



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2025-097

A by-law to prohibit the immobilizing of vehicles on municipal land and on private property

WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended ("Municipal Act") confers broad authority on a municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

WHEREAS Subsection 8(3) of the Municipal Act provides that a by-law under sections 10 and 11 of the Municipal Act respecting a matter may, (a) regulate or prohibit respecting the matter and (b) require persons to do things respecting the matter;

WHEREAS subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended provides that a municipality may pass by-laws respecting the health safety and well-being of persons and the protection of persons and property, including consumer protection;

WHEREAS subsection 11(3) of the Municipal Act provides that a local municipality may pass by-laws respecting parking and traffic on highways and parking except on highways;

WHEREAS the Council for the Corporation of the Town of Oakville ("Council") has passed by-laws pursuant to the provisions of Sections 100, 100.1 and 101 of the Municipal Act that, among other things, regulate the parking, stopping or leaving of vehicles on land owned by the Town of Oakville and on private property;

WHEREAS subsection 425(1) of the Municipal Act provides that a municipality may pass by-laws providing that a person who contravenes any by-law of the municipality passed under the Act is guilty of an offence;

WHEREAS subsection 434.1(1) of the Municipal Act provides that a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the

person has failed to comply with a by-law of the municipality passed under the Municipal Act;

WHEREAS Council, for the purpose of consumer protection, is desirous of prohibiting the immobilizing of vehicles on land owned by the Town and on private property;

WHEREAS Council, for the purpose of consumer protection, is desirous of eliminating or overriding any common law right there may be related to trespass that enabled the restraining or immobilizing of vehicles on private property in the Town of Oakville such that the restraining or immobilizing of vehicles in the Town of Oakville from the effective date of this By-law is prohibited;

COUNCIL ENACTS AS FOLLOWS:

1. Definitions

(1) In this By-law:

“Administrative Penalties for Non-Parking Violations and Orders By-law” means the Town’s By-law 2021-038;

“Consent” means permission from the vehicle owner, in writing, to install an immobilizing device on the owner’s vehicle;

“Director” means the Director of Municipal Enforcement Services, or designate;

“Immobilize” means to restrain or prevent the movement of a vehicle by the use of an immobilizing device;

“Immobilizing Device” means a device designed to be put on, attached or affixed to a parked vehicle to immobilize the vehicle and prevent its movement or operation until the device is unlocked or removed including but not limited to wheel locking devices, wheel clamping devices, parking boots, a Denver boot, a barnacle, or any other immobilizing device whatsoever;

“Land” for the purpose of this By-law means private property or municipal land;

“Mobile Compliance Officer” for the purpose of this By-law means a person employed by the Town who has been appointed by the Director to enforce the by-laws of the municipality and as a provincial offences officer;

“Municipal Land” means any land owned or occupied by the Town;

“Parked Vehicle” for the purpose of this By-law means a vehicle parked, stopped standing or left on private property or municipal land;

“Penalty Notice” means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law;

“Person” means an individual, firm, corporation, company, sole proprietorship, association or partnership;

“Police Officer” means a Halton Regional Police Service officer;

“Private Property” means any land not owned or occupied by the municipality;

“Rates and Fees Schedule” means the Town’s current rates and fees schedule approved by Council as part of the annual budget approval process;

“Town” means The Corporation of the Town of Oakville or the geographic area of the town of Oakville, as the context requires;

“Vehicle” means a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8.

2. Prohibition of Restraining or Immobilizing Parked Vehicles Without the Vehicle Owner’s Consent

- (1) Despite Section 101 of the Municipal Act, no person shall immobilize or authorize the immobilizing of any parked vehicle on municipal land or on private property without the vehicle owner’s consent.
- (2) Despite Section 101 of the Municipal Act, no person who is the owner of any private property, or an employee, contractor or agent of the owner of any private property shall immobilize or authorize the immobilizing of any vehicle parked on the private property without the vehicle owner’s consent.
- (3) For the purpose of clarity, any common law right to immobilize a parked vehicle on municipal or on private property without the vehicle owner’s consent strictly as a matter of trespass no longer exists in the Town as of the effective date of this By-law.
- (4) Where a vehicle is immobilized on private property without the vehicle owner’s consent, and in the absence of any evidence to the contrary, the property owner shall be deemed to be responsible for the immobilization, and any costs related to removing any immobilizing device shall be the responsibility of the property owner.

3. Administrative Penalties for Non-Parking Violations and Orders By-law

- (1) This By-law is a designated by-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.

4. Order

- (1) Where a police officer, a Mobile Compliance Officer or the Director has reasonable grounds to believe that a violation of this By-law has occurred, a Mobile Compliance Officer or the Director may issue an Order in accordance with this By-law and with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- (2) Any person who contravenes an Order issued under subsection 4(1) of this By-law is guilty of an offence.

5. Inspections

- (1) A Mobile Compliance Officer, a police officer, or the Director may enter on land at any time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (a) this By-law; or
 - (b) an Order made under subsection 4(1) of this By-law.
- (2) For the purposes of conducting an inspection pursuant to subsection 5(1) of this By-law, a Mobile Compliance Officer, a police officer, or the Director may:
 - (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

- (3) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.

6. Remedial Action

- (1) The Town may take remedial action as set out in the Administrative Penalties for Non-Parking Violations and Orders By-law if a person fails to do a matter or thing as directed or required by this By-law, including complying with an Order issued under this By-law.

7. Fees and Charges

- (1) Council may, from time to time, impose fees and charges to recover costs in relation to the administration and enforcement of this By-law.

8. Administrative Penalties

- (1) A Mobile Compliance Officer or the Director who finds or has reasonable cause to believe that a person has contravened any provision of this By-law may issue a penalty notice to the person in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- (2) Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Town's rates and fees schedule.
- (3) If a penalty notice under subsection 8(1) of this By-law has been issued and a Mobile Compliance Officer or the Director has reasonable cause to believe that the same person has contravened the same provisions of this By-law for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Mobile Compliance Officer or the Director, as the case may be, may issue a second penalty notice to the person.
- (4) Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Town's rates and fees schedule.
- (5) If a penalty notice under subsection 8(3) of this By-law has been issued and a Mobile Compliance Officer or the Director has reasonable cause to believe that the same person has contravened the same provision of this By-law for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Mobile Compliance Officer or the Director, as the case may be, may issue a third or subsequent penalty notice to the person.

- (6) Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$750 or as revised in the Town's rates and fees schedule.
- (7) A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law.

9. Notices

- (1) Service of any penalty notice, Order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

10. Penalties

- (1) 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, is liable to a maximum fine of \$10,000 (ten thousand dollars).
- (2) Every person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to a fine of not more than \$5,000 (five thousand dollars) as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

11. References

- (1) References in this By-law to any legislation or by-law means as may be amended or successor by-laws or legislation, and includes any regulations thereunder.

12. Severability

- (1) In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

13. Title

- (1) This By-law may be known as the "Immobilization Prohibition By-law".

14. Effective Date

- (1) This By-law comes into force and effect on June 16, 2025 at 12:01 a.m.

PASSED this 26th day of May, 2025

MAYOR

CLERK