

Authority: Item 4, Committee of the Whole
Report 01-029 (FCS01073)
CM: September 18, 2001

Bill No. 216

CITY OF HAMILTON

BY-LAW NO. 01- 216

**RESPECTING THE CONSTRUCTION, MAINTENANCE, OPERATION,
MANAGEMENT AND REGULATION OF MUNICIPAL PARKING FACILITIES**

WHEREAS Sub-section 56 of Section 207 of the Municipal Act, R.S.O. 1990, Chapter M.45, as amended, confers upon the councils of all municipalities the authority to acquire, establish, lay out and improve land, buildings, and structures where vehicles may be parked, and for erecting buildings or structures for, or in connection with, the parking of vehicles;

AND WHEREAS Sub-section 56 of Section 207 of the Municipal Act, as amended, further provides for the regulation, supervision and governing of the parking of vehicles on land so acquired, established, laid out and improved;

AND WHEREAS Sub-Section 57 of Section 207 of the Municipal Act, as amended, provides for the assumption, by the municipality, of the undertakings, documents, assets and liabilities of the parking authority which has ceased to exist subsequent to the repeal of the by-law establishing the said parking authority;

AND WHEREAS Paragraph (6) of Section 191 of the Municipal Act, as amended, confers upon the councils of every corporation the authority to pass by-laws providing for the use by the public of lands of which the corporation is the owner and for the regulation of such use and the protection of such lands;

AND WHEREAS the City of Hamilton Act, 1999, S.O. 1999 Chapter 14, Schedule C did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to the following former area municipalities, namely: The Corporation of the Town of Ancaster; The Corporation of the Town of Dundas; The Corporation of the Town of Flamborough; The Corporation of the Township of Glanbrook; The Corporation of the City of Hamilton; and the Corporation of the City of Stoney Creek; all hereinafter referred to as the "former area municipalities";

AND WHEREAS the City of Hamilton Act, 1999, provides that the By-laws of the former area municipalities continue in force and effect in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of the City of Hamilton deems it expedient to enact a single by-law to provide for the construction, maintenance, operation, management and regulation of Municipal Parking Facilities, in place of by-laws of the former area municipalities;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

DEFINITIONS & INTERPRETATIONS

1. (1) In this By-law,
 - (a) "City" means the of City of Hamilton;
 - (b) "City Council" means the Council of the City of Hamilton;
 - (c) "Department of Finance and Corporate Services" means the Department of Finance and Corporate Services for the City of Hamilton;
 - (d) "dime" means a ten cent coin of lawful money of Canada or the United States of America;
 - (e) "dollar coin" means a one hundred cent coin of lawful money of Canada or the United States of America;
 - (f) "General Manager" means the General Manager of Finance and Corporate Services and includes his designate and successor;
 - (g) "holiday" means and includes every
 - New Year's Day
 - Good Friday
 - Victoria Day
 - Canada Day
 - Labour Day
 - Thanksgiving Day
 - Christmas Day
 - Boxing Dayand any day appointed as a civic holiday by the City Council;
 - (h) "Manager" means the Manager of Parking and Enforcement Operations for the City of Hamilton and includes his designate and successor;

- (i) "metered car park" means a car park where the payment of fees for the use of a parking space is regulated by the use of parking meters or other mechanical or electronic equipment;
- (j) "Municipal Car Park" and "car park" mean land set aside and improved for use as a municipal off-street parking facility under the jurisdiction, management, and control of Parking Operations;
- (k) "Municipal Law Enforcement Officer" means any person so designated by a by-law of the City of Hamilton, and appointed for the purpose of carrying out the provisions of this By-law;
- (l) "nickel" means a five cent coin of lawful money of Canada or the United States of America;
- (m) "Officer" means a Police Officer and a Municipal Law Enforcement Officer;
- (n) "park" or "parking" when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in the loading or unloading of property or passengers;
- (o) "Parking and Enforcement Operations" and "Parking and Enforcement Operations Branch" mean the Parking and Enforcement Operations Branch of the Department of Finance and Corporate Services for the City of Hamilton;
- (p) "parking fees" means the fees established from time to time, by the Manager for the parking of a vehicle in a car park;
- (q) "parking meter" means any automatic or other mechanical or electronic device, constructed and installed for the purpose of regulating the parking of a vehicle in an adjoining parking space by measuring the amount of time for which the payment of a fee has been made;
- (r) "Parking Operations" and "Parking Operations Section" mean the Parking Operations Section of Parking and Enforcement Operations for the City of Hamilton;
- (s) "parking space" means that part of a car park set aside and designated for the purpose of parking a single vehicle;
- (t) "Police Officer" means an Officer of the Hamilton Police Service and includes the Chief of Police;

