

The Corporation of the City of
Burlington City of Burlington By-law
XX-2024

A by-law to regulate the delivery of graphic images
in the City of Burlington
File: 110-04 (BL-03-24)

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (the "*Municipal Act, 2001*") provides that a municipal power shall be exercised by by-law; and

WHEREAS sections 8, 9, and 11 of the *Municipal Act, 2001* authorize The Corporation of the City of Burlington (the "City") to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6, and 8 of subsection 11 (2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property; and

WHEREAS section 425 of the *Municipal Act, 2001* permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence; and

WHEREAS subsection 429(1) of the *Municipal Act, 2001* provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act, 2001*; and

WHEREAS subsection 434.1 (1) of the *Municipal Act, 2001* provides that a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act; and

Whereas the Council of the Corporation of the City of Burlington is satisfied that the unregulated Delivery of Graphic Images to residences impacts the economic, social and environmental well-being of the municipality; the health, safety and well-being of person; and the protection of property;

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

PART I: DEFINITIONS

1.1 For the purposes of this by-law, the following definitions shall apply:

“Administrative Monetary Penalties By-law” means the Administrative Penalties By-law 40-2016 of the City, as amended or replaced from time to time;

“administrative penalty” means an administrative monetary penalty (AMP) established by this By-law and specified in the Administrative Monetary Penalties By-law;

“Deliver” means to deliver, leave, place, deposit or post anywhere of the Property or mailbox associated with a Residence, whether or not handed to a person, and the non “Delivery” has a corresponding meaning;

“Graphic Image” means an image or photograph showing, or purporting to show, a fetus or any part of a fetus;

“person” includes an individual, firm, sole proprietorship, partnership, association, or corporation;

“Property” means the whole or part of any parcel of real property, including all buildings, structures, personal property, or other property located thereon;

“Residence” means any Property or address that is not clearly identified from the abutting roadway as the location of a business.

PART 2: BY-LAW TITLE

2.1 The short title of this By-law shall be the “Graphic Image Delivery By-law”.

PART 3: APPLICATION OF BY-LAW

3.1 This By-law applies to property within the City of Burlington.

3.2 Nothing in this By-law is to be construed as permitting anything which is prohibited under federal or provincial legislation, and where there is a conflict in this respect between federal or provincial legislation and this By-law, the federal or provincial legislation prevails.

PART 4: PROHIBITIONS AND EXEMPTIONS

4.1 No person shall Deliver or participate in the Delivery of a Graphic Image to any Residence, unless;

- (a) the Graphic Image is fully concealed within a sealed envelope or package; and
- (b) the sealed envelope or package containing the Graphic Image is marked with the following notice and information:
 - (i) the name and address of the person who is responsible for Delivery of the Graphic Image; and
 - (ii) a warning that the envelope or package “contains a Graphic Image that may be offensive or disturbing to some people”.

4.2 This By-law does not apply to:

- (a) mail that is Delivered to a Residence by Canada Post; or
- (b) material that is Delivered to the Residence at the request or with the consent of the addressee.

PART 5: OFFENCE

5.1 Any person who contravenes a provision of this By-law is guilty of an offence.

5.2 A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence.

5.3 Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c P. 33, as amended.

PART 6: ADMINISTRATIVE PENALTIES

6.1 This By-law in its entirety is designated as a By-law to which the City's Administrative Monetary Penalties By-law applies.

6.2 Every person who contravenes this By-law when given a penalty notice, in accordance with the City's Administrative Penalties By-law, shall be liable to pay the City an administrative penalty in the amount specified in the Administrative Monetary Penalties By-law, and any fees related thereto.

6.3 Where an administrative penalty and administrative fee(s) respecting the administrative penalty, as specified in the Administrative Monetary Penalties By-law, are not paid within sixty days after the date that they become due and payable, the treasurer of the City may add the administrative penalty and administrative fee(s) to the tax roll for any property for which all of the owners are responsible for paying the administrative penalty and administrative fee(s), and collect it in the same manner as municipal taxes.

PART 7: MISCELLANEOUS

7.1 In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

7.2 The word "and" is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required as the case may be. The word "or" is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article, or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word "or" may also be an inclusive conjunction having the same meaning as the word "and".

7.3 If any or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative on particular circumstances, the balance of this By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

7.4 Any reference to legislation in this By-law includes the legislation referred to and its amendments as well as any subsequent legislation which may replace the legislation referred to, and its amendments thereto.

PART 8: EFFECTIVE DATE

8.1 This By-law comes into force on the date of its passing.

Enacted and passed this XXth day of XXXX, 2024.

Mayor Marianne Meed Ward _____

Deputy City Clerk Samantha Yew _____