

CITY OF WATERLOO

BY-LAW NO. 08- 092

(Also referred to as "By-Law 4009")

BEING A BY-LAW TO PROHIBIT THE PARKING OR LEAVING OF MOTOR
VEHICLES ON PRIVATE PROPERTY WITHOUT THE CONSENT OF THE OWNER
OR OCCUPANT OF SAID PROPERTY

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 100 of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a local municipality may, in respect of land not owned or occupied by the municipality that is used as a parking lot, regulate or prohibit the parking or leaving of motor vehicles on that land without the consent of the owner of the land or regulate or prohibit traffic on that land if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition;

AND WHEREAS Section 100.1 of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a local municipality may, in respect of land not owned or occupied by the municipality, regulate or prohibit the parking or leaving of motor vehicles without the consent of the owner of the land;

AND WHEREAS Section 101(1) of the *Municipal Act, 2001*, S.O. 2001, as amended, states that, if a municipality passes a by-law regulating or prohibiting the parking or leaving of a motor vehicle on land, it may 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*, R.S.O. 1990, c. H.8, as amended, applies with necessary modifications to the by-law;

AND WHEREAS Section 101(2) of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a municipality may enter on land at reasonable times for the purposes described in subsection 101(1);

AND WHEREAS Section 101(3) of the *Municipal Act, 2001*, S.O. 2001, as amended, states 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.

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

Definitions

- I. The definitions contained within the *Highway Traffic Act*, R.S.O. 1990, c. H.8 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) "Leave" means stand or stop;
 - (d) "Motor Vehicle" means an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power;
 - (e) "Municipal Law Enforcement Officer" means an individual employed and/or designated by the City who is responsible for enforcing the by-laws of the City;
 - (f) "Police Cadet" means a cadet of the Waterloo Regional Police Service;
 - (g) "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;
 - (h) "Private Property" means land not owned or occupied by the City; and,
 - (i) "Private Enforcement Officer" means an individual appointed by Council to enforce the provisions of this by-law, except Section 5, at specific locations throughout the City.

General Prohibitions

2. No person shall park or Leave a Motor Vehicle on Private Property without the consent of the owner of the property.
3. No person shall park or Leave a Motor Vehicle on Private Property that is being used as a parking lot without the consent of the owner of the property.

Parking Without Consent

4. If signs are erected on Private Property specifying conditions on which a Motor Vehicle may be parked or Left on Private Property or regulating or prohibiting the parking or Leaving of a Motor Vehicle on Private Property, a Motor Vehicle parked or Left on Private Property contrary to the conditions or prohibition shall be deemed to have been parked or Left without consent of the owner.

Impounding

5. A Police Officer, Police Cadet or Municipal Law Enforcement Officer, upon discovery of any vehicle parked or Left on Private Property 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.

Private Enforcement Officers

6. Council may, by resolution or by-law, appoint Private Enforcement Officers to enforce the provisions of this by-law, except Section 5, at certain locations throughout the City and may also remove said appointments, at any time, also by resolution or by-law.

Enforcement

7. This by-law may be enforced by Private Enforcement Officers (excluding Section 5), Municipal Law Enforcement Officers or the Waterloo Regional Police Service.

Offence & Penalties

8. 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.

Severability

9. 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

10. By-Law 4009 is hereby repealed, as well as all by-laws amending the same, and any portions of the Municipal Code relating to parking on private property in the City are also hereby repealed.

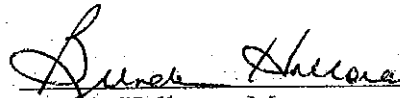
Reference


11. This by-law may be referred to as "By-Law 4009", regardless of its actual number or date of passage, in order to maintain current signage and other references throughout the City.
12. This by-law may also be referred to as the "Parking on Private Property By-Law".

Coming Into Force

13. This by-law shall come into force and effect on November 1, 2008.

PASSED this 18TH day of AUGUST, 2008.


