

May 7th, 2012

Community Service Committee
City of London
300 Dufferin Street
London, ON

Attn: Matt Brown, Chairperson

Dear Councillor Brown:

Accessible parking is an issue that has been brought before this committee previously. In our view, it is critical that the City of London gets this right. We have shared many stories and the various reasons a person with a disability requires these parking stalls. At this point, we a meeting of the minds is needed to ensure that compliance with the intent both from a legislative and social justice standpoint are achieved.

Because our time before the Committee will be limited, we will present the legislative material we have gathered that pertain to the restrictions in enforcing parking in the accessible stalls in London, and present our reasons for such enforcement.

Below are the various provincial laws that govern accessible parking in Ontario. The issue of accessible parking is a complex one that requires the cooperation and commitment of several municipal staff to successfully meet the needs of persons with disabilities while at the same time following the guidelines as set by the provincial government.

Under the *Highway Traffic Act*, their definition of “person with disability” makes clear why the accessible parking stalls in the municipality MUST be the stalls within the shortest distance from the entrance of a building. (See Exhibit 1)

- *There does not seem to be any provisions in London that require an owner to place the accessible stalls within the shortest distance to an entrance.*

Sec 11 of the *Highway Traffic Act* refers to “Crown land or under municipal by-law for the use of persons with disabilities.” It does NOT state that only the universal signage must be used. (Exhibit 1)

- *Under the information from the Ministry of Municipal Affairs, any signage on a stall indicating the “intended” usage of the spot deems it enforceable by municipal by-law enforcers.*

Under the *Municipal Act*, s. 102.(2), it makes reference to who the municipality can require to provide the accommodation of accessible parking stalls and PROHIBIT the improper usage. (Exhibit 2)

- *London has repeatedly stated that certain accessible stalls in the city are NOT enforceable.*

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Under the *Municipal Act*, s. 102.1(1), it is stated that the municipality may require the person to pay a penalty.

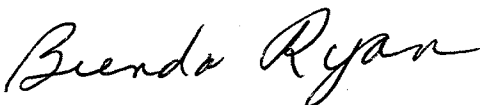
- *Staff has expressed the inability to enforce parking compliance on parking lot property that is deemed private.*
- *If a person with a disability must use a regular parking stall, regardless of who owns it, due to the accessible stall being used by a non-permit person and the disabled person is injured traveling the extended distance to the building it is the owner of the property that is financially responsible for any injury a person experiences.*

Part III, s. 26.(3) of the *Highway Traffic Act*, it states that any person can be ordered to surrender the permit to various authorities including municipal bylaw officers. Further, s. 28.(1) provides enforcement powers with regard to inspection of accessible parking stalls. (Exhibit 3)

- *London has a written agreement with our Police Force that the city will assume all responsibilities for enforcing all parking issues including the verification of the Accessible Permits.*
- *Sadly there are NO provisions to allow an enforcement officer the right to request and inspect the Accessible Permit in a vehicle. Therefore we are unable to ascertain if the person who owns the permit is in the vehicle and that they are not deceased.*

In conclusion, you will see there are several legislative provisions that allow for the effective enactment and enforcement of accessible parking stalls. We ask that the City of London ensure the full participation of its citizens by addressing this important issue, and look forward to addressing the Committee.

Respectfully submitted,



Brenda Ryan



Lorin MacDonald

Encls.

EXHIBIT 1

Ontario.ca

ONTARIO REGULATION 612/05

made under the

HIGHWAY TRAFFIC ACT

Made: November 23, 2005 Filed: December 1, 2005 Published on e-Laws: December 2,
2005 Printed in *The Ontario Gazette*: December 17, 2005

Amending Reg. 581 of R.R.O. 1990

(DISABLED PERSON PARKING PERMITS)

Note: Regulation 581 has previously been amended. Those amendments are listed in the Table of Regulations – Legislative History Overview which can be found at www.e-Laws.gov.on.ca.

