

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW 41-2014

A by-law to regulate accessible parking in the City of Burlington
File: 745 (TS-01-14)

WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes municipalities to enact by-laws regulating parking;

AND WHEREAS Section 102 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, confers upon municipalities the power to pass by-laws for requiring the owners and operators of parking lots or other parking facilities to which the public has access, to provide designated parking spaces for the sole use of vehicles displaying an accessible parking permit issued 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 for prescribing the conditions of use of such permit and for prohibiting the improper use of the permit;

AND WHEREAS Section 427 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a by-law establishing a system of accessible parking shall provide that any 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.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF BURLINGTON HEREBY ENACTS AS FOLLOWS:

1. **DEFINITIONS**

For the purposes of this By-law, the following definitions shall apply:

“Accessible Parking Permit” means a valid parking permit for a Person With A Disability as issued by the Ontario Ministry of Transportation or by another jurisdiction;

“Accessible Parking Sign” means a Sign consisting of a ‘No Parking’ symbol, the international symbol for accessibility (blue square overlaid in white with a stylized image of a person using a wheelchair) and the words “By Permit Only”;

“Accessible Parking Space” means a Parking Space designated by pavement markings and Authorized Signs for the exclusive use of a Motor Vehicle displaying an Accessible Parking Permit in accordance with the requirements of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 as amended, the regulations made thereunder and this By-law.

“Authorized Emergency Vehicle” means a fire department vehicle, a police vehicle or an ambulance;

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“Authorized Sign” means any sign, pavement markings or other device which has been placed, installed or erected on a Highway, Private Property or the Corporation of the City of Burlington’s property by the Corporation of the City of Burlington or by another party acting under the direction or authority of the Corporation of the City of Burlington, to designate, regulate and/or enforce the provisions of this By-law and the City’s Parking and Idling By-law, as amended;

“By-law” means this by-law to regulate Accessible Parking in the City of Burlington;

“Council” means the Council of the Corporation of the City of Burlington;

“Declared or Statutory Holiday” means Ontario statutory and declared holidays;

“Director” means the Director of Transportation Services of the Corporation of the City of Burlington or designate;

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for or used by the general public for the passage of Vehicles and includes the area between the lateral property lines thereof;

“Motor Assisted Bicycle” or “Moped” means a bicycle,

- a) that is fitted with pedals that are operable at all times to propel the bicycle,
- b) that weighs not more than fifty-five kilograms,
- c) that has no hand or foot operated clutch or gearbox driven by the motor and transferring power to the driven wheel,
- d) that has an attached motor driven by electricity or having a piston displacement of not more than fifty cubic centimetres, and
- e) that does not have sufficient power to enable the bicycle to attain a speed greater than 50 kilometres per hour on level ground within a distance of 2 kilometres from a standing start;

“Motorcycle” means a self-propelled motorized vehicle designed to travel on not more than three (3) wheels and includes a limited speed motorcycle and motor scooter capable of travelling no faster than 70km.hr, but does not include a Motor Assisted Bicycle;

“Motor Vehicle” means an automobile, Motorcycle, Motor Assisted Bicycle and any other vehicle propelled or driven otherwise than by muscular power but does not include a street car, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act*;

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“Municipal Law Enforcement Officer” means any person authorized by the Corporation of the City of Burlington to enforce Parking by-laws and shall include Parking enforcement officers, provincial offences officers and Halton Regional Police Officers;

“Municipal Parking Facility” means lands, lots or structures that have been set apart or established by the Corporation of the City of Burlington for the Parking of Motor Vehicles;

“Municipal Property” means real property owned by the Corporation of the City of Burlington other than Municipal Parking Facilities and Highways and includes recreation centres, arenas, park lots, fire stations, transit terminals, work yards and maintenance yards;

“Park” or “Parking” means the standing of a Vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;

“Parking Pay Station” means an electronic or mechanical device, for the purpose of controlling and regulating the pay Parking of any Motor Vehicle in or on a Municipal Parking Facility or on any Roadway;

“Parking Pay Station Space” means a portion of a Roadway or Municipal Parking Facility that is designated for the Parking of a Vehicle by pavement markings or Authorized Signs, that is controlled and regulated by a Parking Pay Station indicating the date and time of such activity and the duration on the Roadway or Municipal Parking Facility location permitted thereby;

“Parking Space” means a portion of a Highway, Municipal Property, Municipal Parking Facility or Private Property that is designated for the Parking of a Vehicle by pavement markings or Authorized Signs;

“Person With A Disability” means any person who has been deemed to be disabled by a medical authority and who possess a valid Accessible Parking Permit;

“Power Assisted Bicycle” or “E-bike” means a bicycle that,

- a) is a power-assisted bicycle as defined in subsection 2 (1) of the *Motor Vehicle Safety Regulations* made under the *Motor Vehicle Safety Act* (Canada),
- b) bears a label affixed by the manufacturer in compliance with the definition referred to in clause (a),
- c) has affixed to it pedals that are operable, and
- d) is capable of being propelled solely by muscular power