Brenda Halloran, Mayor


Susan Greatrix, City Clerk

Approval	Date	Authorized By	Initials
PS/BL	Aug 6/08	M. [Signature]	mt
Legal	Aug 6/08	E. Davis	ED
Financial	N/A	N/A	mt

OFFICE CONSOLIDATION
CITY OF WATERLOO

BY-LAW NO. 08-092 [*as amended*]

(Also referred to as "By-Law 4009")

BEING A BY-LAW TO PROHIBIT THE PARKING OR LEAVING OF MOTOR VEHICLES ON PRIVATE PROPERTY WITHOUT THE CONSENT OF THE OWNER OR OCCUPANT OF SAID PROPERTY

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 100 of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a local municipality may, in respect of land not owned or occupied by the municipality that is used as a parking lot, regulate or prohibit the parking or leaving of motor vehicles on that land without the consent of the owner of the land or regulate or prohibit traffic on that land if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition;

AND WHEREAS Section 100.1 of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a local municipality may, in respect of land not owned or occupied by the municipality, regulate or prohibit the parking or leaving of motor vehicles without the consent of the owner of the land;

AND WHEREAS Section 101(1) of the *Municipal Act, 2001*, S.O. 2001, as amended, states that, if a municipality passes a by-law regulating or prohibiting the parking or leaving of a motor vehicle on land, it may 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*, R.S.O. 1990, c. H.8, as amended, applies with necessary modifications to the by-law;

AND WHEREAS Section 101(2) of the *Municipal Act, 2001*, S.O. 2001, as amended, states that a municipality may enter on land at reasonable times for the purposes described in subsection 101(1);

AND WHEREAS Section 101(3) of the *Municipal Act, 2001*, S.O. 2001, as amended, states 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.

NOW THEREFORE 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 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) "Leave" means stand or stop;
 - (d) "Motor Vehicle" means an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power;
 - (e) "Municipal Property" shall mean any property owned by the Corporation of the City of Waterloo. [By By-law 08-135, November 17, 2008]
 - (f) "Municipal Law Enforcement Officer" means an individual employed and/or designated by the City who is responsible for enforcing the by-laws of the City;
 - (g) "Police Cadet" means a cadet of the Waterloo Regional Police Service;
 - (h) "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;
 - (i) "Private Property" means land not owned or occupied by the City;

[Definitions amended By-law 08-135, November 17, 2008]

General Prohibitions

2.
 - (a) No person shall park or Leave a Motor Vehicle on Private Property without the consent of the owner of the property.
 - (b) No person shall park or leave a Motor Vehicle on Private Property that is being used as a parking lot without the consent of the owner of the property.

3. No person shall park or Leave a Motor Vehicle on Municipal Property without the consent of the City.

[Sections 2 and 3 amended By-law 08-135, November 17, 2008]

Parking Without Consent

4. If signs are erected on Private Property specifying conditions on which a Motor Vehicle may be parked or Left on Private Property or regulating or prohibiting the parking or Leaving of a Motor Vehicle on Private Property, a Motor Vehicle parked or Left on Private Property contrary to the conditions or prohibition shall be deemed to have been parked or Left without consent of the owner.

Impounding

5. A Police Officer, Police Cadet or Municipal Law Enforcement Officer, upon discovery of any vehicle parked or Left on Private Property 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.

Private Enforcement Officers

6. Council may, by resolution or by-law, appoint Private Enforcement Officers to enforce the provisions of this by-law, except Section 5, at certain locations throughout the City and may also remove said appointments, at any time, also by resolution or by-law.

Enforcement

7. This by-law may be enforced by Municipal Law Enforcement Officers or the Waterloo Regional Police Service.

Section 5 of this by-law may only be enforced by Municipal Law Enforcement Officers employed by the City or the Waterloo Regional Police Service.

[Section 7 amended By-law 08-135, November 17, 2008]

Offence & Penalties

8. 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.

Severability

9. 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

10. By-Law 4009 is hereby repealed, as well as all by-laws amending the same, and any portions of the Municipal Code relating to parking on private property in the City are also hereby repealed.

Reference

11. This by-law may be referred to as "By-Law 4009", regardless of its actual number or date of passage, in order to maintain current signage and other references throughout the City.
12. This by-law may also be referred to as the "Parking on Private Property By-Law".

Coming Into Force

13. This by-law shall come into force and effect on November 1, 2008.

PASSED this 18th day of August, 2008.



