

BY-LAW NUMBER

2010-190

OF THE

CORPORATION OF THE CITY OF KITCHENER

(A by-law to regulate the parking or leaving of motor vehicles on property without the consent of the owner)

WHEREAS sections 100 and 100.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorize municipalities to regulate or prohibit parking or leaving of motor vehicles without the owner's consent on land not owned or occupied by the municipality;

AND WHEREAS section 11 of the *Municipal Act, 2001*, S.O. c. 25, as amended, authorizes municipalities to regulate parking on highways as well as parking, except on highways;

AND WHEREAS sections 170(15) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, and section 101(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes the removal and storage of any motor vehicle left in contravention of a municipal by-law;

AND WHEREAS the Council of The Corporation of the City of Kitchener wishes to enact a by-law to regulate the parking or leaving of motor vehicles on property without the consent of the property owner;

NOW THEREFORE The Council of The Corporation of the City of Kitchener enacts as follows:

1. "Boulevard" means that portion of the highway situated between the roadway and the front or side lot lines of a property and excludes a sidewalk, driveway access, or shoulder.

"City" means The Corporation of the City of Kitchener.

"Front lot line" means the lot line that divides a property from the highway provided that, in the case of a corner property, the shorter lot line that abuts the highway is deemed to be the front lot line.

"Front Yard" means all land within a property extending across the full width of a property between the front lot line and the nearest main wall of the main building on the property, but does not include a legal driveway and/or a legal parking area.

"Officer" means a police officer, special constable, By-law Enforcement Officer, Municipal Law Enforcement Officer and, in respect to specified properties, a specially appointed Officer whose name appears in Schedule "A" to this by-law.

"Owner" means the registered owner of the property in the case of private property and the City in the case of a boulevard.

"Parking lot" means an area or structure or a portion of an area of structure intended for the parking of motor vehicles off the street or highway by the public in exchange for remuneration.

"Rear Yard" means all lands within a property extending across the full width of the property between the rear lot line and the nearest wall of the main building or, in the case of a triangular property, between the apex of the triangle formed by the intersection of the side lot lines and the nearest wall of the main building.

"Rear lot line" means the lot line opposite the front lot line.

"Shoulder" means that portion of the highway lying adjacent to the roadway which is improved with granular or paved surface and is not intended for the passage of motor vehicles.

"Side Yard" means all land within a property extending from the front yard to the rear yard between the side lot line and the nearest main wall of the main building, excluding any chimney breast but does not include a legal driveway and/or a legal parking area.

"Side lot line" means any lot line other than the front or rear lot lines.

"Unauthorized area" means:

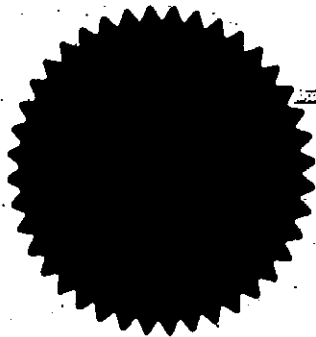
- a) a front yard or side yard except where parking in such area is permitted under the City's Zoning By-law 85-1, as amended; and
- b) a boulevard except where parking, standing or stopping is permitted by the City.

2. The definitions contained within the *Highway Traffic Act*, R.S.O. 1990 c. H.8 shall apply in the interpretation of this by-law except where inconsistent or defined herein, in which case the definition under this by-law shall apply.
3. No person shall park or leave a motor vehicle on private property without authority from the owner or occupant of such property.
4. No person shall park or leave a motor vehicle on property of the City or any local board thereof where parking by the public is not authorized.

5. No person shall park a motor vehicle within an unauthorized area.
6. Where land not owned or occupied by the City is used as a parking lot, the driver or owner of a motor vehicle parked or left on that parking lot is not liable to a penalty or to have the motor vehicle removed from such property or impounded for a contravention of section 3 of this by-law unless a sign is erected at each entrance to the land clearly indicating the regulation or prohibition.
7. Where any portion of a motor vehicle is parked in contravention of this by-law the entire motor vehicle shall be deemed to be parked in contravention of this by-law.
8. The parking provisions of this by-law may be enforced by an Officer.
9.
 - a) Every person who contravenes any provision of this by-law is guilty of an offence and is liable, upon conviction, to a fine not exceeding Five Thousand Dollars (\$5,000.00), inclusive of costs, for each offence, recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
 - b) Where a motor vehicle has been parked in contravention of this by-law, the owner of the motor vehicle, even though the owner was not the driver of the motor vehicle at the time of the contravention of the by-law, is guilty of an offence and is liable to the fine prescribed for the offence unless, at the time of the offence, the motor vehicle was in the possession of some person other than the owner without the owner's consent.
10.
 - a) In addition to any other penalties provided for in this by-law, an Officer other than a specially appointed Officer may, where a motor vehicle is parked in contravention of this by-law, cause that motor vehicle to be removed, taken away and stored in a suitable place.
 - b) All costs and charges incurred for removing, caring for and storing a motor vehicle pursuant to subsection a) of this section, shall be a lien upon the motor vehicle, which lien may be enforced in the manner provided for in the *Repair and Storage Liens Act*, R.S.O. 1990, c. R.25, as amended.
11. An Officer engaged in enforcing the provisions of this or other municipal by-laws, or laws is exempt from such provisions of this by-law as reasonably necessary for the performance of such enforcement.
12. An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this by-law is being complied with.
13. Should any section 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 in part thereof, other than the part which was declared to be invalid.

- 14. Nothing in this by-law shall be construed to allow parking on private property in contravention of the City's Zoning By-law 85-1, as amended, even where the owner's consent is obtained.
- 15. This by-law may also be referred to as the City of Kitchener Private Property By-law.
- 16. Any reference to By-law 88-170 on a sign is hereby deemed to be a reference to this by-law.
- 17. By-law Number 88-170 of The Corporation of the City of Kitchener, and all by-laws amending the same, are hereby repealed as of the effective date set out in section 18 of this by-law.
- 18. This by-law will come into force and take effect on January 18, 2011.

PASSED at the Council Chambers in the City of Kitchener this 15th day of November, 2010.



Christine M. Skypie
Acting Mayor

[Signature]
Clerk

Set Fine Schedule

CITY OF KITCHENER

PART 2 Provincial Offences Act

By-law 2010-190 of The Corporation of the City of Kitchener, for Parking on Private Property

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fines
1	Parked on Private Property	Section 3	\$25.00
2	Parked on Private Property-Municipal	Section 4	\$25.00
3	Parked in an Unauthorized Area	Section 5	\$80.00

Note: The penalty provision for the offences indicated above is section 9(a) of By-law 2010-190, of The Corporation of the City of Kitchener, a certified copy of which has been filed.