1. The title to Regulation 581 of the Revised Regulations of Ontario, 1990 is revoked and the following substituted:

ACCESSIBLE PARKING FOR PERSONS WITH DISABILITIES

2. Sections 1, 2 and 3 of the Regulation are revoked and the following substituted:

1. In this Regulation,

“person with a disability” means an individual,

- (a) who cannot walk without the assistance of another individual or of a brace, cane, crutch, lower limb prosthetic device or similar assistive device or who requires the assistance of a wheelchair,
- (b) who suffers from lung disease to such an extent that his or her forced expiratory volume in one second is less than one litre,
- (c) for whom portable oxygen is a medical necessity,
- (d) who suffers from cardiovascular disease to such an extent that the individual's functional capacity is classified as Class III or Class IV according to

Nomenclature and Criteria for Diagnosis of Diseases of the Heart and Great Vessels, ninth edition, published by Little, Brown & Co. in 1994,

- (e) whose ability to walk is severely limited due to an arthritic, neurological, musculoskeletal or orthopaedic condition,
- (f) whose visual acuity is 20/200 or poorer in the better eye, with corrective lenses if required, or whose maximum field of vision using both eyes has a diameter of 20 degrees or less, or
- (g) whose mobility is severely limited by one or more conditions or functional impairments;

“registered nurse in the extended class” means a member of the College of Nurses of Ontario who is a registered nurse holding an extended certificate of registration under the *Nursing Act, 1991*;

“regulated health practitioner” means a person legally qualified to practise in Canada as a physician, chiropractor, occupational therapist, physiotherapist or registered nurse in the extended class;

“traveller permit” means a disabled person parking permit for use related to travel issued under subsection 2 (4) to an individual holding an unexpired disabled person parking permit for general use issued under subsection 2 (1).

2. (1) The Minister shall issue a disabled person parking permit to every individual who applies for it on a form provided by the Ministry, if a regulated health practitioner certifies the following on the form:

1. That the applicant is a person with a disability.
2. The nature of the disability.
3. Whether the disability is temporary or permanent or whether this fact is unknown.
4. If the disability is temporary, the anticipated length of time the disability is expected to continue, if known.

(2) If, after January 16, 2006, a regulated health practitioner certifies on an application for a disabled person parking permit that the applicant is a person with a permanent disability, no certification from a regulated health practitioner is required on any application for renewal of that permit, despite subsection (1).

(3) If an individual holds an unexpired disabled person parking permit for general use issued under subsection (1), the Minister shall not issue another disabled person parking permit for general use to the individual under subsection (1).

(4) The Minister shall issue a disabled person parking permit for use related to travel to every individual who applies for it and holds an unexpired disabled person parking permit for general use issued under subsection (1).

(5) Every disabled person parking permit for use related to travel issued under subsection (4) shall specify the locations or circumstances in which it may be used.

(6) The Minister shall issue disabled person parking permits,

- (a) to a corporation, in respect of the number of vehicles that are owned or leased by

the corporation primarily to provide transportation services to persons with a disability; and

- (b) to an organization, in respect of the number of vehicles that are owned or leased by the organization and used on a non-profit basis to provide transportation services to persons with a disability.

3. The Minister shall issue a disabled person parking permit to a visitor to Ontario, if the visitor,

- (a) provides evidence that he or she is the holder of a currently valid permit, number plate or other marker or device bearing the international symbol of access for persons with a disability issued by the visitor's home jurisdiction; or
- (b) provides other evidence that he or she is from another jurisdiction and is a person with a disability.

3. Sections 5, 6, 7 and 8 of the Regulation are revoked and the following substituted:

5. (1) A disabled person parking permit issued to an individual shall be issued,

- (a) if the regulated health practitioner certifies that the disability is permanent, for 60 months;
- (b) if the regulated health practitioner certifies that the disability is temporary and specifies the anticipated length of time the disability is expected to continue, for the anticipated length of time the disability is expected to continue, up to a maximum of 24 months;
- (c) if the regulated health practitioner certifies that it is not possible to determine whether the disability is temporary or permanent, or if the regulated health practitioner certifies that the disability is temporary but of unknown duration, for 60 months;
- (d) if the individual is a visitor described in section 3, for the length of the visit, up to a maximum of six months; and
- (e) if it is a traveller permit, for the lesser of 12 months and the period ending on the date of expiry of the individual's disabled person parking permit for general use.