CONSOLIDATED

CITY OF WATERLOO

BY-LAW NO. 4009

BEING A BY-LAW TO PROHIBIT THE PARKING OR LEAVING OF MOTOR VEHICLES ON PRIVATE PROPERTY WITHOUT AUTHORIZATION FROM THE OWNER OR OCCUPANT OF SUCH PROPERTY OR ON THE PROPERTY OF THE MUNICIPALITY WHERE PARKING BY THE PUBLIC IS NOT AUTHORIZED, AND PROVIDING FOR THE REMOVAL OR IMPOUNDING OF ANY VEHICLES SO PARKED OR LEFT AT THE EXPENSE OF THE OWNER THEREOF.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:

1. No motor vehicle shall be parked or left on private property within the limits of the Corporation of the City of Waterloo without the consent from the owner, the owner's agent or occupant of such property.
2. No motor vehicle shall be parked or left on property of the City of Waterloo where parking by the public is not authorized.
3. For the purposes of Section 1 above,
 - (i) Where an owner, owner's agent or occupant of property affected by this by-law has installed parking meters, a motor vehicle parked or left on the property at an expired meter shall be deemed to have been parked or left without the owner's consent;
 - (ii) Where an owner, owner's agent or occupant of property affected by this by-law has implemented a pay and display system to control parking on a property, a motor vehicle parked or left on the property without the proper ticket displayed in the vehicle shall be deemed to have been parked or left without the owner's consent;
 - (iii) Where an owner, owner's agent or occupant of property affected by this by-law has posted a sign limiting the time during which a motor vehicle may be parked or left on the property, a motor vehicle parked or left on the property in excess of time limits prescribed shall be deemed to have been parked or left without the owner's consent.
 - (iv) Where a motor vehicle is parked occupying more than one parking space it shall be deemed to have been parked without the owner's consent.

4. Where an owner, owner's agent or occupant of property affected by this By-law has posted a sign prohibiting the parking or leaving of a motor vehicle on the property, a motor vehicle parked or left on the property contrary to such prohibition shall be deemed to have been parked or left without consent.
5. The driver or owner of a motor vehicle parked or left in contravention to paragraphs 1 and 2 hereof is liable to any penalty hereinafter provided, provided that the owner of the motor vehicle shall not be liable to any such penalty, if at the time the offence was committed, the motor vehicle was in the possession of a person other than the owner without the owner's consent.
6. In addition to the provisions of paragraph 4, where a motor vehicle is parked or left in contravention of the provisions of paragraphs 1 and 2 hereof, a Police Officer or Municipal By-law Enforcement Officer upon receiving a complaint and so finding the vehicle, may cause such motor vehicle to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, are a lien against the said vehicle which may be enforced in the matter provided in the Repair and Storage Liens Act, 1989.
7. In addition to the provisions of Paragraph 4 and as an alternative to the provisions of Paragraph 5:
 - (a) Where a vehicle is found parked in contravention of the parking provisions of this by-law, a Police Officer or Municipal By-law Enforcement Officer upon receiving a complaint and so finding the vehicle, may attach to the vehicle a Parking Infraction Notice in the form of a serially numbered notice stating:
 - (i) The permit number of the vehicle;
 - (ii) That the vehicle is unlawfully parked;
 - (iii) The date, time, place and nature of the alleged offence;
 - (iv) That the owner or operator thereof may report to the Revenue Division of the City of Waterloo within fifteen (15) days exclusive of Saturday, Sunday and Holidays after the day when the Parking Infraction Notice is attached and make a payment of twenty-five (\$25.00) dollars or forward such payment by mail within fifteen (15) days to the Revenue Division of the City of Waterloo;
 - (v) Said payment shall be accepted as the payment of a penalty in full satisfaction in respect to the alleged offence and receipt therefore shall be given to the person making the payment;
 - (vi) That in the event of failure to so report and make such payment the provisions of Part II of the Provincial Offences Act will apply.

- (b) The Parking Infraction Notice shall be prepared in triplicate, and the Police Officer or Municipal By-law Enforcement Officer shall attach one copy to the vehicle and deliver the other copies to the Clerk's Division of the City of Waterloo.
- 8. The Chief of Police of the Waterloo Regional Police or his designate or a Municipal By-law Enforcement Officer, are hereby designated as the persons authorized to request the removal of vehicles parked or left on private property without the authority from the owner or occupant of such property or on property of the municipality where parking by the public is not authorized.
- 9. Every person who contravenes any of the provisions of this By-law;
 - (i) is guilty of an offence, and
 - (ii) upon conviction thereof, is liable to a fine or penalty of not more than \$5,000.00 as prescribed by the Provincial Offences Act, R.S.O. 1980 c. 400, as amended.
- 10. That By-law 90-133 and any other By-law inconsistent with the provisions of this By-law are hereby repealed.

PASSED this 7th day of August, 1973.

(SIGNED) H. EPP
MAYOR

(SIGNED) D. PRESTON
CLERK

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