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“Private Property” means real property owned by persons, other than property owned by the Corporation of the City of Burlington and includes real property owned by individuals, local boards, corporations and public authorities;

“Public Authority” means the Corporation of the City of Burlington, the Halton Regional Police Service, the Regional Municipality of Halton, the Province of Ontario or the Federal Government of Canada;

“Public Parking Area” means a structure or open area other than a street or Highway, used for Parking of Vehicles, to which the public has access, whether on payment of fee or otherwise;

“Roadway” means the part of the Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder and where a Highway includes two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadways collectively;

“Statutory or Declared Holiday” means Ontario statutory and declared holidays;

“Stop” or “Stopping” means the halting of a Vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a Police Officer, or of a traffic control Sign or signal;

“Tow Away Zone” means any area designated by an Authorized Sign, where a Vehicle may be towed away at the Vehicle owner’s expense;

“Unauthorized Vehicle” means any Vehicle that does not have identification issued and displayed in accordance with the provisions of this By-law;

“Utility Vehicle” means any Vehicle that provides service of gas, hydro, telecommunications or similar service.

“Vehicle” includes a Motor Vehicle, Utility Vehicle, commercial Motor Vehicle, Power Assisted Bicycle, Motor Assisted Bicycle, trailer, traction engine, farm tractor, road-building machine, bicycle, scooter and any vehicle drawn, propelled or driven by any kind of power, including muscular power;

2. INTERPRETATION

Where words and phrases used in this By-law are defined in the *Highway Traffic Act*, but not defined in this By-law, the definitions in the *Highway Traffic Act* shall apply to such words and phrases.

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3. EXPRESSION OF TIME

In this By-law, any expression of time shall be calculated as standard time except in periods when daylight saving time is declared to be in effect, where upon time shall be calculated as daylight saving time.

4. SCHEDULES and SEVERABILITY

1. Schedules

The schedules attached to this By-law, are included in and shall be considered part of this By-law.

2. Severability

If a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force and effect.

ENFORCEMENT

5. ENFORCEMENT

1. A Municipal Law Enforcement Officer or other person authorized to enforce the *Provincial Offences Act*, is hereby vested with the authority of administering and enforcing the provisions of this By-law.
2. A Municipal Law Enforcement Officer may, at any reasonable time, enter on land for the purpose of carrying out an inspection to determine compliance with this By-law.
3. Unless otherwise specified, it is the express intent of Council that any designation required under this By-law or any regulation, restriction or prohibition set out in this By-law shall be deemed to include instructions to the Director to install, place or erect all Authorized Signs or pavement markings required to designate and enforce the terms and regulations of this By-law.

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6. TOWING

1. Storage Area

Where any Vehicle is Parked in contravention of this By-law, a Municipal Law Enforcement Officer may cause it to be moved or taken to and placed or stored in a suitable location at the Vehicle owner's expense.

All costs and charges for the removal, care and storage thereof, if any, are a lien upon the Vehicle that may be enforced in accordance with the *Repair and Storage Liens Act*.

2. Re-locate Vehicle

Where any Vehicle is lawfully Parked pursuant to this By-law; however needs to be moved for emergency or maintenance purposes, a Municipal Law Enforcement Officer may cause it to be moved and re-located to a nearby location.

All costs and charges for the re-location thereof, if any, will be paid by the authorized requestor and not the owner of the Vehicle. The authorized requestor shall also make reasonable effort to inform the owner of the Vehicle of the Vehicle's relocation.

ACCESSIBLE PARKING REGULATIONS

7. ACCESSIBLE PARKING SPACES

1. Every owner or operator of a Public Parking Area shall provide Accessible Parking Spaces for the exclusive use of Motor Vehicles operated by or conveying a Person With A Disability upon which Motor Vehicles shall be properly displayed an Accessible Parking Permit as provided for in this By-law.

2. The minimum number of Accessible Parking Spaces, which must be provided, shall be calculated in accordance with the Corporation of the City of Burlington Zoning By-law, as amended from time to time.

| | | |
|-----|---|--|
| (a) | Capacity of <u>Public Parking Spaces</u> | Number of Accessible <u>Parking Spaces to be provided</u> |
| | 5 to 50 | 1 |
| | 51 to 90 | 2 |
| | Over 90 | 3% designated |

(a) Where outpatient services are provided, Accessible Parking Spaces shall be a minimum of 10% of required Parking Spaces.

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3. Subsection 2 does not apply to an owner or operator of a Public Parking Area where the public parking area is already in compliance with the requirements of the City's Zoning By-law, as amended, or is otherwise in compliance with the requirements of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

8. REQUIREMENTS FOR DESIGNATED ACCESSIBLE PARKING SPACES

Every owner or operator of a Public Parking Area shall ensure that the Accessible Parking Spaces as required shall be:

1. No less than 4.75 metres wide for a single off-street Parking Space;
2. No less than 7.7 metres wide for a double off-street Parking Space;
3. No less than 7.2 metres long for an on-street Parking Space;
4. Level on a hard surface;
5. Located so as to be readily accessible to a Person With A Disability, whether via ramps, depressed curbs or other means and where the Public Parking Area is intended to serve a particular building or complex, located within easy access of said building or complex;
6. Identified by an Authorized Sign located upright on a permanent post, pillar, wall or other suitable surface, conforming to the requirements or regulations made under the *Highway Traffic Act*.