(2) A disabled person parking permit issued to a corporation under clause 2 (6) (a) shall be issued for a term that reflects the contractual or other obligations of the corporation to provide transportation services to persons with a disability, up to a maximum of 60 months.

(3) A disabled person parking permit issued to an organization under clause 2 (6) (b) shall be issued for the length of time that the organization anticipates that it will be providing transportation services to persons with a disability, up to a maximum of 60 months.

6. (1) A disabled person parking permit ceases to be in force if the holder of the permit ceases to be a person with a disability.

(2) A disabled person parking permit issued to an individual is not valid when it is displayed on a vehicle and,

- (a) the vehicle is not being used to pick up or transport the holder of the permit; or

(b) the disabled person parking permit is a traveller permit and is being used in locations or circumstances not specified on the permit.

(3) A disabled person parking permit issued to a corporation or an organization is not valid when it is displayed on a vehicle and the vehicle is not being used to pick up or transport a person with a disability.

7. A disabled person parking permit shall be displayed on the sun visor or on the dashboard of a vehicle so that the international symbol of access for persons with a disability, the permit number and the expiry date of the permit are clearly visible from the outside of the vehicle.

8. A vehicle displaying a currently valid permit, number plate or other marker or device bearing the international symbol of access for persons with a disability and issued by another jurisdiction is entitled to the same privileges as a vehicle displaying a disabled person parking permit issued under the Act.

4. Clause 9 (a) of the Regulation is revoked and the following substituted:

(a) the holder is no longer a person with a disability;

5. Section 11 of the Regulation is amended by striking out the portion before clause (a) and substituting the following:

11. A parking space designated on Crown land or under a municipal by-law for the use of persons with a disability shall be distinctly indicated by erecting a disabled person parking permit sign which shall,

.....

6. Section 12 of the Regulation is revoked.

7. This Regulation comes into force on January 16, 2006.

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M in Of Municipal Affairs

As of: April 2012

Accessible parking permits

102. (1) If a municipality passes a by-law for establishing a system of accessible parking, the sole manner of identifying vehicles shall be an accessible parking permit issued and displayed in accordance with the *Highway Traffic Act* and the regulations made under it. 2009, c. 33, Sched. 26, s. 5 (1).

Designated parking spaces

(2) Without limiting sections 9, 10 and 11, a local municipality may require the owners or operators of parking lots or other parking facilities to which the public has access, whether on payment of a fee or otherwise, to provide designated parking spaces for vehicles displaying an accessible parking permit and if it does so, the local municipality shall prescribe the conditions of use of the accessible parking permit and shall prohibit the improper use of the permit. 2009, c. 33, Sched. 26, s. 5 (1).

Removal of vehicle

(3) A by-law passed in accordance with subsection (2) may provide for the removal and impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law. 2006, c. 32, Sched. A, s. 44.

Administrative penalties, parking by-laws

102.1 (1) Without limiting sections 9, 10 and 11, a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles. 2006, c. 32, Sched. A, s. 45.

Limitation

(2) Despite subsection (1), the municipality does not have the power to provide that a person is liable to pay an administrative penalty in respect of the failure to comply with by-laws respecting the parking, standing or stopping of vehicles until a regulation is made under subsection (3). 2006, c. 32, Sched. A, s. 45.

Regulations

(3) Upon the recommendation of the Attorney General, the Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of this section, including,

- (a) granting a municipality powers with respect to requiring that persons pay administrative penalties and with respect to other matters necessary for a system of administrative penalties;
- (b) imposing conditions and limitations on a municipality's powers with respect to administrative penalties;
- (c) providing for the refusal by the Registrar of Motor Vehicles to validate vehicle permits issued, or to issue vehicle permits, to a person who had not paid an administrative penalty that is owing to a municipality. 2006, c. 32, Sched. A, s. 45.

Conflict

(4) In the event of a conflict between a regulation made under this section and a provision of this or any other Act or regulation, the regulation made under this section prevails. 2006, c. 32, Sched. A, s. 45.

