or roadway regulated by this by-law	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause 	<ul style="list-style-type: none"> • No change to existing clause

By-Law Sections / Enforcement Support	No Change to Existing By-laws (Recommended)	Option 1	Option 2
6.Enforcement Support	<ul style="list-style-type: none"> No change 	<ul style="list-style-type: none"> MES would continue to provide MRW by-law enforcement in accordance with the Sports Activities and Equipment within Municipal Rights-of-Way Procedure Equipment removal costs, are to be recovered through the Town's Rates and fees, if owner is identified and the equipment is claimed Any increase in support demands will be monitored. If additional resourcing is required, it will be requested following the budgeting process 	<ul style="list-style-type: none"> Public education of Time restrictions can be provided by MES and T&E, to encourage compliance in accordance with the Sports Activities and Equipment within Municipal Rights-of-Way Procedure. Equipment removal costs, are to be recovered through the Town's Rates and fees, if owner is identified and the equipment is claimed Road type restrictions may create the need for new signage – to be further reviewed by T&E and R&W Any increase in program support demands will be monitored. If additional resourcing is required, it will be requested following the budgeting process

Note: The accompanying confidential report from the Legal Department provides more details on the risks and liabilities.

Additional Enforcement Considerations

Municipal Enforcement Services has followed the [Progressive Enforcement Procedure](#), and has been successful in promoting public education, as a first response for both sport activities and for equipment that has been stored in the municipal right of way. The pressing issues are generally the sports equipment (hockey and basketball nets) remaining in the MRW causing obstruction and encroachment. In response to complaints, Enforcement Officers will reach out to homeowners to have the equipment removed from the MRW, or the town may remove the equipment. Sports equipment may be recovered by the owner, with payment of applicable administrative fees. This progressive enforcement approach has remained effective.

While Investigations that involve minors (children under sixteen years of age) will continue to be a challenge for enforcement staff, Municipal Enforcement Services will continue to investigate these cases in accordance with the Progressive Enforcement Procedure.

CONCLUSION

Staff recognizes that there are health benefits and convenience in allowing sports activities within the MRW. However, the general prohibitions against sports activities on town roads, as included in the Municipal Right-of-Way By-law (for equipment) and the Uniform Traffic By-law (for playing) offer protection against liability and risk to the municipality and support safety for pedestrians, motorists and sports participants. Staff recommends maintaining the general prohibitions against sport activities in the MRW (both equipment and playing), and that a procedure outlining how and when enforcement related to sports activities on town roads will occur be prepared.

CONSIDERATIONS:

(A) PUBLIC

The public considerations in this situation are balancing the conflicting interest of those wanting to enable children and others to legally play sports on town roads/sidewalks versus those wanting to avoid such activities due to nuisance concerns like noise, property damage, interference with traffic movement, and a genuine concern for neighbourhood safety.

(B) FINANCIAL

Municipal Enforcement Services and Roads and Works Operations will monitor impacts to case volume and staff resources and will incorporate personnel needs in future operational budget requests.

If additional claims are received by the municipality for property damage or injury arising out of any option selected, then that would be an additional cost to the town.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This report has been jointly prepared by Transportation and Engineering and Legal, in consultation with Roads & Works Operations, Recreation & Culture and Municipal Enforcement Services.

By-law updates, if required as a result of this report, will be prepared by Transportation and Engineering, in consultation with Legal and Municipal Enforcement Services.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal for an Engaged Community through the provision of provide an effective licensing and enforcement framework to maintain community safety, protection and enjoyment.

(E) CLIMATE CHANGE/ACTION

There is no impact to climate change.

APPENDICES:

Appendix A – Outdoor Sports Activities By-laws Comparison Table

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