

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW TO REGULATE THE PARKING OF MOTOR
VEHICLES ON PRIVATE PROPERTY

BY-LAW NO. 2019-30

WHEREAS Section 11(3)(8) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes municipalities to pass by-laws respecting parking, except on highways;

AND WHEREAS Section 100, of the *Municipal Act, 2001*, provides that 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 that land without the consent of the owner of the land or regulate or prohibit traffic on that land if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition;

AND WHEREAS Section 100.1(1) of the *Municipal Act, 2001*, provides that a local municipality may, in respect of land not owned or occupied by the municipality, regulate or prohibit the parking or leaving of motor vehicles without the consent of the owner of the land;

AND WHEREAS Section 101(1) of the *Municipal Act, 2001*, provides 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, at the vehicle owner's expense, parked or left in contravention of the by-law and Section 170 (15) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, applies with necessary modifications to the by-law;

AND WHEREAS Section 101(2) of the *Municipal Act, 2001*, provides that a municipality may enter on land at reasonable times for the purposes described in Section 101 (1);

AND WHEREAS, Section 101(3) of the *Municipal Act, 2001*, provides that, if signs are erected on land specifying conditions on which a motor vehicle may be parked or left on the land or regulating or prohibiting the parking or leaving of a motor vehicle on the land, a motor vehicle parked or left on the land contrary to the conditions or prohibition shall be deemed to have been parked or left without consent;

AND WHEREAS Section 102(1) of the *Municipal Act, 2001* provides that if a municipality passes a by-law for establishing a system of disabled parking, the sole manner of identifying vehicles shall be a disabled parking permit issued under and displayed in accordance with the *Highway Traffic Act*, and the regulations made under it;

AND WHEREAS Section 102(2) of the *Municipal Act, 2001* provides that, without limiting Sections 9, 10 and 11, a local municipality may require the owners or operators of parking lots or other parking facilities to which the public has access, whether on payment of a fee or otherwise, to provide designated parking spaces for vehicles displaying a disabled parking permit and if it does so, the local municipality shall prescribe the conditions of use of the disabled parking permit and shall prohibit the improper use of the permit;

NOW THEREFORE the Council of the Corporation of the Town of Lincoln hereby enacts as follows:

1. SHORT TITLE

This By-law shall be known as the "Private Property Parking By-law"

2. DEFINITIONS

In this by-law,

"Approved permit" means a permit submitted by an owner or occupant of a property to and approved by the Manager for the purpose of identifying a vehicle which is owned or operated by a person who is authorized to park at the property of the owner or occupant.

"Accessible Parking Permit" shall mean a disabled person parking permit issued under and displayed in accordance with the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, and the regulations made thereunder.

"Manager" means the Manager of Municipal Law Enforcement for the Town and includes any designate or successor;

"Motor vehicle" shall mean an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power;

"Officer" means a Municipal Law Enforcement Officer for the Town or a police officer employed by the Niagara Regional Police or the Ontario Provincial Police;

"Occupant" means,

- (i) the tenant of a property or part thereof whose consent shall extend only to the control of the land held by the tenant and any parking spaces allotted to the tenant under the lease or tenancy agreement,
- (ii) the spouse of a tenant,
- (iii) a person or a local board thereof, having an interest in a property under an easement or right of way granted to or expropriated by the person or local board whose consent shall extend only to the part of the property that is subject to the easement or right of way, or
- (iv) a person authorized in writing by an occupant as defined in clause (i) (ii) or (iii) of this definition to act on the occupant's behalf for requesting the enforcement of this by-law.