EXHIBIT 3

Highway Traffic Act

PART III PARKING PERMITS

Accessible parking permits

26. (1) The Minister shall issue an accessible parking permit to every person or organization that applies for it and meets the requirements of the regulations. 2009, c. 33, Sched. 26, s. 3 (3).

Term

(2) An accessible parking permit is in force during the period of time shown on the permit. 2009, c. 33, Sched. 26, s. 3 (3).

Cancellation of permit

(3) The Minister may cancel an accessible parking permit or may refuse to issue a replacement permit if the permit has been used in contravention of this Part or the regulations or of a municipal by-law passed under section 9, 10, 11 or 102 of the *Municipal Act, 2001* or under section 7, 8 or 80 of the *City of Toronto Act, 2006*, as the case may be, for establishing a system of accessible parking. 2009, c. 33, Sched. 26, s. 3 (3).

Refusal to issue new permit

(4) If the Minister cancels an accessible parking permit, the Minister may refuse to issue a new permit to the holder of the cancelled permit. 2009, c. 33, Sched. 26, s. 3 (3).

Offence, accessible parking permit

27. (1) No person shall,

- (a) have in his or her possession an accessible parking permit that is fictitious, altered or fraudulently obtained;
- (b) display an accessible parking permit otherwise than in accordance with the regulations;
- (c) fail or refuse to surrender an accessible parking permit in accordance with this Part or the regulations;
- (d) use an accessible parking permit on land owned and occupied by the Crown otherwise than in accordance with the regulations;
- (e) give, lend, sell or offer for sale an accessible parking permit or permit the use of it by another person otherwise than in accordance with the regulations; or
- (f) make, permit the making of, give, lend, sell or offer for sale a fictitious or altered accessible parking permit. 2009, c. 33, Sched. 26, s. 3 (4).

Penalty

(2) A person who contravenes clause (1) (a), (b), (c), (d), (e) or (f) is guilty of an offence and on conviction is liable to a fine of not less than \$300 and not more than \$5,000. 2001, c. 32, s. 26 (2).

Inspection, accessible parking permit

28. (1) Every person having possession of an accessible parking permit shall, on the demand of a police officer, police cadet, municipal law enforcement officer or an officer appointed for carrying out the provisions of this Act, surrender the permit for reasonable inspection to ensure that the provisions of this Part and the regulations and any municipal by-law

passed under section 9, 10, 11 or 102 of the *Municipal Act, 2001* or under section 7, 8 or 80 of the *City of Toronto Act, 2006*, as the case may be, for establishing a system of accessible parking are being complied with. 2009, c. 33, Sched. 26, s. 3 (5).

Officer may take possession of the permit

(2) An officer or cadet to whom an accessible parking permit has been surrendered may retain it until disposition of the case if the officer or cadet has reasonable ground to believe that the permit,

- (a) was not issued under this Part;
- (b) was obtained under false pretences;
- (c) has been defaced or altered;
- (d) has expired or been cancelled; or
- (e) is being or has been used in contravention of the regulations or of a by-law passed under section 9, 10, 11 or 102 of the *Municipal Act, 2001* or under section 7, 8 or 80 of the *City of Toronto Act, 2006*, as the case may be, for establishing a system of accessible parking. R.S.O. 1990, c. H.8, s. 28 (2); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 24 (3); 2009, c. 33, Sched. 26, s. 3 (6).

29. Repealed: 2002, c. 17, Sched. F, Table.

Regulations, accessible parking permits

30. The Lieutenant Governor in Council may make regulations,

- (a) prescribing any form for the purposes of this Part and requiring its use;
- (b) respecting the issuance, renewal, cancellation, replacement and disposal of accessible parking permits;
- (c) prescribing the requirements for obtaining an accessible parking permit;
- (d) prescribing the period of time or the method of determining the period of time during which accessible parking permits shall be in force;
- (e) governing the manner of displaying accessible parking permits on or in vehicles;
- (f) requiring the erection of signs and the placing of markings to identify designated parking spaces for the use of vehicles displaying an accessible parking permit, and prescribing the types, content and location of the signs and markings;
- (g) prescribing the conditions of use of an accessible parking permit on land owned and occupied by the Crown;
- (h) requiring and governing the surrender of accessible parking permits;
- (i) providing for and governing the recognition of permits, number plates and other markers and devices issued by other jurisdictions as being equivalent to accessible parking permits issued under this Part. 2009, c. 33, Sched. 26, s. 3 (7).

