



Town of
East Gwillimbury

**THE CORPORATION OF THE TOWN OF EAST GWILLIMBURY
BY-LAW 2019-085
BEING A BY-LAW TO PROHIBIT EXCESSIVE IDLING OF VEHICLES WITHIN THE
TOWN OF EAST GWILLIMBURY.**

WHEREAS Section 128 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, 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 a public nuisances; and,

WHEREAS Subsection 11(2) of the Municipal Act 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,

WHEREAS Section 425 of the Municipal Act provides that a municipality may pass by-laws providing that a person who contravenes any by-law of the municipality is guilty of an offence; and,

WHEREAS Subsection 429(1) of the Municipal Act provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the Municipal Act; and,

WHEREAS Section 434.1 of the Municipal Act provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the Municipal Act; and,

WHEREAS Subsection 434.2(1) of the Municipal Act provides than an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality; and,

WHEREAS Section 435 of the Municipal Act provides for conditions governing the powers of entry of a municipality; and,

WHEREAS Section 436 of the Municipal Act provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law; and,

WHEREAS vehicles are sources of carbon dioxide, nitrogen oxides, carbon monoxide, sulphur dioxides, volatile organic compounds, and fine particulate matter in the Town of East Gwillimbury; and,

WHEREAS the Council of the Corporation of the Town of East Gwillimbury desires to assist in the reduction of adverse health effects by reducing the unnecessary emissions of nitrogen oxides, carbon monoxide, sulphur dioxides, volatile organic compounds, and fine particulate matter; and

WHEREAS the Town of East Gwillimbury is supportive of initiatives designed or intended to reduce harmful emissions from entering the environment.

Now therefore the Council of the Corporation of the Town of East Gwillimbury enacts as follows:

1.0 DEFINITIONS

1.1 In this By-law:

- (a) **“Corporation”** means the Corporation of the Town of East Gwillimbury;
- (b) **“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;
- (c) **“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;
- (d) **“Idle”** means the operation of the engine of a **vehicle** while the **vehicle** is not in motion and not being used to operate auxiliary equipment that is essential to the basic function of the **vehicle**, and “idling” has a corresponding meaning;
- (e) **“Layover”** means stopping at a point along a transit route to allow a **Transit Vehicle** to adjust to service schedules;
- (f) **“Mobile Workshop Vehicle”** means,
 - i) a **vehicle** containing equipment that must be operated in association with the vehicle; or
 - ii) a **vehicle** serving as a facility for taking measurements or making observations which is operated by or on;
- (g) **“Officer”** means an employee of the **Corporation** who has been appointed by By-law to enforce the provisions of the **Corporation’s** By-laws;

- (h) “**Person**” means an individual, firm, partnership, corporation, trust, trustee, or agent, executors, or legal representatives of the Person to whom the context can apply according to law;
- (i) “**Transit Vehicle**” means York Region Transit, York Mobility Plus, GO transit vehicles tour buses and motor coaches;
- (j) “**Vehicle**” means a motor vehicle as defined by the Highway Traffic Act, and shall include a motor, trailer, traction engine, farm tractor, road building machine, motorized snow vehicle and any vehicle or conveyance drawn, propelled, or driven by any kind of non-muscular power or combustion engine, but does not include cars of electric or diesel electric railways running exclusively upon rails.

2.0 GENERAL PROVISIONS

- 2.1 No **Person** shall cause or permit a **Vehicle** to **Idle** continuously for more than three (3) consecutive minutes.

3.0 EXEMPTIONS

- 3.1 Section 2.1 does not apply to:
 - (a) All Police, fire, ambulance or municipal law enforcement **Vehicle** while engaged in operational activities;
 - (b) **Vehicle** when the outside temperature is more than twenty-seven degrees Celsius (27°C) or less than five degrees Celsius (5°C);
 - (c) **Vehicle** when halting temporarily for the purpose of and while actually engaged in receiving or discharging passengers;
 - (d) **Vehicle** when halting temporarily in compliance with the directions of a Police Officer;
 - (e) **Vehicle** assisting in an emergency activity;
 - (f) **Vehicle** that remain motionless because of an emergency, traffic, funeral or weather conditions over which the driver has no control;
 - (g) **Vehicle** engaged in a parade or other such event authorized by Council;
 - (h) **Mobile Workshop Vehicle** while actually engaged in their basic function;

- (i) 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;
- (j) **Transit Vehicle** at a **Layover** location;
- (k) **Vehicle** where idling is required as part of a repair process or to prepare a vehicle for servicing;
- (l) **Vehicle** when operated on the travelled portion of a **Drive-through** lane;
- (m) Necessary municipal operations completed by or on behalf of the **Corporation**;
- (n) **Electric Vehicles**.

