

# THE CORPORATION OF THE CITY OF GUELPH

## By-law Number (2014) - 19736

A By-law regarding accessible parking and to repeal By-law (1984)-11440, as amended.

WHEREAS the legislative authority referenced in Schedule "A" to this by-law exists;

NOW THEREFORE the Council of the Corporation of the City of Guelph enacts as follows:

### DEFINITIONS

1. In this by-law:

"City" means The Corporation of the City of Guelph unless inconsistent with the context;

"Extraneous Record" includes a document which is not a Permit, even though it may:

- (i) Have once been a Permit;
- (ii) Be a copy of a Permit; or
- (iii) Resemble a Permit;

"Officer" means a police officer or a by-law enforcement officer of the City;

"Permit" means an accessible parking permit that is in full compliance with the *Highway Traffic Act* and *Regulation 581* and is displayed in full compliance with the *Highway Traffic Act* and *Regulation 581*; and

"Private Designated Space" means a parking space that is reserved for vehicles displaying a Permit located within a private parking lot or other private parking facility.

"Public Designated Space" means a parking space that is reserved for vehicles displaying a Permit located within a parking lot or other parking facility that is owned or operated by the City or that is located within a public road allowance within the City of Guelph.

2. Any terms used in this by-law which are not defined herein, shall have the meanings as in the *Municipal Act, 2001*, *Highway Traffic Act, Regulation 581*, *Accessibility for Ontarians with Disabilities Act, 2005*, and *O. Reg. 191/11* as applicable.

### SYSTEM OF ACCESSIBLE PARKING

3. The City hereby establishes a system of accessible parking as set out in this by-law.

4. No person shall use a Permit other than in accordance with the conditions of use set out in the *Municipal Act, 2001*, *Highway Traffic Act, Regulation 581*, *Accessibility for Ontarians with Disabilities Act, 2005*, and *O. Reg. 191/11* and this by-law.

5. No person, including an owner, occupier or operator of land shall obstruct, cause or permit the obstruction of a private designated space or access to such a space, by snow or any other object.

### PRIVATE PARKING FACILITIES

6. Every person who owns, occupies or operates a private parking lot or other private parking facility, to which the public has access whether on payment of a fee or otherwise, shall provide Private Designated Spaces pursuant to all applicable legislative requirements.

7. Every person who owns, occupies or operates a private parking lot or other private parking facility who wishes the City to enforce the parking provisions of this by-law on such lot or facility shall ensure:
  - (a) That a sign is erected at each vehicular entrance to such land, that is clearly visible to all motorists entering the land, that clearly states that the enforcement of Accessible Parking regulations on such land is carried out by the City; and
  - (b) That signs setting out the parking restrictions applying to each Private Designated Space are clearly posted for such space pursuant the requirements of all applicable legislation including the Highway Traffic Act, R.S.O. 1990, c.H.8.
8. No person shall park, stop or stand any vehicle in a Private Designated Space without a Permit.
9. No person shall park, stop or stand any vehicle in a Private Designated Space with an Extraneous Record displayed or used in respect of such vehicle.
10. No person shall park, stop or stand any vehicle in a Private Designated Space contrary to the restrictions set out on the sign governing such space.

#### CITY PARKING FACILITIES AND HIGHWAYS

11. No person shall park, stop or stand any vehicle in a public designated parking space without a Permit.
12. No person shall park, stop or stand any vehicle in a public designated parking space with an Extraneous Record displayed or used in respect of such vehicle.
13. No person shall park, stop or stand any vehicle in a Public Designated Space contrary to the restrictions set out on the sign governing such space.