- (u) "quarter" means a twenty five cent coin of lawful money of Canada or the United States of America;
 - (v) "stop" or "stopping" when prohibited, means the halting of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of an Officer or a traffic control sign or signal;
 - (w) "two dollar coin" means a two hundred cent coin of lawful money of Canada;
 - (x) "valid permit" means a permit issued by Parking Operations which is in force and effect for the period for which the payment of fees has been made in advance and for the car park for which it was issued;
 - (y) "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road building machine and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include the cars of electric or steam railways running only upon rails.
- (2) In this By-law, during any period of the year when what is commonly known as Daylight Saving Time has been generally adopted in the City of Hamilton under any Act, by-law, resolution or proclamation, whether the same is effective in law or not, all references to time in this By-law shall be deemed to be references to such Daylight Saving Time.
- (3) Should any section or sub-section of this By-law be repealed or declared by a competent Court of Law to be illegal, that section or sub-section only shall be severed from the remainder of the By-law and the remainder shall continue to be valid and legal and remain in force and effect.

APPLICATION OF BY-LAW

2. (1) The provisions of this By-law shall apply to all municipal car parks under the jurisdiction of Parking Operations.
- (2) Provisions requiring payment of parking fees and prohibitions against using parking spaces in a metered car park while no "paid for" and unexpired period of time is indicated on the adjacent parking meter or other device, shall apply only on those days and during such periods of time as are indicated on the meter or on signs erected in the car park.

ENFORCEMENT

3. It shall be the duty of the Police Officers of the Hamilton Police Service and those duly appointed Municipal Law Enforcement Officers generally to enforce the provisions of this By-law.

SIGNS AND TRAFFIC CONTROL DEVICES

4. (1) It shall be the duty of the Manager to cause to be erected and maintained all parking meters and such other devices to regulate parking, and all signs and other traffic control devices required or authorized by this By-law, or as may be deemed by the Manager to be desirable, as such may be required from time to time to regulate the use of any car park in the interests of the City, to provide appropriate instruction to the public respecting the use of the car park and to warn or guide traffic on any car park for the safety or convenience of the public.
- (2) It shall be the duty of the Manager to close or cause to be closed, temporarily, any car park or any parking space or spaces within a car park for such purposes as may be in the interests of the City, including but not limited to repairs to or reconstruction of a car park or an area therein.

LIABILITY FOR LOSS OF DAMAGE

5. The Manager shall cause suitable signs to be erected and maintained in prominent positions in all car parks, giving notice that the parking fees are for the use of parking spaces only and the City is not responsible for loss or damage of any kind whatsoever to any vehicle or contents, however caused.

FEEES AND PERMITS

6. (1) The Manager may from time to time establish, at his discretion, such fees or charges, as may be deemed necessary, appropriate and consistent with sound business practices, for the use of any car park or any space or area within a car park.
- (2) Any person utilizing a car park under the jurisdiction of Parking Operations shall pay such fees or charges as are established by the Manager.
- (3) Notwithstanding subsection (1), the Manager reserves the right to waive or modify any fees or charges which may be applicable to the use of any car park if such waiver or modification is in the best interests of the City.

- (4) The Manager may cause to be issued monthly parking permits authorising the use of a parking space within a car park, for the sole purpose of vehicular parking and the parking fees or charges for the use of said permit shall be paid to the City in advance.
- (5) The Manager may cause to be issued, for any purpose, a permit exempting the permit holder from one or more of the regulations governing a car park and the fees or charges, if any, for the use of said permit shall be paid to the City at such time as is satisfactory to the Manager.
- (6) Such permits as are issued under sub-sections (4) and (5) remain the property of the City and may be revoked, recalled, or declared invalid and not in force or effect, at any time and without notice, by the Manager.

HOURS OF OPERATION

- 7. The Manager may from time to time establish, at his discretion, such hours of operation, as may be deemed necessary, appropriate and consistent with sound business practices, for the use of any car park or any space or area within a car park.

Hours of operation includes; those hours during the day when the payment of parking fees is required and those hours during the day when parking may be permitted without the payment of parking fees being required but, excludes those hours of the day when parking may be prohibited.

