

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 2916-90

BEING A BY-LAW TO PROHIBIT THE PARKING OR LEAVING OF MOTOR VEHICLES ON PRIVATE PROPERTY AND ON PROPERTY OWNED OR OCCUPIED BY THE TOWN OF WHITBY OR ANY LOCAL BOARD THEREOF WITHOUT PROPER AUTHORIZATION

WHEREAS, Subsection 210(125) of the Municipal Act, R.S.O. 1980, c. 302, provides that by-laws may be passed by the councils of local municipalities for prohibiting the parking or leaving of motor vehicles on private property without the consent of the owner or occupant of the property and on property owned or occupied by the municipality or any local board thereof without the consent of the municipality or local board, as the case may be;

AND WHEREAS, the Council of the Corporation of the Town of Whitby considers it appropriate to prohibit the parking or leaving of motor vehicles on private property without the consent of the owner or occupant of the property and on property owned or occupied by the Municipality or any local board thereof without the consent of the Municipality or local board, as the case may be;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

DEFINITIONS

- 1.(1) Except where provided in Subsection 1(2) of this by-law the definitions included in Subsection 1(1) of the Highway Traffic Act, R.S.O. 1980, c. 198, as amended, shall apply to this by-law.
- (2) In this by-law,
  - (a) "designated parking space" means a parking space identified by an official sign for the exclusive use of a vehicle displaying a disabled person parking permit in accordance with the requirements of the Highway Traffic Act and this by-law.
  - (b) "disabled person parking permit" means a disabled person parking permit issued under the Highway Traffic Act or a permit, number plate or other marker or device issued by another jurisdiction and recognized under the Highway Traffic Act;

- (c) "Highway Traffic Act" means the Highway Traffic Act, R.S.O. 1980, c. 198, as amended from time to time, any regulations passed in accordance with the Act and any successor legislation thereto;
- (d) "official sign" means a sign as defined in the Highway Traffic Act;
- (e) "person" includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;
- (f) "Provincial Offences Officer" means a police officer or a person designated as such under the Provincial Offences Act, R.S.O. 1980, c. 400, as may be amended from time to time;
- (g) "occupant" means,
  - (i) the tenant of the property or part thereof whose consent shall extend only to the control of the land of which he is tenant and any parking spaces allotted to him under his lease or tenancy agreement,
  - (ii) the spouse of a tenant,
  - (iii) a person or a municipality, or a local board thereof, having an interest in the property under an easement or right of way granted to or expropriated by the person, municipality or local board whose consent shall extend only to the part of the property that is subject to easement or right of way,
  - (iv) a person authorized in writing by an occupant as defined in Subclause (g)(i), (g)(ii) or (g)(iii) to act on the occupant's behalf for requesting the enforcement of this by-law;

- (h) "owner" when used in relation to property means,
  - (i) the registered owner of the property,
  - (ii) the registered owner of a condominium unit, whose consent shall extend only to the control of the unit of which he is owner and any parking spaces allotted to him by the condominium corporation or reserved for his exclusive use in the declaration or description of the property,
  - (iii) the spouse of a person described in Subclause (h)(i) or (h)(ii),
  - (iv) where the property is included in a description registered under the Condominium Act, the Board of Directors of the condominium corporation,
  - (v) a person authorized in writing by the property owner as defined in Subclause (h)(i), (h)(ii), (h)(iii) or (h)(iv) to act on the owner's behalf for requesting the enforcement of this by-law;
- (i) "private property" means property on which one or more signs have been erected by or on behalf of the owner or occupant prohibiting trespassing or parking or restricting parking as set out thereon; and,
- (j) "Town" means the Corporation of the Town of Whitby.

**PARKING ON PRIVATE PROPERTY AND ON PROPERTY OWNED OR OCCUPIED BY THE TOWN OR ANY LOCAL BOARD THEREOF**

- 2.(1) No person shall park or leave a motor vehicle on private property without the consent of the owner or occupant of the property.
- (2) No person shall park or leave a motor vehicle on property owned or occupied by the Town or any local board thereof without the consent of the Town or local board, as the case may be.