#### OFFENCES

14. Where a vehicle has been left parked, stopped or standing in contravention of this by-law, the owner of the vehicle is guilty of an offence, even if the owner was not the driver of the vehicle at the time of the contravention of the by-law, and is liable to the applicable penalty unless, at the time of the offence, the vehicle was in the possession of another person without the owner's consent.
15. Every person who contravenes a parking, stopping or standing provision of this by-law is guilty of an offence and on conviction is liable to a fine of not less than \$300.00 and not greater than \$5,000 for each offence, exclusive of costs.
16. Every person who contravenes any provision of this by-law, other than a parking, stopping or standing provision, is guilty of an offence and on conviction is liable to a maximum fine of \$5,000 for each offence, exclusive of costs.

#### ENFORCEMENT

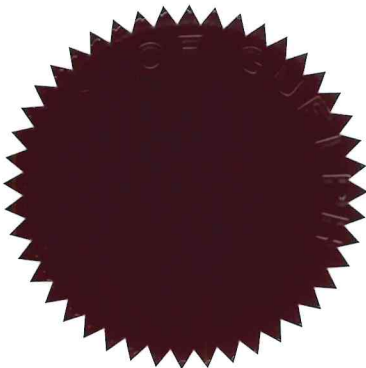
17. The provisions of this by-law may be enforced by an Officer.
18. In addition to section 17 of this by-law, Sections 8, 9 and 10 of this by-law may be enforced by a person, holding a valid Private Parking Agent License under the City's Business Licensing By-law, who is authorized by the land owner to provide parking enforcement on the land.

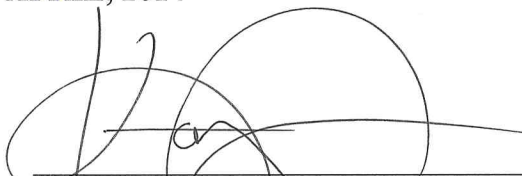
19. Every person having possession of an accessible parking permit shall, upon the demand of an Officer, surrender the same for reasonable inspection to ensure that the provisions of this by-law are being complied with.
20. An Officer, to whom an accessible parking permit has been surrendered, may retain it until disposition of the case if the Officer has reasonable grounds to believe that the said permit is being used or has been used in contravention of this by-law.
21. Any fine under this by-law is recoverable under the *Provincial Offences Act*.
22. Where a vehicle is found parked or left in contravention of this by-law, an Officer may cause the vehicle to be moved or taken to and placed or stored in a suitable place and all costs and charges for this removal and for any care and storage of the vehicle, are a lien upon the vehicle, which may be enforced in the manner provided by the *Repair and Storage Liens Act*.

GENERAL

23. This By-law is to be construed with all changes in number and gender as may be required by the context.
24. Any reference herein to any by-law, act, regulation or approval of any government shall be construed, as may be required by the context, as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto then in force.
25. If a court of competent jurisdiction declares any provision or part of a provision of this by-law to be invalid, illegal, unenforceable or of no force and effect, it is the intention of Council in enacting this by-law that the remainder of the by-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.
26. This By-law shall come into effect at 12:01 a.m. on September 1, 2014 or when the set fines have been approved by the Regional Senior Justice, whichever occurs first.
27. By-law number (1984)-11440 of The Corporation of the City of Guelph, and all by-laws amending the same, are hereby repealed as of the effective date set out in the immediately preceding section of this by-law.
28. The short title of this by-law is the “Accessible Parking By-law”.
29. This by-law is hereby adopted as Municipal Code Amendment #511 which amends Chapter #200 to the City of Guelph Municipal Code.

**PASSED this TWENTY-EIGHTH day of APRIL, 2014**



  
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KAREN FARBRIDGE – MAYOR

  
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TINA AGNELLO – DEPUTY CLERK

SCHEDULE “A”

LEGISLATIVE AUTHORITY

WHEREAS sections 8 and 10 of the *Municipal Act, 2001* authorize a municipality to pass a by-law respecting public assets of the municipality, social well-being of the municipality and health, safety and well-being of persons;

AND WHEREAS sections 8, 10 and 102(1) of the *Municipal Act, 2001* authorize a municipality to pass a by-law for establishing a system of accessible parking;

