



# THE CORPORATION OF THE CITY OF WATERLOO

## BY-LAW NO. 2017 –

### BY-LAW TO ESTABLISH CERTAIN MUNICIPAL PARKING LOTS IN THE CITY AND TO REGULATE THE PARKING OF VEHICLES THEREIN AND THEREON

**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 101(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, 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, c.25, 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, c. 25, 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.

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

#### 1. DEFINITIONS

- 1.1) The definitions contained within the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended from time to time, or any successor thereof (the "*Highway Traffic Act*") shall apply in the interpretation of this By-law except where the term is defined herein, in which case the definition under this

By-law shall apply. In the event of a conflict between any of these definitions and those set out in the *Highway Traffic Act*, the definition set out in the *Highway Traffic Act* shall apply. For the purposes of this By-law:

- i. "City" means The Corporation of the City of Waterloo;
- ii. "Council" means the Council of the City;
- iii. "Director" means the Director of Economic Development, and/or their designate;
- iv. "Leave" means stand or stop;
- v. "Motor Vehicle" means an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power;
- vi. "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;
- vii. "Object" means anything you can see or touch, living or not living, and includes, without limitation any construction equipment or material.
- viii. "Municipal Parking Lot" means a lot or structure on or in which Motor Vehicles may be parked or Left that is operated by the City;
- ix. "Permit(s)" means a permit issued by the Director as set out in this By-law;
- x. "Payment System" means a machine or other system through which a person wishing to park or Leave a Motor Vehicle in a Municipal Parking Lot can pay the applicable fee or charge;

- xi. "Police Cadet" means a cadet of the Waterloo Regional Police Service; and,
- xii. "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.
- xiii. "Unlicensed Motor Vehicle" means a Motor Vehicle that does not have a number plate displayed or does not have a current validation of a vehicle permit affixed to the number plate, in the manner prescribed in the *Highway Traffic Act*.

## **2. GENERAL PROHIBITIONS**

- 2.1) No person shall park or Leave a Motor Vehicle in a Municipal Parking Lot without the consent of the City. Without limiting this section, the matters set out in 3.1, 3.2 and 3.3 shall be deemed to constitute parking or Leaving a Motor Vehicle in a Municipal Parking Lot without the consent of the City.
- 2.2) No person shall park or Leave a Motor Vehicle with a gross weight in excess of 2,800 kilograms in a Municipal Parking Lot without the consent of the City.
- 2.3) No person shall store and/or place or permit the storage of placement of any Object in a Municipal Parking Lot except in accordance with the terms and conditions of a valid Permit.
- 2.4) No person shall operate or permit the operation of an airborne Object at any time in a Municipal Parking Lot without the consent of the City.
- 2.5) No person shall park or Leave an Unlicensed Motor Vehicle in a Municipal Parking Lot without the consent of the City.

## **3. PARKING WITHOUT CONSENT**

Without limiting Section 2.1:

- 3.1) If signs are erected in a Municipal Parking Lot specifying conditions on which a Motor Vehicle may be parked or Left in a Municipal Parking Lot or regulating or prohibiting the parking or Leaving of a Motor Vehicle in a Municipal Parking Lot, no person shall park or Leave a Motor Vehicle in a Municipal Parking Lot contrary to the conditions or prohibitions, except in accordance with the terms and conditions of a valid Permit.
- 3.2) If there are pavement markings specifying where a Motor Vehicle may be parked or Left in a Municipal Parking Lot, no person shall park or Leave a Motor Vehicle in a Municipal Parking Lot contrary to those pavement markings.
- 3.3) No person shall park or Leave a Motor Vehicle in a Municipal Parking Lot without the applicable fee and/or charge being paid, except in accordance with the terms and conditions of a valid Permit.

#### **4. PERMIT**

- 4.1) Notwithstanding any other section of this By-law, any person may apply to the Director, in writing, for a Permit allowing a Motor Vehicle(s) and/or Object(s) to be parked, Left or placed in a Municipal Parking Lot.
- 4.2) When applying for a Permit, an applicant may be required by the Director to submit any or all of the following:
  - i. name and address of applicant;
  - ii. a description of the purpose for the Permit;
  - iii. location of where the Permit will take place;
  - iv. duration of time the Permit is needed
  - v. reasons why the permission/permit should be granted; and
  - vi. applicable fee, pursuant to the City's Fees and Charges Bylaw.
- 4.3) In considering an application for a Permit, the Director shall have regard to the following:

- i. description of the purpose for the Permit;
- ii. location of where the Permit will take place;
- iii. time of day and duration of time the Permit is needed;
- iv. potential interference with the normal functioning of the Parking Lot, or any safety concerns;
- v. any other required approval(s); and
- vi. applicable City By-laws, agreements or policies.

4.4) After considering the merits of a Permit application, the Director may:

- i. grant the Permit;
- ii. grant a Permit, subject to certain terms and conditions as deemed fit by the Director; or
- iii. deny the Permit

4.5) A Permit may be revoked by the Director, if the Director deems it necessary to do so:

- i. with prior notice to the Permit holder, where the Director deems it appropriate; or
- ii. immediately and without prior notice to the Permit Holder, where the Director deems it appropriate. Where a Permit is revoked without prior notice, the Director will provide notice to the Permit Holder as soon as practicable following revocation.

## **5. ORDER TO DISCONTINUE ACTIVITY**

5.1) Where the Director or a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Director or the Municipal Law Enforcement Officer may make an Order requiring the person who contravened this Bylaw, or who

caused or permitted the contravention to discontinue the contravening activity.

- 5.2) An order under Section 5.1 of this By-law shall set out;
- i. Reasonable particulars of the contravention adequate to identify the contravention and location; and
  - ii. The date by which there must be compliance with the Order
- 5.3) Any person who fails to comply with an order under s.5.1 of this By-law is guilty of an offence.

