

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 6489-11

BEING A BY-LAW TO RESTRICT THE IDLING OF VEHICLES WITHIN THE TOWN OF WHITBY

WHEREAS subsection 11 (2) of the Municipal Act, 2001 authorizes a municipal council to pass a by-law respecting the health, safety and well-being of persons, and the economic, social and environmental well-being of the municipality; and

AND WHEREAS section 128 of the *Municipal Act 2001* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances, and the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court; and

AND WHEREAS the Town of Whitby is supportive of initiatives designed or intended to reduce harmful emissions from entering the environment; and

AND WHEREAS the Council of the Town of Whitby considers the unnecessary idling of vehicles a matter that is potentially harmful to the environment and therefore a nuisance; and

AND WHEREAS section 428 of the Municipal Act, 2001 provides that a by-law may provide that, where a vehicle has been left parked, stopped or standing in contravention of a by-law passed under this Act, the owner of the vehicle is guilty of an offence, even though the owner was not the driver of the vehicle at the time of the contravention of the by-law;

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

PART I - INTERPRETATION

Definitions

1. In this by-law;

"Drive-through" means that portion of a commercial property that is designated as a drive-through on an approved site plan, and posted with appropriate signage as a drive-through;

"Electric Vehicle" means a vehicle that uses an electric motor or engine as a source of power, including but not limited to a hybrid or electric

automobile, motorcycle, motorized snow vehicle and a boat, provided that the operation of the vehicle's motor or engine does not emit harmful substances into the surrounding environment;

"Highway" means a common and public highway (whether assumed or unassumed) and includes any bridge, trestle, viaduct or other structure forming part of the highway which is under the jurisdiction of the Town and includes the boulevard and other untraveled portions;

"Idle" means the stopping of a Vehicle while the engine is running, and "Idling" has a corresponding meaning;

"Layover" means stopping at a point along a transit route to allow a Transit Vehicle to adjust to service schedules;

"Mobile Workshop Vehicle" means a Vehicle that requires the engine to be running in order to operate specific equipment on the Vehicle intrinsic to its basic function including garbage removal vehicles, snow removal vehicles and construction vehicles equipped with ancillary equipment;

"Officer" means a Municipal Law Enforcement Officer appointed by the Council of the Town to enforce the By-laws of the Town or any Police Officer;

"Person" means an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives of the Person to whom the context can apply according to law;

"Stopover" means a scheduled delay at a Transit Vehicle terminal to allow Transit Vehicles to adjust service schedules;

"Town" means the Corporation of the Town of Whitby;

"Traffic Control Sign" means a sign prescribed by the *Highway Traffic Act*, including a stop sign and a yield sign, and signs used during construction on highways;

"Traffic Control Signal" means no less than three coloured lenses of red, amber and green, mounted on a frame and commonly referred to as a signal head, but does not include highway crossings protective devices under the *Canada Transport Act* commonly referred to as railway crossing signal devices;

"Transit Vehicle" means Durham Region Transit Vehicles, para-transit Vehicles, tour buses and motor coaches;

“Unoccupied Vehicle” means a Vehicle containing no driver or passengers and no domestic animals;

“Vehicle” means a vehicle that uses a motor or engine as a source of power, including but not limited to an automobile, motorcycle, motorized snow vehicle and a boat, but not including an airplane.

References to Legislation

2. In this by-law, reference to any Act, regulation or by-law is reference to that Act, regulation or by-law as it is amended or re-enacted from time to time.
3. Wherever this by-law refers to a person or thing with reference to gender or the gender is neutral, the intention is to read the by-law with the gender applicable in the circumstances.

Specific Interpretation Rules

4. References to items in the plural include the singular, as applicable.
5. The words “include”, “includes” or “including” are not to be read as limiting the phrases or descriptions that precede it.

Severability

6. If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law will be considered to be severed from the balance of the by-law, which will continue to operate in full force and effect.

Conflicts

7. If a provision of this by-law conflicts with a provision of any applicable Act, regulation or by-law, the provision that establishes the higher or more restrictive standard to protect the health, safety and welfare of the general public shall prevail.

