



# Town of Whitby By-law # 6887-14

## Towing By-law

Being a By-law to regulate the towing of vehicles from private property within the Town of Whitby.

Whereas pursuant to Subsection 11(2) of the Municipal Act, 2001, S.O. 2001 a municipality may pass by-laws respecting the protection of persons and property, including consumer protection; and

Whereas pursuant to Section 100 of the Municipal Act, 2001, S.O. 2001 a local municipality may, in respect of land not owned or occupied by the municipality that is used as a parking lot, regulate or prohibit the parking or leaving of motor vehicles on the land without the consent of the owner of the land; and

Whereas Subsection 101(1) of the Municipal Act, 2001, S.O. 2001 states that if a municipality passes a by-law regulating or prohibiting the parking or leaving of a motor vehicle on land, it may provide for the removal and impounding or restraining and immobilizing of any vehicle.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

### 1. Definitions

In this by-law,

- 1.1. "firefighter" means a firefighter as defined in the Fire Protection and Prevention Act;
- 1.2. "impound" means to restrain or in any way immobilize a motor vehicle and impounded and impounding have corresponding meanings;
- 1.3. "laneway" means improved land adjacent to a highway which provides access from the highway to adjacent property;
- 1.4. "light vehicle" means a vehicle weighing less than 2,500 kilograms or having four or less wheels;
- 1.5. "heavy vehicle" means vehicle weighing 2,500 kilograms and heavier or having more than four wheels;
- 1.6. "municipal law enforcement officer" means a person who has been appointed as a municipal law enforcement officer who is authorized to conduct parking enforcement on private property;
- 1.7. "officer" means a municipal law enforcement officer employed by the Town of Whitby who is appointed to enforce the by-laws of the municipality or a police officer;

- 1.8. "owner" means the person identified in the most recent tax roll as the owner of any private property;
- 1.9. "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
- 1.10. "private property" means buildings, lands and premises within the Town that are not owned or occupied by the Town, the Provincial Crown or the Federal Crown;
- 1.11. "tow" means to pull, tow, carry or lift a motor vehicle and towed and towing have corresponding meanings;
- 1.12. "tow truck" means any motor vehicle that is designed, modified or used for the pulling, towing, carrying or lifting of other motor vehicles with or without the assistance or use of lifts, winches, dollies, trailers or any like equipment;
- 1.13. "Town" means The Corporation of the Town of Whitby or the geographic limits of the Town of Whitby as the context requires.

## **2. Interpretation**

- 2.1. When reading and interpreting this by-law,
  - (1) unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections, clauses and schedules in this by-law;
  - (2) references in this by-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted;
  - (3) references in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable; and
  - (4) the words "include", "includes" or "including" are not to be read or interpreted as limiting the words, phrases or descriptions that precede them.
- 2.2. If a court of competent jurisdiction declares any section, or any part of any section of this by-law to be invalid, or to be of no force or effect, it is the intention of the Town that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.

This by-law and the provisions contained within are intended to be complimentary to Provincial statutes and other by-laws passed by the Town, in the event that any other applicable law requires a higher standard regarding the towing or impounding of vehicles than this by-law requires, the higher standard shall apply.

### **3. General**

#### **Tow Trucks on Highways**

- 3.1. No person shall solicit, make or convey an offer of services of a tow truck on any highway while that person is within 200 metres of,
- (1) the scene of an accident or apparent accident; or
  - (2) a vehicle involved in an accident.
- 3.2 No person shall park, stop or stand a tow truck on any highway within 200 metres of,
- (1) the scene of an accident or apparent accident; or
  - (2) a vehicle involved in an accident.
- 3.3 Sections 3.1 and 3.2 of this by-law do not apply to a person who is at the scene of an accident at the request or direction of an officer, firefighter or a person involved in the accident.
- 3.4 Any person operating a tow truck or other motor vehicle parked, stopped or standing within 200 metres of the scene of an accident or apparent accident or a vehicle involved in an accident shall, immediately on the direction of any officer or firefighter, move their tow truck or motor vehicle to a location more than 200 metres from the scene of an accident or apparent accident or to any other location as directed by an officer or firefighter.