GENERAL PROHIBITIONS

- 8. (1) Except as provided in sub-section (2), no person shall, in any car park where parking meters or such other devices as are installed to regulate parking on the basis of elapsed time;
 - (a) park or stop any vehicle without depositing the parking fees in the adjacent parking meter and, after the deposit of each coin, turning the handle, if any, to an extent whereby the meter registers and displays the time paid for;
 - (b) Park at any parking space, any vehicle, at any time when no "paid for" and unexpired period of time is indicated on the adjacent meter, save and except where it is shown that the parking meter is out of order or has been removed;

- (c) park or stop any vehicle in any area of any car park where pre-paid ticket machines have been provided without first purchasing a ticket by depositing coins in accordance with the prescribed parking fees and displaying the ticket in the windshield on the driver's side of the vehicle in full and clear view from the exterior of the vehicle;
 - (d) park or stop any vehicle in any area of any car park where receptacles have been provided for the pre-payment of parking fees without first depositing therein the prescribed parking fees;
 - (e) deposit in any parking meter, pre-paid ticket machine, or parking fee receptacle, anything save nickels, dimes, quarters, dollar coins, or two dollar coins; or,
 - (f) open or attempt to open a parking meter, pre-paid ticket machine, or parking fee receptacle, unless authorized to do so.
- (2) A vehicle may be parked, or stopped, in a car park without depositing a coin or coins in an adjacent parking meter, pre-paid ticket machine or receptacle provided for the pre-payment of parking fees:
- (a) for a period of time, if any, which is paid for and unexpired as shown on the adjacent parking meter;
 - (b) where there is displayed in or upon the vehicle a valid permit issued by the Parking Operations Section for use on the car park on which the vehicle is parked;
 - (c) where a parking meter, pre-paid ticket machine, or such other device as has been installed for the acceptance of the payment of parking fees has been activated, and the prescribed fees paid, by the use of a valid credit card, debit card, or smart card, in those lots where such devices accepting payment by such methods have been approved by Parking Operations; or,
 - (d) where there is displayed in or upon the vehicle a Disabled Person Parking Permit, issued by the Ministry of Transportation Ontario, clearly identifying the vehicle as being operated by, in the service of, or on behalf of, a physically disabled person.

PARKING PROHIBITIONS

9. No person shall in any car park;
- (1) Park any vehicle in any area of any car park where signs have been erected prohibiting parking;

- (2) Park any vehicle except at a designated parking space and in conformity with signs and markings;
- (3) Park any vehicle in any parking space or parking area that is temporarily closed;
- (4) Park or leave parked any vehicle on any car park between the hours of 2:00 a.m. and 7:00 a.m., save and except that this provision shall not apply to a vehicle in or upon which a valid permit exempting said vehicle from this provision is displayed;
- (5) Park or stop any vehicle in any parking space or area in any car park where signs have been erected reserving such space or area for use by specific vehicles or persons;
- (6) Park or stop any vehicle in any parking space designated as a parking space reserved for vehicles displaying a Ministry of Transportation Ontario Disable Person Parking Permit;
- (7) Park or stop any vehicle other than an ordinary passenger automobile, a motor cycle, or a commercial motor vehicle of a registered gross vehicle weight of not more than 2.5 metric tonnes, save and except that this prohibition shall not apply to a snow plough, bus or other vehicle which is present by authority of Parking Operations;
- (8) Park or allow a vehicle to stand unattended, unless it is locked in such a manner as to prevent its operation by any person not authorized by the owner;

STOPPING PROHIBITIONS

10. No person shall in any car park;
 - (i) Stop any vehicle in any area of any car park where signs have been erected prohibiting stopping;
 - (j) Stop any vehicle in such a manner as to interfere with the lawful use of any parking space within the car park;
 - (k) Stop any vehicle in such a manner as to obstruct a lane way or travelled portion of the car park, whether in part or in whole;

- (l) Drive any vehicle other than an ordinary passenger automobile, a motor cycle, or a commercial motor vehicle of a registered gross vehicle weight of not more than 2.5 metric tonnes, save and except that this prohibition shall not apply to a snow plough, bus or other vehicle which is present by authority of Parking Operations;

MISCELLANEOUS PROHIBITIONS

11. No person shall in any car park;

- (1) Drive any vehicle at a rate of speed greater than is consistent with the safety of persons and property in the vicinity, having regard to all the circumstances, or in any event at a rate of speed greater than ten kilometres per hour;
- (2) Drive any vehicle without due care or attention or without reasonable consideration for other persons in the car park;
- (3) Damage, deface or interfere with any equipment or other property of the municipality;
- (4) Throw or deposit or cause to be thrown or deposited any glass, nails, tacks or scraps of metal, or any rubbish, refuse, waste or litter;
- (5) Loiter, or in any way interfere with the lawful use of the car park by any other person;
- (6) Fail to pay the parking fees when due;
- (7) Play or take part in any game or sport, or ride in or upon any skateboard, coaster, skis, toy vehicle, roller-skates, roller blades, or similar devices.
- (8) Place, erect, install, maintain, display, or store, or cause to be placed, erected, installed, maintained, displayed, or stored, any sign, marking, device, apparatus or thing without the authorization of the Manager;
- (9) Wash down, or except in an emergency, perform any automotive services or repairs on a vehicle.

