

Authority: Item 1, Planning Committee
Report 18-010 (PED12226(a))
CM: June 27, 2018
Ward: City Wide

Bill No. 171

**CITY OF HAMILTON
BY-LAW NO. 18-171**

To Amend By-law No. 01-220

Being a By-law to Regulate the Parking of Motor Vehicles on Private and Municipal Property

WHEREAS By-law No. 01-220 regulates parking on private property, including accessible parking;

AND WHEREAS staff recommend that wording be changed to align with Section 102 of the Ontario Municipal Act in order to allow enforcement of accessible spaces on private property without prior permission of the property owner;

AND WHEREAS staff recommend that wording be changed reflect position changes within the Hamilton Municipal Parking System.

AND WHEREAS staff recommend that wording be changed to allow accessible parking permits to be displayed on the dashboard as well as 'sun visor'.

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

1. Section 1 (h) of By-law No. 01-220 is deleted and replaced with the following:

(h) "Manager" means the Manager, Parking enforcement and School Safety for the City of Hamilton and includes his designate and successor;

2. Section 2 (2) of By-law No. 01-220 is deleted and replaced with the following:

(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 persons with a disability, unless there is an Accessible Parking Permit issued by the Ministry of Transportation Ontario clearly displayed on the driver side dashboard or sun visor which is fully visible from external view.

3. Section 3 (2) of By-law No. 01-220 is deleted and replaced with the following:

(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 persons with a disability, unless there is an Accessible Parking Permit issued by the Ministry of Transportation Ontario clearly displayed on the driver side dashboard or sun visor which is fully visible from external view.

4. Sections 7 to 15 of By-law No. 01-220 are deleted and replaced with the following:
 7. Notwithstanding sections 5, 6 and 8, no written complaint from the owner or occupant of a class 2 property shall be required for each vehicle parking on class 2 property, applicable to parking in a parking space set aside and signed for use by vehicles used for transporting persons with a disability, not clearly displaying on the dashboard or sun visor on the driver side and fully visible from external view, an Accessible Parking Permit issued by the Ministry of Transportation Ontario to a person with a disability who is driving, or being transported in, the vehicle.
 8. 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 Manager 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;
- 9. (1) Notwithstanding Sections 5(1)(b) and 12(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.
- 10. 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.
- 11. (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)
- 12. 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.

13. 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.
14. 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.
15. 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.
16. 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.

5. This By-law comes into force when passed.

PASSED this 27th day of June, 2018.

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk