



REPORT

Council

Meeting Date: February 24, 2025

FROM: Municipal Enforcement Services Department

DATE: February 11, 2025

SUBJECT: **By-law 2025-042 amending By-2024-187, Towing Without the Vehicle Owner’s Consent – Response to Staff Direction**

LOCATION: Town-wide

WARD: Town-wide

Page 1

RECOMMENDATION:

1. That the penalty for “Park on Private Property Without Authorization” under section 2 of By-law 1981-65 be increased to \$65.
2. That the penalty for “Park on Private Property Without Authorization” under section 2 of By-law 1981-65 be immediately updated in the 2025 Rates and Fees Schedule to \$65.
3. That the amending By-law 2025-042 to the Towing Without The Vehicle Owner’s Consent By-law 2024 – 187 attached as Appendix A be passed to better clarify By-law 2024 – 187.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Council approved Towing Without the Vehicle Owner’s Consent By-law 2024-187 on December 16, 2024, with a referral back to staff to investigate and comment on the viability of including designating special paid parking or reserved parking in the exceptions to the waiting period included in subsection 5(2)(e) of the By-law.
- Information on the use of parking boots for enforcement is included in this report, as requested by Council.

- Information on the number of multiple penalty notices issued to the same vehicle for parking on private property without authorization is included in this report, as requested by Council.
- Results of a municipal scan of the parking penalty for “park on private property without authorization” is included in this report, as requested by Council.

BACKGROUND:

Council approved By-law 2024-187 at its meeting of December 16, 2024, and passed the following resolution:

“That exceptions to the waiting period in section 5(2)(e) of By-law 2024-187 be referred back to staff for further investigation and comment regarding the viability of designating special paid parking or reserved parking.”

Council also requested that staff report back on the use of parking boots for enforcement, the number of multiple penalty notices issued to vehicles for parking on private property without authorization and the penalty amount other municipalities have set for parking on private property without authorization.

COMMENT/OPTIONS:

Viability of Including Special Paid Parking or Reserved Parking in the Exceptions to the Waiting Period Included in Subsection 5(2)(e) of By-law 2024-187

A 30-minute waiting period between the issuance of a penalty notice and the towing of a vehicle has been established under subsection 5(2)(e) of By-law 2024-187. The By-law includes a number of exceptions to the waiting period; thereby allowing for an immediate tow once a penalty notice has been issued and served. Council directed staff to investigate and comment on the viability of adding unauthorized vehicles parked in special paid or reserved parking as an exception to the waiting period.

The major challenge to adding special paid or reserved parking as an exception to the waiting period is how a Municipal Law Enforcement Officer (MLEO) or a Mobile Compliance Officer (MCO) would determine who is permitted to park in the special paid or reserved parking space. These parking spaces would have to be signed as reserved parking, but the sign would not identify the “owner” of the space.

If special paid or reserved parking was added as an exception to the waiting period, an MLEO or MCO would require a list of employees or tenants who have permission to park in the reserved space, and the employee or tenant would have to display a permit or other documentation on the vehicle’s dashboard. This permit would have to be filed with Municipal Enforcement Services. Further, if the owner of the special

paid or reserved parking space allows another person to park in their space, the person would have to display a parking permit on their dashboard.

The purpose of adding special paid or reserved parking as an exception to the 30-minute waiting period is to provide for an immediate tow, however, it is unlikely that a vehicle could be towed in less than 30 minutes. As such, Municipal Enforcement Services staff do not recommend including unauthorized vehicles parked in special paid or reserved parking as an exception to the 30-minute waiting period.

Parking Boot

A parking boot, also known as a wheel clamp or Denver Boot, is a device that locks onto a vehicle's wheel to immobilize the vehicle. The boot remains in place until the driver pays any outstanding parking fines or addresses other unresolved issues.

Using a parking boot for enforcement is a time-intensive process. The situation must first be assessed and the boot properly installed. The vehicle then requires monitoring to determine when the driver returns. The driver would typically need to pay outstanding parking fines, as well as a fee to have the boot removed. Once payment is received, the boot must be removed.

Parking boots are used in some jurisdictions in Canada for enforcement, private property protection or to ensure payment of outstanding parking fines. Examples include:

- The City of Moncton's Vehicle Immobilization By-law T-618 which requires that vehicle immobilizing businesses obtain a licence to operate in Moncton.
- The Halifax Regional Municipality By-law V-200 respecting the immobilizing of vehicles on private property. By-law V-200 does not require licensing; however, it does require that staff of immobilization businesses be appointed as special constables by the Province of Nova Scotia in accordance with the Police Act.
- The City of Saskatoon's Impounding By-law, 2007 permits a police officer or a by-law officer to immobilize vehicles for outstanding parking fines, for non-compliance with the City's Traffic By-law, or immobilizing vehicles that are unlawfully parked on privately owned shopping centre properties.
- Parking enforcement officers at Carleton University, Trent University, Brock University and the University of Saskatchewan may install parking boots on vehicles with outstanding parking violations that are parked on university property.

Municipal Enforcement Services staff do not recommend implementing parking boots as an enforcement option in place of towing for the following reasons:

- The use of a parking boot seems contrary to the intention to use penalty notices and towing to free up a parking space as the time needed to install a boot, monitor for a driver's return and remove the boot would likely result in an unauthorized vehicle occupying a parking space for longer than the 30-minute waiting period specified in the Towing Without the Vehicle Owner's Consent By-law.
- The Parking Administrative Penalties By-law and the Administrative Penalties Procedure allow a person to request a review of the penalty by a screening officer within 15 days of the date of the penalty notice. If payment of the penalty is required prior to removing the boot, the owner of the vehicle would not have the ability to request such a review.
- A parking boot program would be resource-intensive and would have budgetary impact. To provide a comprehensive program, the town would be required to purchase and maintain a number of parking boots that cost anywhere from \$103 to \$919 each, depending on quality and the type of boot. As well, the time a Mobile Compliance Officer would spend to install, monitor and remove a parking boot would temporarily divert the Officer from other duties.
- The use of parking boots may present several risks, including:
 - legal and liability issues arising from claims of vehicle damage or actual damage caused during boot installation or removal;
 - the safety of Officers who might be confronted by a driver whose vehicle has been immobilized. To ensure Officer safety, two Officers would have to be deployed to the location for boot installation and removal; and
 - the possibility of injury to Officers while installing or removing the parking boot.
- Residents and visitors may perceive the use of parking boots as overly punitive.

Vehicles Issued Multiple Penalty Notices For Parking Private Property Parking Offences

At the December 16, 2024 Council meeting, Council requested that Municipal Enforcement Services staff report back with the number of multiple penalty notices issued to the same licence plate for private property parking violations.

MCOs and MLEOs issue penalty notices for two private property parking violations under By-law 1981-65; namely "park on private property without authorization" and "park in a designated accessible parking space". From January 1 to December 31, 2024, MCOs issued 1,427 penalty notices for these violations, while MLEOs issued 7,083 penalty notices. Of the total 8,510 penalty notices issued in 2024 under By-law 1981-65, almost 50% of the tickets issued were to repeat offenders (two or more penalty notices issued).

Administrative Penalty for “Park on Private Property Without Authorization”

The *Municipal Act, 2001* provides that a municipality may establish a system of administrative penalties in respect of the parking, standing or stopping of vehicles; the purpose of which is to assist the municipality in regulating the flow of traffic and the use of land by promoting compliance with its by-laws. The Act further states that administrative penalties shall not be punitive in nature or exceed the amount reasonably required to promote compliance with a by-law.

By-law 1981-65 prohibits the parking or leaving of motor vehicles on private property without the consent of the owner or occupant of the property. The administrative penalty for “Park on Private Property Without Authorization” under section 2 of By-law 1981-65 is \$50.

A scan was conducted to compare Oakville’s \$50 administrative penalty for “Park on Private Property Without Authorization” with the penalty other municipalities have in place for a similar violation. The results are:

- Ajax - \$45
- Brampton - \$40
- Hamilton - \$55
- London - \$65
- Markham - \$45
- Mississauga - \$45
- Vaughan - \$70

Municipal Enforcement Services has set other administrative penalties that range from \$65 to \$125 for parking violations that affect safety and access; a sample of which is below:

Violation	Penalty
Traffic Control By-law 1984-1	
Park Facing Wrong Way on Street	\$65
Park Wrong Way - One Way Street	\$65
Park Within 3 metres of Fire Hydrant	\$125
Park Obstructing Emergency Entrance / Exit	\$65
Park Obstructing Traffic	\$65
Park Obstructing Snow Removal	\$65
Stop Within 3 metres of Fire Hydrant	\$125
Parking or Leaving of Motor Vehicles on Private Property By-law 1981-65	
Park in a Designated Accessible Space <i>*the Highway Traffic Act states that the fine cannot be less than \$300</i>	\$400

Fire Route By-law 1981-66	
Park in a Designated Fire Route	\$125

Municipal Enforcement Services staff are recommending that the penalty for “Park on Private Property Without Authorization” be increased to \$65 which will keep the penalty in line with other violations.

Clarification of By-Law 2024-187 as to the elimination of or overriding of any common law right of trespass to remove and impound vehicles without the vehicle owner's consent and the Trespass To Property Act

As preparations proceeded towards the implementation of By-law 2024 – 187 questions arose with respect to the issue of the elimination of or overriding of any common law right of trespass to remove and impound vehicles without the vehicle owner's consent and the *Trespass to Property Act*.

Those questions have led to an amending bylaw 2025 – 042 being prepared attached as Appendix A to this report which is recommended for approval by Council.

The intention of By-law 2024 – 187, Towing Without The Vehicle Owner's Consent Bylaw is among other things to eliminate or override any common law right to remove or impound vehicles without the vehicle owner's consent as a matter of trespass from land in the Town of Oakville and require that if the remedy of removal and impounding is to be used in the Town of Oakville it must be done in accordance with the provisions of By – law 2024 – 187. It became apparent that the mention of the *Trespass to Property Act* in the By-Law had become confusing in association with the remedy of removal and impounding as that remedy does not exist within the *Trespass to Property Act*. Under the *Trespass to Property Act* one can only lay trespass charges. Thereafter and up to the effective date (February 28th 2025) of bylaw 2024 – 187 one would purport to use a common law right to remove or impound vehicles without the vehicle owner's consent as a matter of trespass on land in Oakville or the then existing Town By-Laws. As of the effective date (February 28,2025) of By-law 2024 – 187 any such common law right in the Town of Oakville is eliminated or overridden by the By-law regardless of the *Trespass to Property Act* and can only be done under the By-law. Thus, the proposed amending bylaw 2025 – 042 to make that clear.

CONSIDERATIONS:

- (A) PUBLIC
N/A

(B) FINANCIAL

N/A

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Municipal Enforcement Services and Legal have been involved in the preparation of this report.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council's strategic priority of accountable government.

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A - By-Law 2025-042-Amending By-Law to the Towing Without The Vehicle Owner's Consent Bylaw 2024 – 187

Prepared by:

Margaret Boswell, Manager – Enforcement Services

Recommended by:

Selena Campbell, Director – Municipal Enforcement