

CITY OF WATERLOO

BY-LAW NO. 09-106

BEING A BY-LAW TO PROHIBIT THE PARKING OR LEAVING OF MOTOR VEHICLES IN SPACES DESIGNATED FOR PERSONS WITH A DISABILITY

WHEREAS Section 11(3)(8) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes municipalities to pass by-laws respecting parking, except on highways;

AND WHEREAS Section 102(1) of the *Municipal Act, 2001*, S.O. 2001, as amended, states that if a municipality passes a by-law for establishing a system of disabled parking, the sole manner of identifying vehicles shall be a disabled parking permit issued under and displayed in accordance with the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, and the regulations made under it.

AND WHEREAS Section 102(2) of the *Municipal Act, 2001*, S.O. 2001, as amended, states that, 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 a disabled parking permit and if it does so, the local municipality shall prescribe the conditions of use of the disabled parking permit and shall prohibit the improper use of the permit.

AND WHEREAS Section 102(3) of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a by-law passed in accordance with subsection 102(2) may provide for the removal and impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law.

AND WHEREAS Section 427 of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a by-law establishing a system of disabled parking shall provide that every person who contravenes the by-law is guilty of an offence and on conviction is liable to a fine of not less than \$300.

NOW THEREFORE the Council of The Corporation of the City of Waterloo enacts as follows:

Definitions

1. The definitions contained within the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended (the "*Highway Traffic Act*"), shall apply in the interpretation of this by-law except where they are inconsistent, in which case the definition under this by-law shall apply. For the purposes of this by-law:

- (a) "City" means The Corporation of the City of Waterloo;

- (b) "Council" means the Council of the City;
- (c) "Designated Parking Space" means a parking space, other than one located on a highway, distinctly indicated for the exclusive use of a Person with a Disability in accordance with the requirements of s. 11 of R.R.O. 1990, Regulation 581 under the *Highway Traffic Act*;
- (d) "Leave" means stand or stop;
- (e) "Motor Vehicle" means an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power;
- (f) "Municipal Law Enforcement Officer" means a person appointed by the City as a Municipal Law Enforcement Officer pursuant to s. 15 of the *Police Services Act*, R.S. O. 1990, c. P. 15, as amended;
- (g) "Permit" means a disabled person parking permit issued under and displayed in accordance with the *Highway Traffic Act* and the regulations made thereunder;
- (h) "Person with a Disability", pursuant to s. 1 of R.R.O. 1990, Regulation 581 under the *Highway Traffic Act*, means an individual:
 - i. 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;
 - ii. who suffers from lung disease to such an extent that his or her forced expiratory volume in one second is less than one litre;
 - iii. for whom portable oxygen is a medical necessity;
 - iv. 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;
 - v. whose ability to walk is severely limited due to an arthritic, neurological, musculoskeletal or orthopaedic condition;
 - vi. 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,

- vii. whose mobility is severely limited by one or more conditions or functional impairments.
- (i) "Police Cadet" means a cadet of the Waterloo Regional Police Service; and,
- (j) "Police Officer" means a chief of police or any other police officer of the Waterloo Regional Police Service, but does not include a special constable, a First Nations Constable, a Municipal Law Enforcement Officer or an auxiliary member of a police force.

General Prohibitions

- 2. No person shall park, stop or leave a Motor Vehicle in a Designated Parking Space at any time without displaying a Permit.
- 3. No person shall park, stop or leave a Motor Vehicle displaying a Permit in a Designated Parking Space if the vehicle is not transporting or picking-up a Person with a Disability.
- 4. No person shall create or otherwise establish a Designated Parking Space without a minimum width of 3.9 metres and a minimum length of 5.5 metres .

Impounding

- 5. A Police Officer, Police Cadet or Municipal Law Enforcement Officer, upon discovery of any vehicle parked or left in contravention of this by-law, may cause it 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 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.

Enforcement

- 6. This by-law may be enforced by Municipal Law Enforcement Officers or by Police Officers.

Offence & Penalties

- 7. Every person who contravenes any of the provisions of this by-law is guilty of an offence and, on conviction, is liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended, but the fine shall not be less than \$300, pursuant to s. 427 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

Severability

- 8. If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

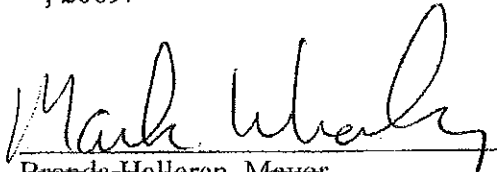
Repeal


- 9. By-law 91-9 is hereby repealed, as well as all by-laws amending the same, and any portions of the Municipal Code relating to parking for Persons with a Disability in the City are also hereby repealed.

Coming Into Force

- 10. This by-law shall come into force and effect on September 30, 2009.

PASSED this 24th day of August, 2009.


~~Brenda Halloran, Mayor~~
Mark Whaley, Acting Mayor


Susan Greatrix, City Clerk

Approval	Date	Authorized By	Initials
PS/BL	Aug 10/09	Jim Bann	JB
Legal	Aug 10/09	E. Davis	ED
Financial	Aug 10/09	N/A	AS