

## **Street Hockey and other Sports or Games on City Streets**

### **Ontario Highway Traffic Act**

The Ontario Highway Traffic Act (OHTA) does not specifically prohibit the playing of sports or games on city streets. In discussion with Ministry of Transportation (MTO) staff, an OHTA Section determined to be relevant is Section 179(1):

Where sidewalks are not provided on a highway, a pedestrian walking along the highway shall walk on the left side thereof facing oncoming traffic, and when walking along the roadway, shall walk as close to the left edge thereof as possible.

Clearly, a person in the centre of the road playing street hockey is not staying close to the left edge of the roadway, but as indicated by MTO staff this is a bit of a stretch because the Section does not specifically address playing sports or games on the roadway and it is meant to be applied to highways where sidewalks are not provided.

The term 'vehicle' is defined in the OHTA as "includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car." Persons not in/on a vehicle (as defined above) on roadways are considered to be, and treated as, pedestrians. City of Toronto staff identified Section 185(2) as relevant:

The council of a municipality may by by-law prohibit pedestrians or the use of motor assisted bicycles, bicycles, wheelchairs or animals on any highway or portion of a highway under its jurisdiction.

As discussed next, many municipalities have created by-laws that prohibit playing sports or games on the roadway.

### **City of Toronto Act**

The City of Toronto Act Sections 6, 7, and 8 gives the City the general powers to regulate the use of its roads, including the enactment of by-laws.

### **City of Toronto By-laws**

The six former municipalities (East York, Etobicoke, North York, Scarborough, Toronto and York) and Metro Toronto have by-laws that prohibit the playing of sports and games on

public roadways regardless of road classification. The by-laws also apply to public laneways, but do not apply to private roadways or laneways.

In the former City of Toronto, prior to codification, the Uniform Traffic By-law was By-law 522-78. In 1995/96, By-law 522-78 was replaced by City of Toronto's Municipal Code Chapter 400 (Traffic and Parking). Municipal Code Chapter 400, Sub-section 400-14A (Use of Highways) prohibits the playing of games or sports on public roadways:

No person shall play or take part in any game or sport upon a roadway and, where there are sidewalks, no person upon roller skates or a skateboard, or riding in or by means of any coaster, toy vehicle or similar device shall go upon a roadway except for the purpose of crossing the roadway, and when so crossing, the person shall have the rights and be subject to the obligations of a pedestrian.

The wording for the other municipalities' by-laws is very similar to the above wording as an attempt was made at uniformity throughout the City. These by-laws are provided in Table 1:

**Table 1**

<b>Municipality</b>	<b>By-Law</b>
Municipality of Metropolitan Toronto (arterial roads)	Former Metropolitan By-law No. 32-92, Section 12
Borough of East York	Former Borough of East York By-law No. 92-93, Section 11
City of Etobicoke	Former City of Etobicoke Municipal Code Chapter 240, Sub-section 240-4.D
City of North York	Former City of North York By-law No. 31001, Section 12
City of Scarborough	Former City of Scarborough By-law No. 23503, Section 11
City of Toronto	Former City of Toronto Municipal Code Chapter 400, Sub-section 400-14A
City of York	Former City of York By-law No. 196-84, Section 12 and By-law No. 2958-94, Section 11

Once the By-law Consolidation Project is complete, Municipal Code Chapter 950 will be the new Traffic and Parking Municipal Code Chapter for the amalgamated City. Until the Consolidation Project is complete, the former municipality's Traffic and Parking By-laws remain in effect.

The primary reasons stated by the City for the by-laws are that the traveled portion of the roadway is not designed for sports and games and there would be liable issues related to personal injuries and property damage if the City were to permit playing games and sports on the street. When sports or games are permitted on the street, for example a charity run, permits and insurance are required and the roadway is closed for a specific time period.

## **Enforcement**

Enforcement is the responsibility of Toronto Police Services and is normally complaint driven. The common complaints include noise, traffic flow obstruction, and property damage including damage to parked or driven vehicles.

## **Other Jurisdictions**

Kingston is an example where an Ontario city did change their traffic by-laws to allow street hockey. In 2008, Kingston's City Council passed by a 6-5 vote a new street hockey policy and Code of Conduct that allows street hockey to be played on local streets within a designated time period. The vote passed despite City staff objection. The Code was written by the legal department and went through a number of drafts as part of a consultation with a City standing committee which held a public consultation. The Code governs the rules for appropriate and respectful street hockey and the penalties for failing to comply. The Code also contains an assumption of risk clause that states "people who choose to play street hockey or allow a child in their care to play street hockey agree that they are assuming any and all risks associated with that decision and waiving any and all claims against the city."<sup>1</sup> Despite the adoption of the Code of Conduct, the City of Kingston's, Director of Legal Services, Hal Linscott says "In my view, permitting street hockey would increase the likelihood of the city begin found liable if someone were hurt" and in regards to the assumption of risk clause, "it is not a written waiver and release."<sup>2</sup>

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<sup>1</sup> City of Kingston, Street Hockey Policy and Code of Conduct, August 12, 2008.

<sup>2</sup> Press, Jordan, "It's game on for street hockey players: City council approves new code of conduct," The Whig-Standard, 2008.

## **Street Hockey Policy and Code of Conduct City of Kingston**

### **Purpose**

The intent of this policy and code of conduct is to:

- set out when, where and how street hockey may take place
- avoid or minimize traffic congestion, excessive noise, inappropriate behaviour, and disrespect for neighbours and private property.
- identify the possibility of injury that accompanies street hockey
- clarify that participants in street hockey, and parents or guardians who allow their children to participate in street hockey, assume all risks related to the activity

### **Definitions**

"Local Street" is a street in a residential neighbourhood with low traffic volumes and the posted speed limit is 50 km/h or less, where participants, or in the case of children their parent or guardian, consider it safe to play street hockey and assume the risk when they do, and where the city has not prohibited street hockey.

"Street hockey" is the playing of hockey on a Local Street by one of more participants.

### **Permitted activity**

Street hockey may be played on a Local Street during daylight hours when there is good visibility. Street hockey may never be played before 9 a.m. or after 8 p.m.

### **Code of conduct**

Street hockey participants must:

- keep an ongoing watch for motor vehicle and bicycle traffic and must clear the street immediately of participants and equipment so that vehicles may pass safely
- remove all equipment from the street, sidewalk, and boulevard as soon as the street hockey game is over and between 8 p.m. and 9 a.m.
- respect the rights of neighbours to the reasonable enjoyment of their property free from damage, inappropriate noise, or disrespectful conduct toward them or their property

### **Failure to Comply with Code of Conduct**

A person who breaches the Code of Conduct, as determined by municipal or law enforcement staff, shall lose the privilege of playing street hockey for a period of 90 days. In the event that 3 or more breaches of the Code of Conduct have occurred on a particular street within a 30 day period, the privilege of playing street hockey on that street shall be lost for a period of 90 days.

**Assumption of risk**

The possibility of injury exists when playing any sport, particularly when it involves unsupervised children. The playing of street hockey brings additional risks including a road surface that is not designed for hockey and interactions with motor vehicles and bicycles. Participants in street hockey, or in case of children their parents or guardians, are responsible for determining what locations are safe and for playing in a safe manner. People who choose to play street hockey or allow a child in their care to play street hockey agree that they are assuming any and all risks associated with that decision and are waiving any and all claims against the city.

**If you are not prepared to assume the risk and free the city of any liability, do not play street hockey.**