

Town of Whitby Staff Report

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Report Title: Proposed Amendments to the Town of Whitby Towing By-law # 6887-14

Report to: Committee of the Whole

Date of meeting: June 12, 2023

Report Number: LS 07-23

Department(s) Responsible:

Legal and Enforcement Services

Submitted by:

Francesco Santaguida, Commissioner of
Legal and Enforcement Services/Town
Solicitor

Acknowledged by M. Gaskell, Chief Administrative Officer

For additional information, contact:

Alison Albrecht, Supervisor of Parking
Services;

Brent K. Harasym, Associate Solicitor

1. Recommendation:

1. That By-law # 6887-14, the Towing By-law, be amended substantially in accordance with Attachment 1 to Report LS 07-23, and that staff bring forward the amendment to a future Council meeting; and
2. That Council direct staff to review current municipal regulations regarding the licensing and governing of tow truck drivers and tow truck businesses, activities, and undertakings in the Town of Whitby.

2. Highlights:

- The current Towing By-law was enacted in 2014 and has not been amended since its inception.
- The Towing By-law as it currently exists is not in line with the manner in which other municipalities have dealt with the issue of towing and parking on private property.
- Town staff have received feedback from property owners and agents about the current challenges and restrictive provisions of the Town's Towing by law. Additionally, the current provisions create unnecessary geographical restrictions for private property owners within Durham Region.

- The current provisions restrict property owners from being able to effectively manage parking on private properties.
- Staff recommend the Towing by-law be amended to update towing rates, remove geographical restrictions, and improve regulations for private property owners.
- The above amendments are meant to improve the administration of the Towing By-law in the short term. It is staff's intent to report back to Council in the fall of 2023 with a more fulsome recommendation with respect to the current regime for towing vehicles parked on private property without the consent of the owner of the property.

3. Background:

The Town of Whitby enacted the Towing By-law # 6887-14 in 2014, and the by-law has not been amended since it was enacted. This by-law was enacted to provide consumer protection, set clear and consistent regulations/ practices for the removal of vehicles from private property, and to establish acceptable towing rates for vehicles being impounded within the Town of Whitby.

The current by-law makes the removal of vehicles from private property challenging for property owners and tow truck drivers. It also incentivizes parking on private property without the consent of the owner or occupant of the property in contravention of the Traffic By-Law. This has resulted in several complaints from private property owners relating to vehicles parking on their property without their consent.

4. Discussion:

Staff and property owners have since encountered challenges with the provisions of the current by-law. The concerns noted are the following:

- Acceptable towing practices.
- Towing rates which are outdated.
- Restrictive geographical boundaries.
- Challenges due to signage requirements.

Staff recommend that Sections 3.5 to 3.6 and 3.8 to 3.11 of the Towing By-law be repealed in their entirety and that Sections 3.5 and 3.6 of the By-law be replaced with the following:

- 3.5 Where a vehicle is parked or left on private property without the express consent of the owner or occupant of such property, an officer, upon the written complaint of the owner or occupant of the property, may cause the vehicle to be towed or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, shall be paid by the registered owner of the vehicle and such costs and charges shall be a lien upon the vehicle which may be enforced in the manner provided by the *Repair and Storage Lien Act*, R.S.O. 1990, c. 25 as amended.

- 3.6 If signs are erected on private property specifying conditions on which a vehicle may be parked or left on private property or regulating or prohibiting the parking or leaving of a vehicle on private property, a vehicle parked or left on private property contrary to the conditions or prohibition shall be deemed to have been parked or left without the consent of the owner or occupant of the private property.

In addition to the above, staff have received feedback regarding challenges with the current restrictions for tow company signage. Currently the name of the towing company on contract for the property must be posted. Private property owners have indicated that some towing companies prefer not to have their information on posted signs, and also if there is a change in approved tow companies it requires new signage. To address these concerns, staff recommend the Towing by-law # 6887-14, Section 3.7 (4), is amended to permit property owners to post a sign with the contact information such as an agent rather than a towing company. The Towing by-law would continue to require contact information be posted to allow for easier retrieval of a vehicle if it has been towed.

The proposed changes to By-law # 6887-14 are outlined in “Track Changes” in Attachment 1 to this report.

The provisions of this by-law do not apply to the tow or storage of a vehicle where the tow is at the direction of the registered owner of the vehicle.

These proposed amendments are intended to be interim changes to address the more pressing enforcement issues that the Town has encountered. These amendments will help address concerns received from property owners and agents while maintaining consumer protection within the Town of Whitby in the interim and in advance of a more fulsome update.

5. Financial Consideration:

There are no financial implications to this report.

6. Communication and Public Engagement:

Enforcement Services will send written correspondence to all registered private properties, private property management and security companies, which will be affected by these changes.

7. Input from Departments/Sources:

N/A

8. Strategic Priorities:

The recommendations contained in Report LS 07-23 including the appended amendments to the Town’s Towing By-law support the Corporate Strategic Plan objective to “continually improve how we do things by fostering innovation and focusing on making our processes better”.

9. Attachments:

