

Office Consolidation - Updated as Amended

City of Hamilton

TO REGULATE THE PARKING OF MOTOR VEHICLES
ON PRIVATE AND MUNICIPAL PROPERTY

By-law No. 01-220

WHEREAS Section 210, Paragraph 131 of the Municipal Act, R.S.O. 1990, Chapter M.45, as amended, provides that a by-law may be passed by the Councils of local municipalities for prohibiting the parking or leaving of motor vehicles on private property without the consent of the owner or occupant of the property, and on property owned or occupied by the municipality or any local board thereof without the consent of the municipality or local board, as the case may be.

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of the former area municipalities continue in force and effect in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;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 provide for a single by-law to regulate the parking of motor vehicles on private property and on property owned or occupied by the municipality or any local board thereof, in place of by-laws of the former area municipalities;

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

1. In this by-law,
 - (a) "approved permit" means a permit of a type submitted to the Manager by the owner or occupant of a property, and which is subsequently approved by the Manager as suitable for the purpose of identifying a vehicle which is owned or operated by a person who is authorized by said owner or occupant to park on the property of said owner or occupant.

- (b) "City" means the City of Hamilton;
- (c) "class 1 private property" means property occupied by a one-family dwelling, two-family dwelling or three-family dwelling and includes any operating farm and the lands appertained thereto;
- (d) "class 2 private property" means property other than class 1 and class 3 private property and includes property occupied by vacant buildings or structures and vacant land;
- (e) "class 3 private property" means property of the City of Hamilton or a local board thereof;
- (f) "condominium owner" means the registered owner of a condominium unit;
- (j) "local board" means a local board within the meaning of the City of Hamilton Act, 1999;
- (h) "Manager" means the Manager of Parking and Enforcement Operations for the City of Hamilton and includes his designate and successor;
- (i) "Municipal Law Enforcement Officer" means an employee of the City appointed for carrying out the provisions of this by-law;
- (j) "Officer" means a Municipal Law Enforcement Officer and a Police Officer;
- (k) "occupant" means,
 - (i) the tenant of a property or part thereof whose consent shall extend only to the control of the land held by the tenant and any parking spaces allotted to the tenant under the lease or tenancy agreement,
 - (ii) the spouse or same-sex partner of a tenant,
 - (iii) a person or a municipality, or a local board thereof, having an interest in a property under an easement or right of way granted to or expropriated by the person, municipality or local board whose consent shall extend only to the part of the property that is subject to the easement or right of way,
 - (iv) a person authorized in writing by an occupant as defined in clause (i), (ii) or (iii) of this definition to act on the occupant's behalf for requesting the enforcement of this by-law;

- (l) "owner" when used in relation to property means,
 - (i) a registered owner of the property;
 - (ii) the registered owner of a condominium unit, whose consent shall extend only to the control of the owner's unit and any parking spaces allotted to the owner by the condominium corporation or reserved for the owner's exclusive use in the declaration or description of the property,
 - (iii) the spouse or same-sex partner of a person described in clause (i) or (ii) of this definition,
 - (iv) where the property is included in a description registered under the Condominium Act, the board of Managers of the condominium corporation,
 - (v) a person authorized in writing by the property owner as defined in clause (i), (ii), (iii) or (iv) of this definition to act on the owner's behalf for requesting the enforcement of this by-law;
 - (vi) in the case of a property owned by a company, any person having the authority to bind the company, or any person authorized in writing by a person having the authority to bind the company;
 - (vii) an employee of a registered company providing security services retained by the property owner and where employees of the security services provider has been authorized by the owner to regulate parking on the property;
 - (m) "park" or "parking" when prohibited, means the halting of a vehicle, even momentarily, whether or not the vehicle is occupied;
 - (n) "Police Officer" means a member of the City of Hamilton Police Service and includes a special constable;
 - (o) "suitable sign" means a sign which complies with such standards respecting size, shape, colour, content, mounting position and location as are established or approved of, from time to time, by the Manager;
2. (1) Except as provided in subsection 3, no person shall park a motor vehicle on class 1 or class 2 private property without the authority of the owner.

- (2) Except as provided in subsection 3, no person shall park a motor vehicle on class 1 or class 2 private property without the authority of the owner, and in any case not in a parking space set aside and signed for use by vehicles used for transporting disabled persons, unless there is clearly displayed on the driver's side and fully visible from external view, a Disabled Person Parking Permit issued by the Ministry of Transportation Ontario.
 - (3) Where class 1 or class 2 private property is leased to an occupant, or where a specific parking space or area is designated for exclusive use by an occupant or a condominium owner, no person shall park a motor vehicle on the private property or in the designated parking space without the authority of the occupant or the condominium owner, as the case may be.
 - (4) Where an owner or occupant of a property has posted suitable signs stating conditions on which a motor vehicle may be parked or may be left on the property or prohibiting the parking of leaving of a motor vehicle on the property, a motor vehicle parked or left on the property contrary to such conditions or prohibition shall be deemed to have been parked or left without consent.
3.
 - (1) No person shall park a motor vehicle on class 3 private property without the consent of the City or a Local Board thereof.
 - (2) No person shall park a motor vehicle on class 3 private property without the authority of the City or Local Board thereof, and in any case not in a parking space set aside and signed for use by vehicles used for transporting disabled persons, unless there is clearly displayed on the driver's side and fully visible from external view, a Disabled Person Parking Permit issued by the Ministry of Transportation Ontario.
 - (3) Where the City or a Local Board thereof has posted suitable signs stating conditions on which a motor vehicle may be parked or may be left on the property of the City or Local Board or prohibiting the parking of leaving of a motor vehicle on the said property, a motor vehicle parked or left on the property contrary to such conditions or prohibition shall be deemed to have been parked or left without consent.
4. Where a driver of a motor vehicle, not being the owner, parks the motor vehicle contrary to section 2 or to section 3 and is liable to a penalty, the owner of the motor vehicle is also liable to such penalty unless at the time the offence was committed, the motor vehicle was in the possession of a person other than the owner without the owner's consent.
5.
 - (1) An Officer, upon written complaint pursuant to Section 6, that a motor vehicle is parked,

