

Authority: Item 9, Economic Development
and Planning Committee
Report; 08-014 (PD02234(a))
CM: July 10, 2008

Bill No. 174

CITY OF HAMILTON

BY-LAW NO. 08-174

To Repeal and Replace By-Law No. 02-362, A By-law to Prohibit Accident Scene Solicitation on Highways

WHEREAS this By-law is enacted for the purposes of protecting the health and safety of all those involved in vehicle accidents, including emergency personnel, by keeping highways free of obstructions or other impediments in and around accident scenes; controlling the nuisance for all those using highways caused by obstructions or impediments in and around accident scenes; and, protecting consumers who are involved in vehicle accidents;

AND WHEREAS sections 8, 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25, authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5 through 8 of subsection 10(2) authorize by-laws respecting: the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the provision of any service or thing that it considers necessary or desirable for the public; and the protection of persons and property, including consumer protection;

AND WHEREAS subsection 101(1) of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes the City of Hamilton to provide for the removal and impounding or restraining and immobilizing of any vehicle, at the vehicle owner's expense, parked or left in contravention of this By-law and provides that subsection 170(15) of the Highway Traffic Act, R.S.O. 1990, c. H.8, applies;

AND WHEREAS section 425 of the Municipal Act, 2001, S.O. 2001, c. 25, provides that any person who contravenes any by-law of the City of Hamilton is guilty of an offence;

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

1. In this By-law:
 - (a) "business" means a business as defined in section 150 of the Municipal Act, 2001;

- (b) “City” means the municipality of the City of Hamilton or the geographic area of the City of Hamilton, as the context requires;
 - (c) “collision reporting centre” means a facility specified by a police service where a vehicle which has been involved in an accident may be taken and stored for the purpose of reporting such accident;
 - (d) “Council” means the council of the City of Hamilton;
 - (e) “emergency personnel” means the operator, driver, attendant, or other personnel of an ambulance, a fire department vehicle, a police service vehicle, public utility vehicle, a Ministry of Ontario emergency vehicle, or a vehicle operated by an officer appointed to carry out provisions of the Highway Traffic Act, the Public Vehicles Act, or the Environmental Protection Act while the officer is in the course of his or her employment;
 - (f) “highway” means a highway as defined in subsection 1(1) of the Municipal Act, 2001 and as provided for in section 26 of the Municipal Act, 2001, but does not include a King’s Highway as defined in subsection 1(1) of the Highway Traffic Act;
 - (g) “motor vehicle” means a motor vehicle as defined in subsection 1(1) of the Highway Traffic Act;
 - (h) “tow truck” means a motor vehicle which is designed, modified or used for pulling, towing, carrying, or lifting other motor vehicles, be they damaged, disabled, abandoned, or otherwise, with or without the assistance or use of lifts, winches, dollies, trailers, or similar equipment;
 - (i) “towing services” means the provision or use of a tow truck including the assistance of the owner, operator, driver, or any passenger of a vehicle through the use of the equipment on or used in conjunction with the tow truck for the pulling, towing, carrying, or lifting of a motor vehicle at a place located within the City; and,
 - (j) “vehicle” means a vehicle as defined in subsection 1(1) of the Highway Traffic Act.
2. No person shall solicit or make or convey an offer of business services or goods to the driver or any other person involved in a vehicle accident or apparent accident while the person soliciting or making or conveying the offer of business services or goods is within 200 metres of,
- (a) the scene of the vehicle accident or apparent accident; or,

- (b) a vehicle involved in the accident,
on a highway.
- 3. No person shall solicit or make or convey an offer of business services or goods to anyone going to or from or attending at a collision reporting centre to report a vehicle accident or apparent accident while the person soliciting or making or conveying the offer of business services or goods is within 200 metres of the premises of the collision reporting centre.
- 4. No person shall solicit the hiring of a tow truck or make or convey an offer of towing services while that person is within 200 metres of,
 - (a) the scene of a vehicle accident or apparent accident; or,
 - (b) a vehicle involved in an accident,
on a highway.
- 5. No person shall solicit the hiring of a tow truck or make or convey an offer of towing services to anyone going to or from or attending at a collision reporting centre to report a vehicle accident or apparent accident while the person soliciting or making or conveying the offer of towing services is within 200 metres of the premises of the collision reporting centre.
- 6. No person shall park, stop, or stand a tow truck on a highway within 200 metres of,
 - (a) the scene of a vehicle accident or apparent accident; or,
 - (b) a vehicle involved in an accident.
- 7. Section 2 of this By-law does not apply to business services or goods where the person is within 200 metres of the scene of an accident or a vehicle involved in an accident at the request of emergency personnel, a person engaged in highway maintenance, or a person involved in the accident.
- 8. Section 3 of this By-law does not apply to business services or goods where the person is within 200 metres of a collision reporting centre at the request of

emergency personnel, a person engaged in highway maintenance, or a person reporting the accident.

9. Sections 4 and 6 of this By-law do not apply to a person who is within 200 metres of the scene of an accident or a vehicle involved in accident at the request of emergency personnel, a person engaged in highway maintenance, or a person involved in the accident.

10. Section 5 of this By-law does not apply to a person who is within 200 metres of a collision reporting centre at the request of emergency personnel, a person engaged in highway maintenance, or a person reporting the accident.

Offence

11. Every person who fails to comply with this By-law is, upon conviction, guilty of an offence and is liable to a fine of not more than:
 - (a) \$5,000 for a first offence;
 - (b) \$25,000 for a second offence; or
 - (c) \$100,000 for a third or subsequent offence.

Power to remove vehicle

12. A police officer or a municipal law enforcement officer, upon discovery of any tow truck parked or standing in contravention of this By-law, may cause the tow truck to be moved or taken to and placed or stored in a suitable place and all costs and charges for the removal, care and storage of the tow truck, if any, are a lien upon the tow truck, which may be enforced in the manner provided by the Repair and Storage Liens Act.

Validity

13. If a court of competent jurisdiction declares any subsection, section or part of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

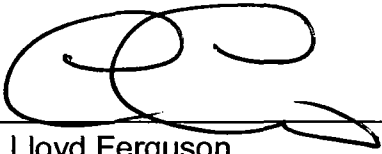
Title

14. This By-law may be referred to as the "Hamilton Highway Accident Non-Solicitation By-law".


Repeal

15. By-law No. 02-362 is hereby repealed.

PASSED and **ENACTED** this 10th day of July, 2008.



Lloyd Ferguson
Acting Mayor



Kevin C. Christenson
City Clerk