- (3) It shall constitute an offence for any person to park, stand or stop a vehicle in a designated parking space unless a currently valid disabled person parking permit has been issued to that person and such permit is displayed on or in the vehicle in accordance with the requirements of the Highway Traffic Act and this by-law.

EXCEPTIONS

- 3.(1) The provisions of this by-law shall not, if compliance therewith is impracticable, apply to ambulances, police, fire or public utility emergency vehicles or motor vehicles actually engaged in works undertaken for or on behalf of the Town.
- (2) The provisions of this by-law shall not apply to lands which have been established as a municipal parking lot.

PENALTIES

- 4.(1) Despite any other provision of this by-law, the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded except upon the written complaint of the owner or occupant of the property given to the Chief of Police or a Provincial Offences Officer.
- 4.(2) The driver of a motor vehicle, not being the owner, shall be liable to any penalty provided for under this by-law and the owner of a motor vehicle shall also be liable to such a penalty unless 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.
- 4.(3) Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction, where a penalty for this offence is not otherwise provided, is liable to a fine of not less than \$5.00 and not more than \$200.00, excluding costs, recoverable under the Provincial Offences Act.

- 4.(4) A Provincial Offences Officer, upon receipt of the written complaint of the owner or occupant of private property in respect of any motor vehicle parked in contravention of Section 2 of this by-law, may cause the 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 upon the motor vehicle, which may be enforced in the manner provided by Section 52 of the Mechanics' Lien Act.

SHORT TITLE

5. This by-law may be referred to as the "Private Parking By-law".

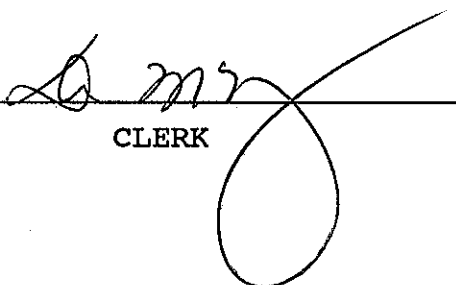
REPEAL OF EXISTING BY-LAWS

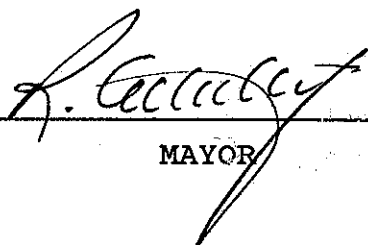
6. By-law Nos. 1915-85, 2402-88 and 2486-88 are repealed.

EFFECTIVE DATE

7. The provisions of this by-law shall come into force and take effect upon the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF NOVEMBER, A.D., 1990.

  
CLERK

  
MAYOR

cc: Don McKay/  
Noel Best

HIS HONOUR J. D. D. EVANS  
REGIONAL SENIOR JUDGE  
CENTRAL EAST REGION  
ONTARIO COURT OF JUSTICE  
PROVINCIAL DIVISION



L'HONORABLE J. D. D. EVANS  
JUGE PRINCIPAL RÉGIONAL  
RÉGION DU CENTRE-EST  
COUR DE JUSTICE DE L'ONTARIO  
DIVISION PROVINCIALE

COURT HOUSE  
P.O. BOX 4000  
440 KENT STREET WEST  
LINDSAY, ONTARIO K9V 5P2

October 29, 1991

Mr. Wm. D. Grylls, C.E.T.  
Superintendent of Transit and Traffic  
Municipal Building  
575 Rossland Road East  
Whitby, Ontario  
L1N 2M8

PUBLIC WORKS	
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CLERK'S DEPARTMENT  
TOWN OF WHITBY

Dear Mr. Grylls,

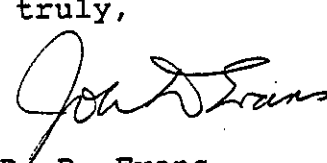
Re: Set Fines - Town of Whitby - Part II

Enclosed herewith is a copy of an Order and a copy of the schedules of set fines for By-law No. 2916-90, as amended, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded a copy of the Order and the schedules of the set fines to the Ontario Court (Provincial Division) in Oshawa, together with a certified copy of the By-law.