#### **Private Property Towing**

- 3.5 Towing or impounding of vehicles from private property without the consent of the registered owner or agent of the vehicle may only be undertaken if vehicles are towed to a location within the Town of Whitby.
- 3.6 No person shall tow or impound or authorize the towing or impounding of a vehicle from private property unless the tow or impound is caused or authorized by a municipal law enforcement officer and is conducted in accordance with Section 3.5 and Section 3.7 of this by-law, unless the tow or impound is requested and authorized by the registered owner or agent of the vehicle.
- 3.7 No municipal law enforcement officer shall cause or authorize the removal, towing or impounding of a vehicle from private property unless,
- (1) the vehicle is parked, stopped, standing or left as the case may be, in contravention of a Town by-law;
  - (2) the boundaries of the property are clearly defined;
  - (3) signs have been posted at all public entrances to the private property indicating the policies in effect and enforced on the private property;

- (4) a sign is posted in a conspicuous location on the private property indicating the name and telephone number of the towing contractor used in relation to a vehicle tow or impound from the property;
  - (5) a parking infraction notice is issued and served at the time of the alleged parking infraction in accordance with Part II of the Provincial Offences Act;
  - (6) a minimum period of 12 (twelve) hours has elapsed from the time the parking infraction notice referenced in Subsection 3.7(5) of this by-law was issued and the time of the removal, towing or impounding of the vehicle, with the exception of vehicles located in signed fire routes, designated accessible parking spaces or vehicles blocking a laneway or loading docks; and
  - (7) the Durham Regional Police Service is notified of an impending tow or impound of a vehicle prior to the tow or impound occurring.
- 3.8 No person shall request or require payment of an administrative fee or any other fee by the owner or driver of a vehicle parked, stopped or standing on private property.
  - 3.9 No person shall request or require payment of any fee exceeding an amount of \$120.00 (one hundred twenty) dollars, plus HST, for any charge in relation to the towing or impounding of a light vehicle from private property without the consent of the registered owner or agent of the vehicle.
  - 3.10 No person shall request or require payment of any fee exceeding an amount of \$250.00 (two hundred fifty) dollars, plus HST, for any charge in relation to the towing or impounding of a heavy vehicle from private property without the consent of the registered owner or agent of the vehicle.
  - 3.11 Any person who conducts a tow or impound in accordance with this by-law shall, upon demand from the owner or operator of a vehicle that has been towed or impounded, immediately provide a receipt detailing all charges and fees associated with the tow or impound.
  - 3.12 Any person who has their vehicle towed or impounded in accordance with this by-law shall be required to pay the charge in relation to the tow or impound, up to the maximum charges indicated in Section 3.9 or Section 3.10 of this by-law, as the context requires.
  - 3.13 The provisions of this by-law do not apply to any person who causes or authorizes the towing of a vehicle from a laneway on private residential property provided that the person causing or authorizing the tow does not demand any payment or any other fee for the owner or driver of the vehicle.
  - 3.14 The provisions of this by-law do not apply to any person demanding or obtaining parking fees from customers for the consensual purchase of a permit for parking on private property, where the parking rates are posted in clear view of all drivers upon entering the private property and the property is in compliance with all other municipal by-laws.

#### 4. Enforcement and Penalties

- 4.1. The provisions of this by-law may be administered and enforced by an officer.
- 4.2. An officer may, at any reasonable time, enter upon any property for the purpose of determining whether or not the provisions of this by-law have been complied with.
- 4.3. No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an officer, including refusing to identify themselves when requested to do so by an officer.
- 4.4. Every person who contravenes or fails to comply with any of the provisions of this by-law is guilty of an offence, and pursuant to Section 429 of the Municipal Act, 2001, is liable to a maximum penalty of \$10,000 (ten thousand dollars).

#### 5. Short Title

- 5.1. This by-law may be referred to as the Towing By-law.

#### 6. Effective Date

- 6.1. This by-law shall come into full force and effect on the day it is passed.

By-law read and passed this 30th day of June, 2014.



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Patricia Perkins, Mayor



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Debi A. Wilcox, Town Clerk