

## REPORT

### ADMINISTRATIVE SERVICES COMMITTEE

MEETING DATE: DECEMBER 5, 2016

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**FROM:** Municipal Enforcement Services Department

**DATE:** November 22, 2016

**SUBJECT:** Commercial Parking Lot Licensing By-law 2016-025

**LOCATION:** Town wide

**WARD:** Town wide

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#### RECOMMENDATION:

1. That By-law 2016-025, being a by-law to amend Town of Oakville Licensing By-law 2015-075 by adding licensing requirements for commercial parking lot operators, attached as Appendix A to the report from the Municipal Enforcement Services department, dated November 22, 2016, be passed; and
2. That new licensing fees listed in Appendix B to the report from the Municipal Enforcement Services department, dated November 22, 2016, be approved, effective immediately, and such fees be included in the 2016 and 2017 Rates and Fees schedules.

#### KEY FACTS:

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

- Zoning regulations have prohibited commercial parking lots in Oakville since 1965
- The inZone project and subsequent zoning by-law 2014-014, has updated zoning regulations, permitting commercial parking lots in some zones
- An appeal to the Ontario Municipal Board was filed to determine if commercial parking regulations appropriately implement the Official Plan
- A review of options to regulate commercial parking was undertaken – which determined that charging for parking could potentially lead to unacceptable impacts to surrounding residential lands and road networks
- Staff recommend implementing a commercial parking lot licensing by-law to ensure health and safety, nuisance control and consumer protection are maintained

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## BACKGROUND:

Since 1965, Oakville has prohibited property owners from charging for parking on private properties. This prohibition ensured access to parking for all users and discouraged the creation of commercial parking lots throughout Oakville.

During a 2008 zoning by-law update, this methodology was again confirmed. That process determined that a prohibition on paid parking allowed people to park at their destination and not avoid paying by parking off-site and impacting surrounding areas. If paid parking was implemented, gates, barriers or the introduction of pay and display machines could affect the efficient flow of traffic, contrary to town objectives.

### inZone Project

The “inZone Project” resulted in the creation of a new zoning by-law in 2014. The new zoning by-law 2014-014 was developed based on recommendations from ten technical papers. The paper entitled *Parking and Loading Standards Technical Paper* was prepared by Cole Engineering and has specific relevance to this issue. Section 5.1 of this paper states: “Rather than restricting paid parking town wide, there may be areas where allowing paid parking would support other design and community objectives.” The technical paper also stated:

*“Currently, only the Town operates public parking facilities within Oakville. The Town of Oakville currently prohibits private paid parking for non-residential uses as noted in Zoning By-law 2008-051 under Section 15(3) (e) as follows “No charge may be made for parking and such parking shall be open to members of the public while using the premises.” The Town has consistently upheld zoning regulations that prohibit paid parking for commercial properties.*

*Paid parking can assist with the intensification objectives and can encourage employees/patrons to consider alternative modes of travel to their destinations. Based on the policies in the Livable Oakville Plan, the Town should consider on-street paid parking on collector and local road at every opportunity in the Growth Areas as one form of TDM.*

*Paid Parking can also be used as an enforcement tool by limiting parking at peak times and a revenue generating source. However, spillover impacts such as users parking in adjacent free parking facilities will be a concern to neighbouring properties. Analysis and a rationale to support paid parking in comparison to alternatives such as providing additional parking supply, shared parking arrangements and parking time limits, etc., would be needed on a case-by-case basis.*

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*Redevelopment and intensification in the Growth Areas may lead to constrained parking conditions and create opportunities for paid parking in private or municipal facilities or on-street. It is noted that significant parking demand would need to occur to attract a private company to invest in operating a parking facility.”*

By-law 2014-014 includes the use of paid parking in the following areas:

- a. Institutional Zone (I)
- b. Mixed Use Zones (CBD, MU1, MU2, MU3, MU4)
- c. DRAFT Midtown Zones (draft not yet approved by Council)

