

The Corporation of the City of Thorold

By-law No. 149-2019

Being a By-law to regulate and designate accessible parking in the City of Thorold

Whereas Section 9 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides that the City has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under the Act; and

Whereas Subsection 11(2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes the City to pass by-laws respecting health, safety and well-being of persons; and

Whereas Subsection 11(3) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes the City to pass by-laws respecting parking on property and highways; and

Whereas Section 102 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes the City to pass by-laws for requiring the owners and operators of parking lots or other parking facilities to which the public has access, whether on payment of a fee or otherwise, to provide accessible parking spaces for the sole use of vehicles displaying an accessible 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 (the "HTA"), and for prescribing the conditions of use of such permit and for prohibiting the improper use of the permit; and

Whereas Section 170(15) of the HTA, provides that a police officer, police cadet, municipal law enforcement officer or an officer appointed for the carrying out of the provisions of the HTA, upon discovery of any vehicle parked or standing in contravention of a municipal by-law, may cause it to be removed 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 lien upon the vehicle, which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, c. R25; and

Whereas Section 207(1) of the HTA, as amended, provides that the owner of a vehicle is subject to be charged with and convicted of an offence under the HTA or the regulations or any municipal by-law regulating traffic 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 and on the conviction the owner is liable to the penalty described for the offence; and

Whereas Section 425 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, authorizes the City to pass a by-law providing that a person who contravenes a by-law is guilty of an offence; 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; and

Whereas Section 429 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, authorizes the City to establish a system of fines or offences under a by-law passed under the Act; and

Whereas Council of the City ("Council) deems it necessary to provide for the designation of accessible parking for those with appropriate permits to capture the intent and spirit of the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c11.

Now therefore, the Council of The Corporation of the City of Thorold enacts as follows:

1 SHORT TITLE

(1) This By-law may be referred to as the “Accessible Parking By-law”.

2 DEFINITIONS

(1) In this by-law:

“Designated Parking Space” means a parking space designated under this by-law for the exclusive use of a Motor Vehicle displaying an accessible parking permit in accordance with the requirements of the HTA, as amended, the regulations made thereunder and this by-law;

“Emergency Vehicle” means fire vehicles and equipment, police vehicles and equipment and ambulances while either responding to an emergency call or being used to transport any Person in an emergency situation;

“Motor Vehicle” has the same meaning as in the HTA, as amended;

“Officer” means any Person appointed by Council to enforce this and other by-laws, a Police Officer or Officer appointed for carrying out the provisions of the HTA;

“Owner” means any Person who is a registered owner, has a legal or equitable interest, has a legal right to obtain possession, or who has control or management of a Public Parking Area;

“Park or Parking” has the same meaning as in the HTA, as amended;

“Permit” means:

- (a) current and valid accessible parking permits issued by the Ministry of Transportation under the provisions of the HTA, as amended;
- (b) current and valid accessible parking permit, license plate or other marker or device bearing the international symbol of access for the Person with a Disability that has been issued by a legally recognized jurisdiction outside of Ontario;

“Person” means and includes an individual, firm, corporation, association or partnership and includes an Occupant or an Owner of a Property;

“Person with a Disability” has the same meaning as in the regulations to the HTA, as amended;

“Police Officer” means any Person appointed or employed as a Police Officer of the Niagara Regional Police Service under authority of the Police Services Act R.S.O. 1990 Chapter P.15, as amended;

“Public Parking Area” means any open area, structure, or portion of a structure intended for the temporary parking of vehicles and on which there are Designated Parking Spaces, whether their use involves the payment of a fee or otherwise, but does not include parking areas on lands used for single family private residential purposes. Without limiting the generality of the foregoing, a Public Parking Area shall include parking areas that are subject to a registered site plan agreement with the City wherein accessible parking spaces are required to be provided.

“Unauthorized Vehicle” means a Motor Vehicle that is not displaying a permit in accordance with the provision of the HTA, as amended, and the regulations made thereunder or is displaying a Permit but is not being used to pick up or transport the

holder of the Permit or in the case of corporation to which a permit has been issued, is not being used to transport a Person with a Disability.

2 INTERPRETATION

- (1) Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders, and the past, present and future tense or other related forms of a defined term shall have the same meaning as the defined term.

3 ACCESSIBLE PARKING PERMIT SIGNS

- (1) Each and every Designated Parking Space shall be distinctly indicated by an accessible parking permit sign which is in a form and content as prescribed by the HTA, as amended, and the regulations made thereunder.

4 PARKING IN DESIGNATED PARKING SPACE

- (1) No Person shall Park, stop or leave an Unauthorized Vehicle in a Designated Parking Space without displaying a Permit in accordance with the HTA, as amended, and the regulations made thereunder.

5 PENALTY

- (1) Each Person who contravenes a provision of this by-law may be given a Penalty Notice in accordance with the City of Thorold's Administrative Penalty By-law and be liable to pay the City an administrative penalty in the amount specified by the Administrative Penalty By-law, for each day or part of a day on which the contravention continues.

6 ENFORCEMENT

- (1) Any Officer shall be responsible for the enforcement of this by-law.
- (2) Any Officer, upon discovery of any Motor Vehicle Parked or taken to and placed or stored in a licensed vehicle impound facility and all costs and charges for the removal, care and storage of the Motor Vehicle, if any, are a lien upon the Motor Vehicle which may be enforced in a manner provided by the Repair and Storage Liens Act, R.S.O. 1990, c.R25.
- (3) No Person other than an Officer shall move or cause a Motor Vehicle to be moved to another location.

7 EXEMPTIONS

- (1) The provisions of this by-law do not apply to the following vehicles when Parked or stopped on a Designated Parking Space:
 - (a) Emergency vehicles; and
 - (b) Motor Vehicles operated or staffed by the Fire Chief, or their designate, or an Officer while on duty and actively engaged in the enforcement of this by-law or any other by-law or law.

8 CONFLICT AND SEVERABILITY

- (1) If any portion of this by-law is found to be in conflict with any other provision of any other by-law of the City or regulations of Provincial or Federal legislations, the provision established the higher standard shall prevail.
- (2) Should any section, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the

by-law as a whole or any part thereof, other than the part which was declared to be invalid.

9 BY-LAWS TO BE REPEALED

(1) By-law 17-2003 and any amendments made thereto are hereby repealed.

10 ENACTMENT

(1) This by-law shall come into force and effect on the day after it is passed.

Read a first, second and third time and finally passed by Council this 17th day of December, 2019.

Terry Ugolini, Mayor

Donna Delvecchio, City Clerk