9. RESPONSIBILITY OF MAINTAINING ACCESSIBLE PARKING SPACES

Every owner or operator of a Public Parking Area shall ensure that Accessible Parking Spaces as required, shall be:

1. Kept free and clear from obstructions;
2. Kept free and clear of snow, ice and slush;
3. Maintained to the same standards as all other Parking Spaces in the same Public Parking Area.

10. ACCESSIBLE PARKING SIGNS

1. Accessible Parking Signs referred to in this By-law shall comply with regulations made under the *Highway Traffic Act*.

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2. Accessible Parking Signs shall be mounted on a permanent post and be located:
 - (a) At a minimum height of one and a half (1.5) metres or 1,500 millimetres from grade to the centre line of the sign;
 - (b) At a maximum height of two and a half (2.5) metres or 2,500 millimetres from grade to the centre line of the sign;
 - (c) Midway between the lateral limits of the Accessible Parking Space, so as not to block Motor Vehicle or passenger access.
3. Every owner or operator of each Public Parking Area in which Accessible Parking Signs are located, pursuant to this By-law, shall be responsible for the procurement, installation and maintenance of said Accessible Parking Signs and for ensuring that said Accessible Parking Signs comply with regulations made under the *Highway Traffic Act* and with the provisions under this By-law.

11. PROHIBITIONS

1. No person shall Park, Stop or leave a Vehicle in an Accessible Parking Space unless a valid Accessible Parking Permit is properly displayed upon the Vehicle ensuring that the permit number and expiry date are clearly visible.
2. No owner or operator of a Public Parking Area shall fail to provide the required number of Accessible Parking Spaces pursuant to Section 7 of this By-law.
3. No owner or operator of a Public Parking Area shall fail to provide an Accessible Parking Space that does not meet the requirements under Section 8 of this By-law.
4. No owner or operator of a Public Parking Area shall fail to maintain an Accessible Parking Space pursuant to Section 9 of this By-law.
5. No owner or operator of a Public Parking Area shall fail to provide Accessible Parking Signs pursuant to the requirements under Section 10 of this By-law.

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PARKING EXEMPTIONS

12. EXEMPTIONS

1. Park Without Payment

The owner or operator of a Motor Vehicle may Park at a Parking Pay Station Space on a Highway or in a Municipal Parking Facility without having to pay the required standard Parking fees, for the maximum time allowed if:

- (a) the driver or one of the passengers of the Motor Vehicle is a Person With A Disability and displays a valid Accessible Parking Permit where the number and expiry date of that permit is clearly visible; or
- (d) it is a Statutory or Declared Holiday.

Notwithstanding section 12.1, the owner or operator of any Motor Vehicle who is exempt from the payment of the required fee shall comply with all other applicable regulations of this By-law.

2. Essential Service Exemption

The provisions of this By-law shall not apply to Authorized Emergency Vehicles and any Vehicles while actually engaged in works undertaken for or on behalf of the Corporation of the City of Burlington, the Regional Municipality of Halton, the Province of Ontario, the Federal Government of Canada or any Utility Vehicle providing service of gas, hydro or telecommunications.

PENALTIES

13. GENERAL

- 1. Short form wording and set fines pertaining to this By-law shall be as set out in Schedule "1" of this By-law.
- 2. Any person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine of not less than \$300.00, as provided for in the *Provincial Offences Act*, the *Municipal Act 2001*, and the *Fire Protection and Prevention Act*, as applicable, and any such successor to each of those statutes.
- 3. The owner of a Vehicle may be charged with and convicted of an offence under this By-law for which the driver of the Vehicle is subject to be charged unless, at the time of the offence, the Vehicle was in the possession of some person other than the owner without the owner's consent.

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14. COMMENCEMENT

This By-law shall come into force and take effect on the date of approval of the short form wording and set fine by the Regional Senior Justice.

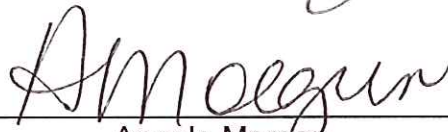
ENACTED AND PASSED THIS 20th day of May 2014.





Rick Goldring, Mayor

MAYOR



Angela Morgan

CITY CLERK

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SCHEDULE "1"
SECTION 11
SHORT FORM WORDING AND SET FINES

| NO | OFFENCE | BY-LAW 41-2014 SECTION | SET FINE |
|----|---|---------------------------|----------|
| 1 | Park or Stop in an Accessible Parking Space without a visible Accessible Parking Permit | Section 11.1 | \$400.00 |
| | | | |
| | | | |