

# Memorandum to Council

Legal and Enforcement Services



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**To:** Mayor and Members of Council  
**CC:** Francesco Santaguida, Commissioner of  
Legal and Enforcement Services/Town  
Solicitor

**Acknowledged by M. Gaskell,  
Chief Administrative Officer**

**From:** Alison Albrecht, Supervisor of Parking  
Services  
Brent Harasym, Associate Solicitor  
**Date:** June 14, 2023  
**File #:** N/A  
**Subject:** Proposed amendments to the Town of  
Whitby Towing By-law No. 6887-14

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Follow-up to report LS 07-23, as discussed at the Committee of the Whole meeting on June 12, 2023, staff are recommending updates to the Towing By-law # 6887-14. These changes are required to continue to assist private property owners who report concerns of illegal parking while maintaining consumer protection within the Town of Whitby.

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. A more fulsome review of the Towing By-law # 6887-14 is planned for the fall, however, in the meantime, staff recommend updates to Section 3, which are outlined as Attachment 1 to this memorandum and shown in track changes.

In response to comments from Committee at its meeting on June 12, 2023, the Legal and Enforcement Services Department propose the following changes to the Towing By-law # 6887-14:

- Expanding the area to which a towed vehicle can be stored to include the Town of Whitby, Town of Ajax and City of Oshawa.
- Allowing property owners to post the number of the towing company and/or an agent of the owner on signs located on private property.

- Removal of the 12-hour minimum parking requirement before a vehicle can be towed.
- Increasing the maximum fee that can be charged to \$230.00 for a light vehicle, and \$450.00 for a heavy vehicle. These rates are reflective of the rates that the Town would pay for a similar tow.

If Council is agreeable to these changes, then the following resolution may be adopted at the Regular Council meeting on Monday, June 19, 2023:

1. That By-law # 6887-14, the Towing By-law, be amended substantially in accordance with Attachment 1 to the Memorandum from A. Albrecht, Supervisor of Parking Services and B. Harasym, Associate Solicitor, dated June 14, 2023; 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.

The following identifies the proposed changes to By-law # 6887-14:

### 3. General

#### Private Property Towing

- 3.5 Towing or impounding of vehicles from private property without the consent of the registered owner or agent of the vehicle may only be undertaken if vehicles are towed to a location **within the municipal boundaries of the municipalities of the Town of Ajax, Town of Whitby, or City of Oshawa in 2022.**~~within the Town of Whitby.~~
- 3.6 No person shall tow or impound or authorize the towing or impounding of a vehicle from private property unless the tow or impound is caused or authorized by a municipal law enforcement officer and is conducted in accordance with Section 3.5 and Section 3.7 of this by-law, unless the tow or impound is requested and authorized by the registered owner or agent of the vehicle.
- 3.7 No municipal law enforcement officer shall cause or authorize the removal, towing or impounding of a vehicle from private property unless,
- (1) the vehicle is parked, stopped, standing or left as the case may be, in contravention of a Town by-law;
  - (2) the boundaries of the property are clearly defined;
  - (3) signs have been posted at all public entrances to the private property indicating the policies in effect and enforced on the private property;
  - (4) a sign is posted in a conspicuous location on the private property indicating the name and telephone number of the **towing contractor and/or an agent of the owner of the private property towing contractor used** in relation to a vehicle tow or impound from the property;
  - (5) a parking infraction notice is issued and served at the time of the alleged parking infraction in accordance with Part II of the Provincial Offences Act; **and,**
  - ~~(6) a minimum period of 12 (twelve) hours has elapsed from the time the parking infraction notice referenced in Subsection 3.7(5) of this by-law was issued and the time of the removal, towing or impounding of the vehicle, with the exception of vehicles located in signed fire routes, designated accessible parking spaces or vehicles blocking a laneway or loading docks; and~~

(6) the Town of Whitby Enforcement Services is consulted prior to the tow being ordered and the Durham Regional Police Service is ~~advised-notified~~ of an impending tow or impound of a vehicle prior to the tow or impound occurring.

- 3.8 No person shall request or require payment of an administrative fee or any other fee by the owner or driver of a vehicle parked, stopped or standing on private property.
- 3.9 No person shall request or require payment of any fee exceeding ~~an~~ the amount of \$230.00 (two hundred and thirty dollars) ~~\$120.00 (one hundred twenty) dollars~~, plus HST, for any charge in relation to the towing or impounding of a light vehicle from private property without the consent of the registered owner or agent of the vehicle.
- 3.10 No person shall request or require payment of any fee exceeding an amount of \$450.00 (four hundred fifty dollars) ~~\$250.00 (two hundred fifty)~~, plus HST, for any charge in relation to the towing or impounding of a heavy vehicle from private property without the consent of the registered owner or agent of the vehicle.
- 3.11 Any person who conducts a tow or impound in accordance with this by-law shall, upon demand from the owner or operator of a vehicle that has been towed or impounded, immediately provide a receipt detailing all charges and fees associated with the tow or impound.
- 3.12 Any person who has their vehicle towed or impounded in accordance with this by-law shall be required to pay the charge in relation to the tow or impound, up to the maximum charges indicated in Section 3.9 or Section 3.10 of this by-law, as the context requires.
- 3.13 The provisions of this by-law do not apply to any person who causes or authorizes the towing of a vehicle from a laneway on private residential property provided that the person causing or authorizing the tow does not demand any payment or any other fee for the owner or driver of the vehicle.
- 3.14 The provisions of this by-law do not apply to any person demanding or obtaining parking fees from customers for the consensual purchase of a permit for parking on private property, where the parking rates are posted in clear view of all drivers upon entering the private property and the property is in compliance with all other municipal by-laws.