



BY-LAW NO. 2018-36

BEING A BY-LAW TO REGULATE ACCESSIBLE PARKING IN THE TOWNSHIP OF NAIRN AND HYMAN

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 Township of Nairn and Hyman 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 and with stylized image of a person using a wheelchair) and the words “By Permit Only”;

“Accessible Parking Space” means a parking space in a parking lot or facility, which space has been designated in accordance with this By-law for the exclusive use of a vehicle which displays a disabled person parking permit in accordance with the requirements of the *Highway Traffic Act*;

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

“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 Township of Nairn and Hyman’s property by the Corporation of the Township of Nairn and Hyman or by another party acting under the direction or authority of the Corporation of the Township of Nairn and Hyman, to designate, regulate and/or enforce the provisions of this By-law and the Township’s parking by-law, as amended;

“By-law” means this by-law to regulate accessible parking in the Township of Nairn and Hyman;

“Council” means the Council of the Corporation of the Township of Nairn and Hyman;

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

“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;

“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 70 kilometers per hour, 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*;

“Municipal By-law Enforcement Officer” means any person authorized by the Corporation of the Township of Nairn and Hyman to enforce parking by-laws and shall include parking enforcement officers, provincial offences officers and Ontario Provincial Police officers;

“Municipal Parking Facility” means lands, lots or structures that have been set apart or established by the Corporation of the Township of Nairn and Hyman for the parking of motor vehicles;

“Municipal Property” means real property owned by the Corporation of the Township of Nairn and Hyman;

“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 Space” means a portion of a highway, municipal property, municipal parking facility or private property that is designated for the parking of a vehicle;

“Person With A Disability” means any person who has been deemed to be disabled by a medical authority and who possesses a valid accessible parking permit;

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

“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;

“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**” means 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.

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 By-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 By-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 Municipal Superintendent to install, place or erect all authorized signs or pavement markings required to designate and enforce the terms and regulations of this By-law.

6. TOWING

1. Storage Area

Where any vehicle is parked in contravention of this By-law, a Municipal By-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 By-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 REGULATION

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 as follows:

(a) Capacity of Public Parking Spaces	Number of Accessible Parking Spaces to be provided
5 to 50	1
51 to 90	2
Over 90	3% designated

- (b) Where outpatient services are provided, accessible parking spaces shall be a minimum of 10% of required parking spaces.

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 or compacted gravel 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*.
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.

**The Corporation of the Township of Nairn and Hyman
By-law 2018-36**

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.

PARKING EXEMPTIONS

12. EXEMPTIONS

1. 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 Township of Nairn and Hyman, 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 set out in Schedule "A" 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.

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 Ontario Court of Justice.

Read a first and second time this 9th day of October, 2018.

Read a third time and passed in open Council this 9th day of October, 2018.

(Original Signature on File)

Mayor

(Original Signature on File)

Clerk

**The Corporation of the Township of Nairn and Hyman
Schedule "A"
Part 1 Provincial Offences Act**

**By-law 2018-36, Being a by-law to regulate accessible parking in the Township of
Nairn and Hyman**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Park or stop in an accessible parking space without a visible accessible parking permit	Section 11.1	\$400.00

Note: The general penalty provision for the offence listed above is section 13.2 of by-law 2018-36, a certified copy of which has been filed.