4.0 ENFORCEMENT

- 4.1 For the purposes of determining the outside temperature, an **Officer** may rely on the following information sources:
 - (a) Environmental Canada Weather Office;
 - (b) The Weather Network.
- 4.2 The Manager, By-law Enforcement Services and others designated by by-law as a Municipal Law Enforcement Officer shall be responsible for the administration and enforcement of this by-law.

5.0 PENALTIES

- 5.1 Every **Person** who contravenes any of the provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 5.2 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.
- 5.3 Upon conviction, any fine imposed under this by-law may be collected under the authority of the Provincial Offences Act, as amended.

- 5.4 Every **Person** who is guilty of an offence under this By-law shall be subject to the following penalties:
- (a) Upon a first conviction, shall be liable to a fine of not less than \$250.00 and not more than \$5,000.00;
 - (b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$500.00 and not more than \$10,000.00;
 - (c) Upon conviction for multiple offence, for each offence included in the multiple offence, to a fine of not less than \$250.00 and not more than \$10,000.00.

6.0 CONTINUATION, REPETITION PROHIBITED BY ORDER

- 6.1 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the **Person** convicted, as such order shall be in addition to any other penalty imposed on the **Person**.

7.0 OBSTRUCTION

- 7.1 In accordance with the provisions of the Municipal Act, as amended, Section 426(1), no owner shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an **Officer**, employee of the **Corporation** and/or agent in the lawful exercise or power or duty under this By-law.
- 7.2 Any **Person** who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended shall identify themselves to the **Officer** upon request. Failure to do so shall be deemed to have obstructed or hindered the **Officer** in the execution of the **Officer's** duties.

8.0 ADMINISTRATIVE PENALTIES

- 8.1 Instead of laying a charge under the Provincial Offences Act, as amended, for breach of any provision of this By-law, an **Officer** may issue an administrative penalty to the person who has contravened this by-law.
- 8.2 The **Officer** has the discretion to either proceed by way of an administrative penalty or a charge laid under the Provincial Offences Act. If an administrative penalty is issued to a **Person** for the breach, no charge shall be laid against that same **Person** for the same breach.

- 8.3 The amount of the administrative penalty for a breach of a provision of this By-law, issued under this By-law, is fixed as set out in an Administrative Penalty By-law as amended, or any successor by-law.
- 8.4 A **Person** who is issued an administrative penalty shall be subject to the procedures as provided for in an Administrative Penalty By-law, as amended, or any successor by-law.
- 8.5 An administrative penalty imposed on a **Person** pursuant to this by-law that is not paid within 15 days after the day it becomes due and payable, constitutes a debt of the **Person** to the Municipality and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

9.0 COLLECTION OF UNPAID FINES

- 9.1 Where a fine is in default, the Municipality may proceed with civil enforcement against the **Person** upon whom the fine has been imposed, pursuant to the Provincial Offences Act.
- 9.2 The Municipality may make a request to the treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any Property in the local municipality for which all the Owners are responsible for paying the fine, and collect it in the same manner as municipal taxes.

10.0 RIGHT OF ENTRY

- 10.1 **Officers** or persons under their direction may at any reasonable time enter onto any property, pursuant to the Municipal Act, to determine if the provisions of this by-law are being complied with.

11.0 VALIDITY AND SEVERABILITY

- 11.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 11.2 Where the provisions of this By-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.
- 11.3 This By-law comes into force and effect on the day it is passed.

12.0 SHORT TITLE

This By-law may be cited as the “Idling Control By-Law”

ENACTED AND PASSED this day of 16th day of July, 2019.

Virginia Hackson, Mayor

Fernando Lamanna, Municipal Clerk