"Owner" when used in relation to property means,

- (i) a registered owner of the property;
- (ii) the registered owner of a condominium unit, whose consent shall extend only to the control of the owner's unit and any parking spaces allotted to the owner by the condominium corporation or reserved for the owner's exclusive use in the declaration or description of the property
- (iii) the spouse or partner of a person;
- (iv) where the property is included in a description registered under the Condominium Act, the board of Managers/Directors of the condominium corporation;
- (v) a person authorized in writing by the property owner as defined in clause (i) (ii) (iii) or (iv) of this definition to act on the owner's behalf for requesting the enforcement of this by-law;
- (vi) in the case of a property owned by a company, any person having the authority to bind the company, or any person authorized in writing by a person having the authority to bind the company;

(vii) an employee of a registered company providing security services retained by the property owner and where employees of the security services provider has been authorized by the owner to regulate parking on the property;

(viii) the Manager of Facilities and Parks for the Town, or designate, related to Municipal properties.

"Park" or "parking" when prohibited, means the halting of a vehicle, even momentarily, whether or not the vehicle is occupied;

"Private property" means land not owned or occupied by the Town;

"Suitable sign" means a sign which complies with such standards respecting size, shape, colour, content, mounting position and location as are established or approved of by the Manager;

"Town" means The Corporation of the Town of Lincoln or any of its authorized full-time employees;

3. SCOPE

(1) This By-law shall apply to all land within the Town.

4. GENERAL PROHIBITIONS

(1) Except as provided in subsection 2, no person shall park a motor vehicle on private property without the authority of the owner.

(2) Where private property is leased to an occupant, or where a specific parking space or area is designated for exclusive use by an occupant or a condominium owner, no person shall park a motor vehicle on the private property or in the designated parking space without the authority of the occupant or the condominium owner.

(3) Where an owner or occupant of private property has posted suitable signs stating conditions on which a motor vehicle may be parked or may be left on the property or prohibiting the parking or leaving of a motor vehicle on the property, a motor vehicle parked or left on the property contrary to such conditions or prohibition shall be deemed to have been parked or left without consent.

(4) Where the Town has posted suitable signs stating conditions on which a motor vehicle may be parked or may be left on the property of the Town or prohibiting the parking or leaving of a motor vehicle on the said property, a motor vehicle parked or left on the property contrary to such conditions shall be deemed to have been parked or left without consent.

(5) No person shall park a motor vehicle in a parking space set aside and signed for use by accessible unless the vehicle displays an Accessible Parking Permit.

5. ENFORCEMENT

- (1) An Officer upon discovery of any motor vehicle parked or left in contravention of this by-law, may cause it to be moved or taken to and placed or stored in a suitable place and all costs and charges for the removal, care and storage of the vehicle, if any, are a lien upon the vehicle, which may be enforced in the manner provided by *the Repair and Storage Liens Act*, R.S.O. 1990, Chapter R.25, as amended.
- (2) An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this by-law is being complied with.
- (3) An Officer upon discovery of a motor vehicle in contravention of this by-law may affix a penalty notice to the motor vehicle or otherwise issue said parking infraction notice to the person having care and control of said motor vehicle, pursuant to Section 4 of the Town By-law 2017-24, *Administrative Monetary Penalty System By-law*.

6. SEVERABILITY

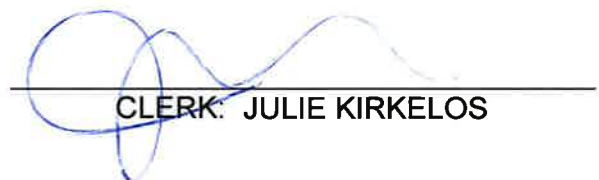
- (1) Should any Section, part of a Section or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the provision so declared to be invalid.

7. ENACTMENT

- (1) This by-law shall come into force and effect on the date of its passing and enactment.

READ A FIRST TIME THIS 18th DAY OF MARCH, 2019.
READ A SECOND TIME THIS 18th DAY OF MARCH, 2019.
READ A THIRD TIME AND FINALLY PASSED THIS 18th DAY OF MARCH, 2019.


for: MAYOR: SANDRA EASTON


CLERK: JULIE KIRKELOS