12. Without limiting the generality of Section 11(4), no person shall injure, encumber, obstruct or foul, any car park, or any area or space within or upon a car park by placing, storing, discarding, or leaving in any manner, or by causing to be placed, stored, discarded or left in any manner, any object, material, item, debris, substance or thing in or upon the car park, or in or upon any area or space within

the car park.

13. Every person in any car park shall comply with the instructions of an attendant in charge of the car park, or any Officer.

VOLUNTARY PAYMENT OF PENALTIES OUT OF COURT - TAGS

14. (1) Upon the alleged contravention of any provision of this By-law respecting parking or stopping, an Officer observing the same may affix to the vehicle, or otherwise issue to the person having care and control of the vehicle a Parking Infraction Notice bearing the licence number and a general description of the vehicle, and specifying the alleged contravention.
- (2) Any person, upon presentation of the Parking Infraction Notice to the General Manager, within seven days of the date of the tag, may pay an early payment penalty out of court with respect to the offence cited in an amount consistent with an order issued by the Regional Chief Justice respecting this By-law.
- (3) Where a tag is not paid within seven days in accordance with sub-section (2), Section 18 shall apply.
- (4) Where a vehicle is left stopped or parked in contravention of any regulation under this By-law, it shall be deemed a separate offence upon the elapse of each subsequent four (4) hour period from the issue of the first and each subsequent Parking Infraction Notice.

AUTHORITY TO REMOVE FROM A CAR PARK

15. (1) Upon the discovery of any vehicle parked or left in contravention of this By-law, an Officer may cause the vehicle to be moved or taken to and placed or stored in a suitable place, and all costs and charges for the removal and storage of the vehicle are a lien upon the vehicle under the provisions of the Repair and Storage Liens Act, R.S.O. 1990, c. R.25, as amended.
- (2) Upon the discovery of any sign, device, apparatus or thing placed, erected, installed, maintained, displayed, or stored, in or upon any car park, without the authorization of the Manager, an Officer may cause the sign, device, apparatus or thing to be removed from the car park and may cause it to be taken to and placed or stored in a suitable place or may cause it to be taken and destroyed or otherwise disposed of, and all costs and charges for the removal and storage or removal and disposal, of the sign, device, apparatus or thing may, at the sole discretion of the Manager, be recovered from its owner either by action or in the same manner as municipal taxes.

- (3) Upon the discovery of any marking, object, material, item, debris, substance or thing in or upon a car park, or in or upon any area or space within a car park, an employee of the Parking Operations Section may cause such marking, object, material, item, debris, substance or thing to be removed from the car park and may cause it to be taken to and placed or stored in a suitable place or may cause it to be taken and destroyed or otherwise disposed of, and all costs and charges for the removal and storage or for the removal and disposal of the marking, object, material, item or thing may, at the sole discretion of the Manager, be recovered from its owner either by action or in the same manner as municipal taxes.

DUTY OF TREASURER

16. It shall be the duty of the General Manager to furnish the City Auditors with duplicates of all parking tags, particulars of the disposition of all payments made, and all other necessary particulars.

COLLECTION FROM PARKING METERS

17. The collection of coins from parking meters in metered parking lots shall be the responsibility of Parking Operations.

PENALTY

18. (1) The owner of a vehicle that is parked, stopped or left standing in contravention of this By-law is guilty of an offence and, upon conviction, is liable to such penalty as is provided for under the Provincial Offences Act, R.S.O. 1990, Chapter P.8., unless at the time of the offence the vehicle was in the possession of another person without the owner's consent.
- (2) Any person who contravenes any other provision of this By-law is guilty of an offence and is liable to such penalty as is set out in the Provincial Offences Act, R.S.O. 1990, Chapter .P.8.

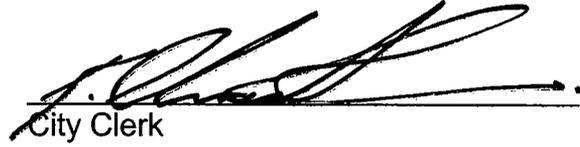
REFERENCES AND REPEALS

19. (1) Every reference to By-law No. 89-146, By-law No. 2864-76, By-law No. 90-30-T, By-law No. 516-95, By-law No. 98-110 and By-law No. 4875-99, with respect to car parks under the jurisdiction of a former area municipality or the City, shall be a reference to this By-law.
- (2) By-law No. 89-146 (Ancaster) passed on the 11th of October, 1989, and By-law No. 98-110 (Hamilton) passed on the 14th of April, 1998, and all subsequent amendments thereto, are hereby repealed on the date whereupon this By-law comes into force and effect.

20. This By-law shall come into force and effect upon the date of issue of an order by the Regional Senior Justice establishing set fines for this By-law.

PASSED and enacted this 18th day of September, 2001.


Deputy Mayor


City Clerk