Parking Space for Disabled Persons (Schedule 27)

72. Notwithstanding the provisions of this or any other by-law, no person shall park, stand, stop or leave a motor vehicle in any designated parking space set out in Schedule 27 of this by-law except a motor vehicle,

a) b) c)

that is operated by or carries a disabled person, and that is identified by a current original identifying marker; and that is parked entirely within a designated parking space.

Display of Permit

76. (1)

Where in a public parking lot or facility one or more parking spaces are intended for the sole use of a vehicle of a disabled person, the owner or operator of the public parking lot or facility shall identify each such parking space by erecting one or more official signs in such a manner that the official sign or signs shall be clearly visible to the operator of any vehicle approaching or entering such parking space.

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73. An identifying marker, shall be displayed on

- a) the inner surface of the windshield, as close as practicable to the lower left-hand corner and as close as practicable to the left-hand side of the motor vehicle, or
- b) the outer surface of the sun visor on the left-hand side of the motor vehicle so as to be visible through the windshield from the exterior of the car when the sun visor is in a lowered position.

Prohibitions Regarding Permits

74. No person shall

- a) deface or alter any current original identifying marker furnished by the Ministry of Transportation;
- b) use or permit the use of a defaced or altered current original identifying marker furnished by the Ministry of Transportation;
- c) use or permit the use of a current original identifying marker furnished by the Ministry of Transportation except the disabled person to whom the current original identifying marker is furnished; or a person transporting such disabled person;
- d) without the authority of the person to whom a current original identifying marker has been issued, remove a current original identifying marker furnished by the Ministry of Transportation from a motor vehicle.

PART 6 - OFF-STREET PARKING FOR THE DISABLED Official Sign (Schedule 28)

75. In this Part, "official sign" means a sign in the form set out in Schedule 28 of this by-law.

Designation of Parking Spaces

(2) Where the requirements of subsection (1) of this section are complied with, each such parking space is for the purposes of this by-law a designated parking space for the sole use of vehicles of disabled persons.

(3) Notwithstanding any provision in this Part to the contrary, no designated parking space shall be located in a fire route designated under Part 5 of this by-law.

Parking Space for Disabled Persons

77. No person shall park, stand, stop or leave a motor vehicle in any designated parking space except a motor vehicle that is identified by a current original identifying marker.

ACCAC Policy Sub Committee Meeting Tuesday March 20, 2012

Present: Michael Dawthorne, Bonnie Quesnel, Avril Rinn **Guest:** Shane Maguire
Issues

Shane Maguire, from Parking and Traffic Signals, was asked to explain the process around the enforcement of Accessible Parking Permit (APP) infractions. He shared the following information: - The provincial Highway Traffic Act (HTA) states that violations related to APP

can be enforced on private property by municipal bylaw officers. - The city of London employs one bylaw office and Commissionaires to issue

parking citations - In order for the bylaw to be enforced, signage must conform to very specific

regulations. If it does not, the citation can be challenged in court and will be cancelled. Therefore the city does not cite drivers who are parked in accessible stalls when they know the signage is incorrect.

- This applies only to private property because there are no issues related to enforcement with public (city owned/operated) parking stalls and lots because the signage is correct.

- Most drivers will challenge a citation for an APP violation because of the high cost of the fine (\$325.00).

- Drivers who challenge any citation for an APP violation may have the fine reduced if they are able to convince the Justice of the Peace it is a financial hardship, or by using some other reason.

- There are enough officers available to adequately enforce the bylaw, but not to educate the property owners.

