

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: March 19, 2013	
SUBJECT/REPORT NO: By-law to Regulate Parking on Boulevards and Front and Side Yard (PED13042) (City Wide)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: William Young (905) 546-2424 Ext. 2469
SIGNATURE:	

RECOMMENDATIONS

- (a) That the draft by-law to regulate parking on boulevards and front and side yards, prepared in a form satisfactory to the City Solicitor, attached as Appendix "A" to Report PED13042, be passed;
- (b) That staff be directed to apply to the Senior Regional Judge for approval of a set fine order in the amount of \$150 for the offence of parking on boulevards and front and side yards when the draft by-law has been passed.

EXECUTIVE SUMMARY

Staff regularly receive complaints regarding illegally parked vehicles on boulevards and front and side yards. Although some offences can be enforced under the Parking By-law, the majority are Zoning By-law offences and enforcement has proven to be inefficient and ineffective.

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The recommended draft by-law creates an offence pursuant to the Municipal Act, 2001 authority as set out in the recitals which would permit the issuance of parking infraction notices, left on the windshields of vehicles in violation. This would allow for more immediate enforcement than does the Zoning By-law.

Alternatives for Consideration – Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing/Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

All of the six former municipalities have some type of prohibition under zoning which restricts parking on boulevards and front and side yards.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Legal Services was consulted in the preparation of this Report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Staff regularly receive complaints about illegally parked vehicles on boulevards (in contravention of the Parking By-law No. 01-218) and front and side yards (in contravention of Zoning By-law(s)) or on a combination thereof.

Offences enforced under the Zoning By-law(s) require the attention of Property Standards and Zoning Officers, and are time consuming. Charges laid under the Zoning By-law involve the Courts and may take up to a year to resolve. Offences enforced under the Parking By-law require proof that the vehicle is, at least in part, on road allowance. It is often difficult to determine the boundary between a boulevard and a front or side yard.

Creating a new by-law to prohibit parking on boulevards and front and side yards would streamline the enforcement process. Once a set fine order is approved, tickets can be issued and left on windshields whenever a vehicle is parked on an unauthorized area.

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This can occur without determining the boundary between boulevards and front and side yards since all three are included in the definition of “unauthorized area”.

The City of London, Ontario has a similar by-law to what is being recommended in this Report. The London By-law has been in effect for over six years and according to their staff has been effective in dealing with these types of offences.

Staff surveyed 11 Ontario municipalities (Guelph, Windsor, Waterloo, Kitchener, Ottawa, Oshawa, Kingston, St. Catharines, Richmond Hill, Oakville and London), and found that the fines for parking on these areas range from \$25 to \$500 with the average fine being approximately \$150.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

APPENDICES / SCHEDULES

Appendix “A” to Report PED13042 – Draft By-law

WY/dt

Authority: Item (#), (Committee Name)
Report (Staff report #)
CM: Date

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

To Regulate Unauthorized Parking on Boulevards, Side Yards and Front Yards

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001* authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5 and 8 of subsection 10(2) authorize by-laws respecting: the economic, social and environmental well-being of the municipality; and the protection of persons and property;

AND WHEREAS section 128 of the *Municipal Act, 2001* authorizes the City of Hamilton to pass by-laws prohibiting and regulating with respect to public nuisances, including matters that, in the opinion of Council of the City of Hamilton are or could become public nuisances;

AND WHEREAS in the opinion of Council for the City of Hamilton, parking, standing or stopping a motor vehicle on a boulevard, front yard or side yard is or could become a public nuisance;

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

AND WHEREAS section 428 of the *Municipal Act, 2001* authorizes the City of Hamilton to pass a by-law providing that where a motor vehicle has been left parked, stopped or standing in contravention of a by-law, the owner of the motor vehicle is guilty of an offence, even though the owner was not the driver of the motor 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 motor vehicle was in the possession of another person without the owner's consent;

AND WHEREAS the *Municipal Act, 2001* further authorizes the City of Hamilton, amongst other things, to delegate its authority;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

Definitions

1. In this By-law:

"boulevard" means that portion of the road allowance which is not used as a sidewalk, driveway access, travelled roadway or shoulder;

"City" means the municipality of the City of Hamilton or the geographic area of the City of Hamilton as the context requires;

"Director" means the City's Director of Municipal Law Enforcement and his or her designate or successor;

"front lot line" means any lot line of the lot abutting a street;

"front yard" means a yard extending across the full width of a lot measured between the front lot line and the nearest part of a building on the lot;

"lot" means a parcel of land which can be legally conveyed pursuant to the provisions of the Planning Act;

"lot line" means the boundary of a lot;

"motor vehicle" means an automobile, motorcycle, motor-assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power;

"officer" means a person appointed by the City of Hamilton or assigned by the Director to enforce this By-law;

"rear lot line" means the lot line farthest and opposite to the front lot line;

"rear yard" means a yard extending across the full width of a lot measured between the rear lot line and the nearest part of a building on the lot;

"side lot line" means any lot line other than a front or rear lot line;

"side yard" means a yard extending from the front yard to the rear yard measured between the side lot line and the nearest part of a building on the lot;

"street" means a public highway or road allowance having a minimum width of 12.0 metres; and

"unauthorized area" means boulevard, front yard or side yard

Scope

- 2.(1) This By-law does not apply to the geographic area bordered by
Ottawa Street North to the East,
Main Street East to the South,
Sherman Avenue North to the West and
Barton Street East to the North,

as shown in the map attached as Appendix A,
from four hours before the start time until two hours after the finish time of an event at the geographic area bordered by
Balsam Avenue North to the East,
Cannon Street East to the South,
Melrose Avenue North to the West and
Beechwood Avenue to the North,
as shown on the map attached as Appendix B.

- (2) In subsection 2(1), an "event" means a sporting, musical or other entertainment event to which the public is invited, including but not limited to a Hamilton Tiger-Cats Football Club exhibition, regular season or playoff game.

Prohibition

3. No person shall park, stand or stop a motor vehicle on an authorized area except as authorized by statute, regulation, by-law or otherwise by the City.
4. No person shall permit the parking, standing or stopping of a motor vehicle on an unauthorized area except as permitted by statute, regulation, by-law or otherwise by the City.

Administration and Enforcement

5. The Director is authorized to administer and enforce this By-law.
6. The Director or an officer may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the Municipal Act, 2001 for the purpose of carrying out an inspection to determine whether or not this By-law is being complied with.
- 7.(1) Every person who fails to comply with any provision of this By-law, including:
 - (a) the owner of a motor vehicle parked, stood or stopped on any unauthorized area, even though the owner was not the driver of the motor vehicle at the time of the failure to comply, unless the motor vehicle was in the possession of another person without the owner's consent at the time of the failure to comply; or
 - (b) an officer or director of a corporation who knowingly concurs with a failure to comply by the corporation,

is guilty of an offence and is liable:

- (d) on a first conviction, to a maximum fine of not more than \$10,000; and
 - (e) on any subsequent conviction, to a maximum fine of not more than \$25,000.
- (2) Despite subsection 7(1), where the person convicted is a corporation:
- (a) the maximum fine in paragraph 7(1)(a) is \$50,000; and
 - (b) the maximum fine in paragraph 7(1)(b) is \$100,000.

General Provisions

- 8. This By-law may be referred to as the Unauthorized Parking By-law or the Hamilton Unauthorized Parking By-law.
- 9. If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the intention of City Council that the remainder of the By-law shall continue to be in force.
- 10. This By-Law shall come into force on the date of its passing.

PASSED this day of , 20 .

R. Bratina
Mayor

R. Caterini
City Clerk