### **Legal Considerations**

In September 2016, as part of an appeal to the town's new zoning by-law (inZone), a hearing was held before the Ontario Municipal Board to determine whether the town's zoning regulations, as it relates to commercial parking lots, appropriately implements the town's Official Plan. The appellant raised an issue regarding the appropriateness of regulating commercial parking lots through a zoning by-law. The Board has previously decided that it is appropriate for a zoning by-law to regulate charging for parking in an accessory parking lot where the parking lot is not a primary use of the property. At the hearing, it was the town's position that if a landowner desires to charge for parking on the associated parking lot the parking lot becomes a commercial venture as the lands are being used for commercial purposes. Any on-site and/or off-site impacts that result from that use must be reviewed in order to determine its appropriateness. Staff maintain that it is appropriate to treat charging for parking as a use within the zoning by-law. A decision has not yet been issued regarding the appeal to inZone on this issue.

In order to ensure that any potential negative impacts are adequately addressed, staff have developed amendments to the licensing by-law to add a new class of licence for commercial parking lot operators/owners.

### **COMMENT/OPTIONS:**

#### *Licensing Analysis*

The goal of licensing is to address issues related to public health and safety, consumer protection, nuisance control and the general well-being of persons. Land zoned for commercial uses is generally found within residential areas. Charging for parking could potentially lead to unacceptable impacts to surrounding residents and the road network. Enacting a licensing by-law can provide a process to review zoning compliance and assess operational plans to mitigate impacts on nearby residential properties and the road network.

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### *Commercial Parking Area Definition*

By-law 2014-014 defines a “*Commercial Parking Area*” as “...a parking area other than a road or driveway with or without a building or structure that is available for public use on a lot for the parking of motor vehicles and either:

- a. Is the principal use of the lot; or
- b. Where a charge is levied to occupy any parking space.”

### *Licensing Requirements*

To address concerns related to commercial parking, licensing regulations have been developed that will require all commercial parking lot operators to obtain an annual business licence (Appendix A). Failure to obtain a licence may result in escalating penalties and/or orders to comply.

To mitigate issues related to safety, consumer protection and nuisance the following application requirements have also been included:

- Attend pre-application consultation with town staff
- Site plan drawings demonstrating such elements as:
  - Limits of parking area (differentiate for fee and other)
  - Site access (vehicular)
  - Landscaping for buffering/screening (parking areas)
  - Location of barriers, gates and other parking control features
  - Location of buildings and structures (where applicable)
  - Identification of surrounding land uses
- Pedestrian circulation plan – to and through the site
- Description of type of pay and display system – rational for system
- Impact mitigation plan
- Transportation impact study
- Commercial liability insurance in the amount of not less than \$2 million

Application requirements will be reviewed to the satisfaction of planning services, engineering and construction, development engineering as well as municipal enforcement. Additional planning applications and/or development permits may be required prior to implementation of a commercial paid parking lot.

### *Conclusion*

Staff recommend the implementation of commercial parking lot operator licensing to ensure zoning and operational plans are reviewed to mitigate residential impacts.

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**CONSIDERATIONS:**

**(A) PUBLIC**

Public notice of the proposed by-law has been published in the Oakville Beaver and posted on the Town website in accordance with the public engagement policy and guidelines.

**(B) FINANCIAL**

Licensing revenue and resource requirements are not anticipated to be significant. An application/renewal fee of \$223 has been established based on a cost recovery model. The recommended fee is included in Appendix B. No significant financial impacts are anticipated.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

N/A

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- continuously improve our programs and services

**(E) COMMUNITY SUSTAINABILITY**

Ensuring commercial activity does not negatively affect residential areas addresses the pillars of social, environmental and cultural sustainability.

**APPENDICES:**

Appendix A – Commercial Parking Lot Licensing By-law  
Appendix B – Licensing Fees

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