Application

8. This by-law applies to all municipal property and private property within the Town. This by-law also applies to all highways (as defined in the *Highway Traffic Act*) under the jurisdiction of the Town of Whitby and the Region of Durham.

PART II – RESTRICTIONS

Idling of Vehicles

9. No Person shall cause or permit the Idling of a Vehicle for more than five (5) minutes in any sixty (60) minute period.
10. No Person shall cause or permit the Idling of an Unoccupied Vehicle for more than five (5) minutes in any sixty (60) minute period.

Exemptions

11. Section 9 does not apply to:
 - (a) Vehicles when the outside temperature is more than twenty-seven degrees Celsius (27°C) or less than five degrees Celsius (5°C);
 - (b) Vehicles when halting temporarily for the purpose of and while actually engaged in receiving or discharging passengers;
 - (c) Vehicles when halting temporarily in compliance with the directions of a Police Officer;
 - (d) Vehicles when halting temporarily to obey a Traffic Control Sign or a Traffic Control Signal;
 - (e) Vehicles transporting a person where a medical doctor certifies in writing that for medical reasons, the person requires the temperature or humidity is maintained within a certain range;
 - (f) Police, fire, or ambulance Vehicles while engaged in operational activities, including training activities (except where idling is substantially for the convenience of the operator of the Vehicle);
 - (g) Vehicles assisting in an emergency activity;
 - (h) Vehicles that remain motionless because of an emergency, traffic or weather conditions or mechanical difficulties over which the driver has no control;
 - (i) Mobile Workshop Vehicles while actually engaged in their basic function;
 - (j) Armoured Vehicles where a person remains inside the Vehicle while guarding the contents of the Vehicle or while the Vehicle is being loaded or unloaded;

- (k) Transit Vehicles while at a Layover or Stopover location;
- (l) Vehicles where idling is required as part of a repair process or to prepare a Vehicle for servicing;
- (m) Vehicles engaged in a parade or race or any other such event authorized by Council;
- (n) Vehicles when operated on the travelled portion of a Drive-through lane;
- (o) Necessary municipal operations completed by or on behalf of the Town;
- (p) Electric vehicles.

12. Section 10 does not apply to;

- (a) Police, fire, or ambulance Vehicles while engaged in operational activities, including training activities
- (b) Vehicles assisting in an emergency activity;
- (c) Mobile Workshop Vehicles while actually engaged in their basic function;
- (d) Transit Vehicles while at a Layover or Stopover location;
- (e) Vehicles where idling is required as part of a repair process or to prepare a Vehicle for servicing;
- (f) Vehicles engaged in a parade or race or any other such event authorized by Council;
- (g) Necessary municipal operations completed by or on behalf of the Town;
- (h) Electric Vehicles.

PART III – ENFORCEMENT

13. For the purposes of determining the outside temperature, an Officer may rely on the following information sources;
- (a) Environment Canada Weather Office;
 - (b) The Weather Network;
 - (c) A thermometer.

PART IV – PENALTY

14. Every Person who contravenes or fails to comply with any of the provisions of this By-law is guilty of an offence and under Section 61 of the *Provincial Offences Act*, and is liable to a penalty or penalties prescribed by the *Provincial Offences Act*, R.S.O 1990, c. P.33.
15. Where a Vehicle has been operated in contravention of this by-law, the owner of the Vehicle is guilty of an offence, even though the owner was not the driver of the Vehicle at the time of the contravention of the by-law, and is liable to the fine for the offence unless, at the time of the offence, the Vehicle was in the possession of another person without the owner's consent.

PART V - GENERAL

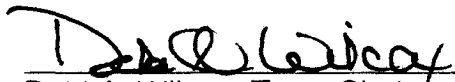
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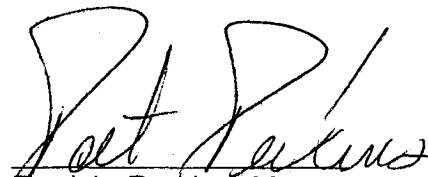
16. This By-law may be referenced as the "Anti-Idling By-law".

Effective Date

17. This By-law shall come into force on the date it is passed.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
THIS 30th DAY OF MAY, 2011.


Debi A. Wilcox, Town Clerk


Patricia Perkins, Mayor