AND WHEREAS section 102(2) of the *Municipal Act, 2001* authorizes a municipality to 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 WHEREAS section 102(2) of the *Municipal Act, 2001* requires that a municipality which does the foregoing, shall prescribe the conditions of use of the accessible parking permit and to prohibit the improper use of the permit;

AND WHEREAS section 100 of the *Municipal Act, 2001* authorizes a municipality, in respect of land not owned or occupied by the municipality that is used as a parking lot, to regulate or prohibit the parking or leaving of motor vehicles on that land without the consent of the owner of the land if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition;

AND WHEREAS section 101(3) of the *Municipal Act, 2001* requires that if signs are erected on land specifying conditions on which a motor vehicle may be parked or left on the land or regulating or prohibiting the parking or leaving of a motor vehicle on the land, a motor vehicle parked or left on the land contrary to the conditions or prohibition shall be deemed to have been parked or left without consent;

AND WHEREAS section 101(1) of the *Municipal Act, 2001* authorizes a municipality to pass a by-law regulating or prohibiting the parking or leaving of a motor vehicle on land, and if it does so, 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 the by-law and subsection 170(15) of the *Highway Traffic Act* applies;

AND WHEREAS section 101(2) of the *Municipal Act, 2001* authorizes a municipality to enter on land at reasonable times for the purposes described in the foregoing;

AND WHEREAS section 102(1) of the *Municipal Act, 2001* requires that 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;

AND WHEREAS section 102(3) of the *Municipal Act, 2001* authorizes a municipality which passes a by-law as foregoing to authorize in such by-law the removal and impounding of any vehicle, at its owner’s expense, parked or left contrary to the by-law;

AND WHEREAS sections 26, 27 and 28 of the *Highway Traffic Act* and sections 1 through 8 of R.R.O. 1990, *Regulation 581* (Accessible Parking for Persons with Disabilities) regulate accessible parking permits respecting issuance, period in force, cancellation, fictitiousness, alteration, fraudulent obtaining, display, surrender, giving, lending, selling, offering for sale, use by other persons, inspection and retention by officers, validity, equivalence with comparable permits issued by other jurisdictions and return;

SCHEDULE “A”

AND WHEREAS section 11 of R.R.O. 1990, *Regulation 581* requires that a parking space designated under a municipal by-law for the use of persons with a disability shall be distinctly indicated by erecting an accessible parking permit sign as described therein;

AND WHEREAS section 13(1) of R.R.O. 1990, *Regulation 581* requires that a sign that prohibits stopping except the stopping of vehicles displaying a valid accessible parking permit shall be as described therein;

AND WHEREAS section 14(1) of R.R.O. 1990, *Regulation 581* requires that a sign that prohibits standing except the standing of vehicles displaying a valid accessible parking permit shall be as described therein;

AND WHEREAS sections 80.34, 80.35, 80.36, 80.37 and 80.38 of *Ontario Regulation 191/11* (Integrated Accessibility Standards) under the *Accessibility for Ontarians with Disabilities Act, 2005* regulate off-street parking facilities for the use of persons with disabilities respecting types of parking spaces, access aisles, numbers of parking spaces and signage;

AND WHEREAS section 425(1) of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001* is guilty of an offence;

AND WHEREAS section 427 of the *Municipal Act, 2001* requires that a by-law establishing a system of accessible 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 \$300.00;

AND WHEREAS section 428 of the *Municipal Act, 2001* authorizes a municipality to provide, by by-law, that, where a vehicle has been left parked, stopped or standing in contravention of a by-law passed under the *Municipal Act, 2001*, the owner of the vehicle is guilty of an offence, even though the owner was not the driver of the vehicle at the time of the contravention of the by-law, and is liable to the applicable fine unless, at the time of the offence, the vehicle was in the possession of another person without the owner's consent;

AND WHEREAS the *Provincial Offences Act* provides for the recovery of certain fines;

AND WHEREAS the *Repair and Storage Liens Act* provides for the enforcement of certain liens.