## **6. WORK ORDER**

- 6.1) Where the Director or a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Director or the Municipal Law Enforcement Officer may make an Order requiring the person who contravened this By-law, or who caused or permitted the contravention to do work to correct the contravention.
- 6.2) An order under Section 6.1 of this By-law shall set out:
- i. Reasonable particulars of the contravention adequate to identify the contravention and location; and
  - ii. The date by which there must be compliance with the Order
- 6.3) Any person who fails to comply with an order under s. 6.1 of this By-law is guilty of an offence.

## **7. WORK BY CITY**

- 7.1) In addition to any other provision of this By-law, where any person fails to comply with an Order issued under Section 5 of 6 of this By-law, the Director or a Municipal Law Enforcement Officer may do or cause the work set out in the Order to be done at the owner's expense.

## 8. REMOVAL AND IMPOUNDING

- 8.1) A Police Officer, Police Cadet or Municipal Law Enforcement Officer, upon discovery of any vehicle parked or Left in a Municipal Parking Lot 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.
- 8.2) i. Where an Object has been stored or placed in a Municipal Parking Lot in contravention of this By-law, the Director or a Municipal Law Enforcement Officer may take all necessary steps to have the Object removed and stored at a suitable place, and the cost and charges for the removal and storage (including any costs to restore the lands to their previous condition) will be at the owner's expense.
- ii. Notwithstanding any provision of this By-law, the City is not required to notify the owner of an Object prior to removing the Object pursuant to clause (i).
- iii. Where an Object is removed pursuant to this By-law and the owner or person in charge of the Object is known to the City, the Municipal Law Enforcement Officer shall, following removal of the Object:
- a) inform the owner or person in charge that the Object was in contravention of the By-law; and
  - b) provide the owner or person in charge with a receipt indicating that the Object has been removed by the City, identifying where the Object is to be stored by the City and the conditions upon which it can be redeemed, or in the case of a perishable Object, that the Object may be disposed of by the City or given to a charitable institution.
- iv. Where an Object is removed pursuant to this By-law, and the owner or person in charge of the Object is not known to the City, the City shall make reasonable efforts to identify and notify the owner or person in charge of the Object as soon as practicable of the

removal and storage of the Object and the conditions upon which it can be redeemed.

- v. An Object which is removed pursuant to this By-law and is determined by the Municipal Law Enforcement Officer to be perishable shall become the property of the City and may be disposed of by the City immediately or given to a charitable institution.
- vi. An Object which is removed pursuant to this By-law and is not perishable, shall be stored by the City at the owner's expense, at a location as determined by the City, for a period not less than sixty (60) calendar days from the date of its removal, during which time the owner or person in charge of the Object may redeem the Object upon producing appropriate identification, proof of ownership or entitlement to the Object, and upon payment in full satisfactory to the City Treasurer, of all applicable fees relating to the removal and storage of the Object.
- vii. An Object which is removed and stored in accordance with this By-law and is not redeemed by the owner or person in charge of the Object as set out in clause (vi) shall become the property of the City and may be sold or otherwise disposed of by the City, in its sole discretion.
- viii. The City may charge a fee(s) in accordance with its Fees and Charges By-law, for the actual and administrative costs relating to the removal and/or storage of an Object from a Municipal Parking Lot, which fee may be in addition to any other storage fees for the Object.
- ix. An Object stored in accordance with clause (vi) shall not be redeemed by the owner or person in charge of the Object without the owner first paying in full, to the satisfaction of the City Treasurer, all applicable fees relating to the removal and storage of the Object.
- x. The City shall not be responsible to the owner or person in charge of an Object for any damage to the Object relating to the removal or storage of the Object under this By-law.



- xi. The City shall have no liability to the owner or person in charge of an Object arising from any removal or disposal of an Object under this By-law

## **9. FEES AND CHARGES**

- 9.1) Council may impose fees and charges, from time to time, for the parking or Leaving of a Motor Vehicle in a Municipal Parking Lot and for obtaining Permits.
- 9.2) The City may install and/or use any Payment System(s) at any Municipal Parking Lot in order to collect, or assist in the collection of, all applicable fees and charges.

## **10. EXEMPTIONS**

- 10.1) Notwithstanding any other provision of this By-law, all Motor Vehicles owned or operated by or on behalf of the City are exempt from the provisions of this By-law.
- 10.2) Notwithstanding any other provision of this By-law, all Motor Vehicles displaying a disabled person parking permit, shall be exempt from paying any fees or charges at any Municipal Parking Lot, except for the Uptown Parkade, located at 60 King Street South, which is bounded by King Street, Willis Way and Regina Street, in the City of Waterloo.

## **11. ENFORCEMENT**

- 11.1) This By-law may be enforced by the Director, Municipal Law Enforcement Officers or Police Officers.
- 11.2) The Director is authorized to act on behalf of the City with respect to any matter set out in this By-law. Without limitation, the Director is authorized to issue and revoke Permits in accordance with this By-law, and to provide, refuse or revoke consent on behalf of the City, with any such conditions as the Director determines to be reasonable, with respect to any matter set out herein.

**12. OFFENCE AND PENALTIES**

12.1) 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.

**13. SEVERABILITY**

13.1) 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.

**14. REPEAL**

14.1) By-law 2010-024 is hereby repealed, as well as all By-laws amending the same.

**15. FORCE AND EFFECT**

15.1) This By-law shall come into effect on the date when set fines are approved.

**Enacted** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Approval	Date	Print Name	Initials
IPPW			
Legal			
Finance			

\_\_\_\_\_  
**Dave Jaworsky, Mayor**

\_\_\_\_\_  
**Olga Smith, City Clerk**