- There is no law forcing them to erect the proper signage. - It is possible that many property owners are fully aware of the APP signage

requirements, but choose to erect incorrect signage so that their tenants or customers don't receive parking tickets. - Discussion occurred around the advisability of lobbying to change legislation in

some way. - Shane's feeling is that the law is adequate, and that energy would be best

directed at educating property owners about the need for correct signage. He suggested the AAC could assist with this matter by contacting landlords known to be using unenforceable signage.

Action Items

- Rewrite and submit amended language for the city's present handicapped parking legislation so that it more closely resembles the wording of the present provincial statute.

- Educate people with disabilities about the proper use of the Accessible APP. It should ONLY be used when the permit holder arrives in the vehicle and will be leaving the vehicle to enter the premises. In order to use an APP, the permit MUST be clearly displayed on the vehicle.

- The Parking and Traffic Signals department may be able to provide us with a list of property owners they know to be using incorrect signage.

- Create a pamphlet or flier to be handed out to owners specifying what the sign should look like and the need to use the proper signage (e.g. explaining that people with disabilities are prevented from using their premises if accessible parking stalls are in use by non-permit holding customers).

- Ask committee members to "educating" property owners about the need to erect proper signage.

- Post this information on our website.

Response to Minutes of AAC Policy Subcommittee meeting Mar 20,2012

- a. In order for bylaw to be enforced, signage must conform to very specific regulations.
- B) According to the Ontario Traffic Act the official signage of accessible parking stalls or any other signage indicating the intent of the stall usage can be enforced ... if the city includes information in their municipal bylaws that they will be enforced.
- C) _ The issue applies to private property only.
- D) Many city owned/operated facilities have the same problem. Just look at the signage in the underground parking lot of city hall. The signage is not placed in an enforceable manner so according to staff comments on enforcement it is deemed unenforceable.
 - a. Most drivers will challenge the tickets at a JP.
- E) What statistics does staff have on this?
 - a. Number of Tickets improperly given.
 - b. Number of Tickets applied where there was an undue hardship a person.
 - c. Where is the information documented that the JPs will reduce or cancel tickets due to financial hardship to people?
 - d. Who determines Financial hardship and under what criteria?
 - e. Does the ratio of overturned tickets reflect the reduced percentage of other parking enforcement violations?
 - f. There are enough officers to enforce the bylaw
- F) A) How many enforcement officers are there in London and how many accessible parking stalls are on private lots and on city streets?
 - a. Are the same bylaw enforcement officers dealing with all other parking bylaw enforcement issues in the Municipality during their work shift?
 - b. There is no law forcing them to erect proper signage
- G)
- H) According to the Policy advisor of the Ministry of Municipal Affairs all London has to do is create a City bylaw stating any signage either one designed by the Ministry of Transportation or any other that indicates the intent of an accessible parking stall can be enforced by City Bylaw enforcement officers. Presently there is no regulation indicating the use of a 'legal' signage only from the Ministry of Municipal Affairs.
- I) All 444 municipalities in Ontario have the power to determine their own enforceable parking stalls.
- J)
- K) Many property owners are aware of the AAP signage...
- L)

- a. A) What information does staff have that indicates property owners are choosing to NOT use legal signage that is presently being enforced?
- M) Why doesn't this lack of compliance represent an issue of significant importance to be brought before to council for them to determine how it should be dealt with.
- N) -Discussion around lobbying the legislature....
- O) There is no need to lobby the provincial government because there are adequate regulations in place now. Further, the AODA has new regulations coming forward in the Built Environment Standards in the future addressing Accessible Parking Stalls. But this may be some time in the future.
- a. There was a suggestion the Accessibility Advisory Committee contact owners known for using unenforceable signage...
- P) The ACAAC is a committee of community volunteers, most of who are disabled. It is inappropriate for the staff of the City of London to pass their responsibility onto a group of civic-minded individuals who are willing to work with council and staff. But they should not be working FOR staff... There is a quite a difference!
- Q)
- R) ACTIONS:
- S) Comment is to educate Disabled people about the proper use of the accessible parking stalls.....
- T) It is the community as a whole who need to be educated and informed. This has already been done successfully in many other Ontario and major Canadian Cities. And I have submitted materials from various municipalities to the city indicated these successes.