- (a) on class 1 private property; or,
- (b) where a suitable sign has been erected on class 2 private property;
or
- (c) contrary to the provisions of Section 2(2) on class 2 private property;

may cause the vehicle to be moved or taken to and placed or stored in a suitable place and all costs for removing, care and storage thereof, if any, are a lien upon the vehicle which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, c.R.25

- (2) An Officer, upon discovery of a motor vehicle parked on class 3 private property contrary to the provisions of Section 3 may cause the vehicle be moved or taken to and placed or stored in a suitable place and all costs for removing, care and storage thereof, if any, are a lien upon the vehicle which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, c.R.25

6. The driver or owner of a motor vehicle parked on class 1 or class 2 private property is not liable,

- (a) to have the motor vehicle removed from such property or impounded; or,
- (b) to have attached to the motor vehicle a Parking Infraction Notice,

except upon written complaint of the owner or occupant of the property.

7. Notwithstanding section 6, no written individual complaint shall be required for each vehicle parking on class 2 property where the owner or occupant provides the Superintendent of Parking Enforcement with a general written complaint applicable to,

- (a) vehicles parking on class 2 private property of the owner or occupant that is a vacant lot or a partially vacant lot; or,
- (b) vehicles parking on class 2 private property of the owner or occupant that is a commercial parking lot which is not part of a residential building or which provides parking to a residential building, save and except that, for the purpose of this section, a women's or men's shelter shall not be deemed a residential building; and,
 - (i) where an approved permit, as issued by the property owner, is not displayed in the lower left hand corner of the front windshield of the subject vehicle, in such a manner as to be entirely in view from the exterior of the vehicle; or

- (ii) where specific conditions, prohibitions or restrictions respecting parking or stopping are clearly set out on suitable signs posted on the property; or,
 - (c) vehicles parking on class 2 private property which is an airport; and,
 - (i) where an approved permit, as issued by the airport authority, is not displayed in the lower left hand corner of the front windshield of the subject vehicle, in such a manner as to be entirely in view from the exterior of the vehicle; or
 - (ii) where specific conditions, prohibitions or restrictions respecting parking or stopping are clearly set out on suitable signs posted on the property; or,
 - (d) vehicles parking on class 2 private property in a parking space reserved and signed for use by vehicles used for transporting physically handicapped persons, not clearly displaying on the sun visor on the driver's side and visible from external view a Disabled Person Parking Permit issued by the Ministry of Transportation Ontario to a disabled person who is driving, or being transported in, the vehicle.
8. (1) Notwithstanding Sections 5(1)(b) and 11(b), No property owner shall be required to post signs in any area not set aside and improved for the parking of motor vehicles.
- (2) Any person parking a vehicle in an area not set aside and improved for the parking of motor vehicles shall, in the absence of evidence to the contrary, be deemed to have parked without authorization or consent.
9. Where a vehicle is removed and impounded under any provision of this by-law, the owner of the vehicle shall pay the expense of the removal and impounding of the vehicle and all costs and charges for removing, care and storage of the vehicle, if any, are a lien upon the vehicle which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, Chapter R.25, as amended.
10. (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 is subject to such penalty as is provided for under Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33. (03-344)
- (2) Every person who contravenes any provision of this by-law is guilty of an offence and is subject to such penalty as is provided for under Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33. (03-344)

- (3) Notwithstanding the provisions of subsections (1) and (2) above, every person, either an owner or other person, who contravenes the provisions of Sections 2(2) and 3(2) of this by-law is guilty of an offence and, on conviction, is liable to a fine of not less than \$300. (03-344)
11. An Officer observing a vehicle alleged to be parked on,
- (a) class 1 private property contrary to section 2; or
 - (b) class 2 private property contrary to section 2, provided that a suitable sign has been erected on said property; or
 - (c) class 3 private property contrary to section 3,
- may affix a parking infraction notice to the motor vehicle or otherwise issue said parking infraction notice to the person having care and control of said motor vehicle.
12. Any person, upon presentation of the parking infraction notice may, within 7 days pay a penalty out of court in the amount ordered by the Regional Senior Justice as the voluntary early payment respecting the offence alleged upon the face of the parking infraction notice.
13. With respect to suitable signs, every reference to By-law No. 86-88 (Ancaster), By-law No. 2864-76 (Dundas), Sections 10.1, 10.2 and 10.3 of By-law No. 90-31-T (Flamborough), By-law No. 516-95 (Glanbrook), By-law No. 89-75 (Hamilton), and Sections 21 and 22 of By-law No. 4875-99 (Stoney Creek), all as amended, shall be a reference to this By-law.
14. By-law No. 86-88 (Ancaster) passed on the 9th day of June, 1986, By-law No. 2864-76 (Dundas) passed on the 19th day of July, 1976, passed on the 18th day of April, 1990, By-law No. 516-95 (Glanbrook) passed on 16th day of January, 1995, and By-law No. 89-75 (Hamilton) passed on the 28 day of February, 1989, and all subsequent amendments thereto, are hereby repealed on the date whereupon this By-law comes into force and effect.
15. 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 on this day of , 2001

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Mayor

City Clerk