Yours truly,

  
John D. D. Evans  
Regional Senior Judge  
Central East Region

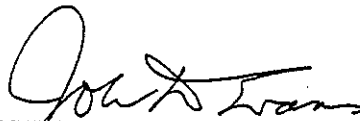
Enclosures

PROVINCIAL OFFENCES ACT

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court (Provincial Division), that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2916-90, of the Corporation of the Town of Whitby, attached hereto, is the set fine, for those offences to take effect October 29, 1991, and that the Order dated January 18, 1989 insofar as it refers to By-law No. 1915-85, as amended, is hereby rescinded upon the coming into effect of By-law No. 2916-90.

DATED at Lindsay

this 29th day of October, 1991.



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John D. D. Evans  
Regional Senior Judge  
Central East Region  
Ontario Court (Provincial Division)

<u>ITEM</u>	<u>COLUMN 1</u>	<u>COLUMN 2</u>	<u>COLUMN 3</u>	<u>COLUMN 4</u>
Description of Offence	Provision Creating or Defining Offence	Voluntary Payment Payable Within 7 Days	Set Fine	
1) (Park/Leave) vehicle in a handicapped parking space	2(3)	\$100.00	\$150.00	

NOTE: The penalty provisions for the offences listed above is Section 4 of By-Law 2916-90, a certified copy of which has been filed.

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 5610-05

BEING A BY-LAW TO AMEND BY-LAW NO. 2916-90 REGULATING PARKING ON PRIVATE LAND AND MUNICIPAL PROPERTY

WHEREAS, Subsection 11(2) of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a lower-tier municipality may pass by-laws respecting parking;

AND WHEREAS, Section 100 of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a local municipality may regulate or prohibit the parking or leaving of motor vehicles on land not owned or occupied by the municipality;

AND WHEREAS, the Council of the Corporation of the Town of Whitby has passed By-law No. 2916-90 to prohibit the parking or leaving of motor vehicles on private property and on property owned or occupied by the Town of Whitby or any local board thereof without prior authorization;

AND WHEREAS, the Council of the said Corporation considers it desirable to amend the penalty provisions of By-law No. 2916-90;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

GENERAL

1. Subsection 4(3) of Private Parking By-law No. 2916-90 is revoked in its entirety and the following substituted therefore:
  - 4(3) Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction, where a penalty for this offence is not otherwise provided, is liable to a fine of not less than \$5.00 and not more than \$300.00, excluding costs, recoverable under the Provincial Offences Act.

REPEAL OF EXISTING BY-LAWS

2. By-law No. 5185-03 is repealed.

EFFECTIVE DATE

3. The provisions of this by-law shall come into force and take effect on the day of the final passing thereof.

By-law No. 5610-05 (Continued)

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 25TH DAY  
OF APRIL, A.D., 2005.



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Donald G. McKay, Clerk



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Marcel L. Brunelle, Mayor

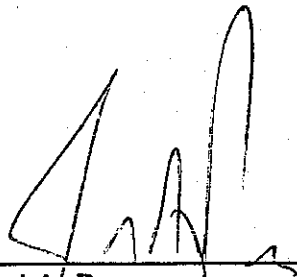
PROVINCIAL OFFENCES ACT

PART II

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and the By-law No. 1862-85, 2916-90, 4910-01, as amended by the Corporation of The Town of Whitby, Durham Region, attached hereto is the set fine for those offences. This Order is to take effect June 29, 2005.

DATED at Newmarket

This 29 day of June, 2005.



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Justice J. A. Payne  
Regional Senior Justice  
Central East Region  
Ontario Court of Justice



THE CORPORATION OF  
THE TOWN OF WHITBY

PART II PROVINCIAL OFFENCES ACT  
PRIVATE PROPERTY PARKING  
BY-LAW #2916-90 As Amended

Item	Short Form Wording	Provision Creating or Defining Offence	Voluntary Payment Payable Within 7 Days	Set Fine
1.	Park/stop/stand vehicle in a disabled person parking space without permit	2 (3)	N/A	\$300.00

**NOTE:** The general penalty provision for the offence listed above is section 61 of the Provincial Offences Act, R.S.O. 1990, c.P.33