



# Town of Whitby

## By-law # 7817-21

### Unauthorized Area Parking By-law

Being a By-law to prohibit Front, Side, and Rear Yard Parking on Private Residential Property within the Town of Whitby.

Whereas section 8 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and,

Whereas section 11(3) of the Municipal Act, 2001 provides that Council may pass by-laws regulating parking; and,

Whereas section 425(1) of the Municipal Act, 2001 establishes that any person who contravenes any by-law of the municipality is guilty of an offence; and,

Whereas section 428 of the Municipal Act, 2001 provides that 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 applicable fine unless, at the time of the offence, the vehicle was in the possession of another person without the owner's consent;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

#### 1. Definitions

For the purpose of the interpretation of the various provisions within this By-law, the following definitions shall apply. Where a term or matter is not defined, the definitions in the Property Standards By-law or Zoning By-laws 2585, 1784 and 5581-05, as amended or superseded from time to time, shall apply.

- 1.1. "Front Lot Line" means the line that divides the Lot from the street, provided that in the case of a corner lot, the shorter lot line that so abuts the street is deemed to be the front line of the Lot, and the longer line that so abuts the street is termed a side line of the Lot;
- 1.2. "Front Yard" means a Yard extending across the full width of the Lot between the Front Lot Line and the nearest part of any main building on the Lot;
- 1.3. "Lot" means a parcel or contiguous parcels of land in one ownership which is capable of being legally conveyed in accordance with the Planning Act or is described in accordance with a registered Plan of Condominium;
- 1.4. "Motor Vehicle" shall have the same definition as under the Highway Traffic Act, R.S.O. 1990, c H.8 as may be amended or superseded from time to time;
- 1.5. "Occupant" means a lessee or occupant of property, but does not include an Owner;

- 1.6. "Officer" means a Municipal Law Enforcement Officer appointed by Council to administer and enforce the provisions of this by-law;
- 1.7. "Owner" includes the owner in trust, a mortgagee in possession, the person for the time being who is managing or receiving the rent of the land or premises in connection with which the land is used whether on his account, or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;
- 1.8. "Park" and "Parking" shall have the same definition as under the Highway Traffic Act, R.S.O. 1990, c H.8 as may be amended or superseded from time to time;
- 1.9. "Rear Lot Line" means the lot line farthest from and opposite the Front Lot Line;
- 1.10. "Rear Yard" means a Yard extending across the full width of the Lot between the Rear Lot Line and the nearest part of any main building on the Lot;
- 1.11. "Side Lot Line" means any lot lines other than the Front Lot Line and the Rear Lot Line;
- 1.12. "Side Yard" means a Yard extending from the Front Yard to the Rear Yard of a Lot and between a Side Lot Line and the nearest part of any main building on the Lot;
- 1.13. "Stand" and "Standing" shall have the same definition as under the Highway Traffic Act, R.S.O. 1990, c H.8 as may be amended or superseded from time to time;
- 1.14. "Town" means The Corporation of the Town of Whitby;
- 1.15. "Unauthorized Area" means any portion of a Front Yard, Side Yard, or Rear Yard, except as otherwise permitted under the Town's Zoning By-laws 2585 and 1784;
- 1.16. "Yard" means an open uncovered and unoccupied space on a lot appurtenant to a building except as specifically permitted under the Town's Zoning By-laws 2585 and 1784.

## **2. General Prohibitions**

- 2.1. No person shall Park or Stand a motor vehicle in an Unauthorized Area.
- 2.2. No person shall permit the Parking or Standing of a motor vehicle in an Unauthorized Area.

2.3. No person shall hinder or obstruct an Officer in the execution of their duties under this By-law.

### **3. General**

3.1. Where an Officer is satisfied that a person has contravened this By-law, the Officer may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the Owner or Occupant of the land on which the contravention occurred to discontinue the contravening activity.

3.2. An order under subsection 3.1 shall set out:

(a) Reasonable particulars of the contravention adequately identifying the contravention and the location of the land on which the contravention occurred; an

(b) The date by which there must be compliance with the order.

3.3. No person shall fail to comply with an order issued under subsection 3.1 of this By-law.

3.4. An order may be served on a person in any of the following ways and is effective:

(a) when a copy is delivered to the person to whom it is addressed;

(b) on the fifth (5th) day after a copy is sent by registered mail to the person's last known address.

### **4. Enforcement and Penalties**

4.1. The provisions of this By-law may be enforced by a Municipal Law Enforcement Officer.

4.2. Pursuant to the Municipal Act, 2001, an Officer may enter upon any property at any reasonable time without a warrant for the purpose of inspecting a property to determine whether or not there is compliance with the standards prescribed in this By-law.

4.3. When conducting an inspection pursuant to Section 4.2 of this By-law and the Municipal Act, 2001, an Officer may:

(a) require the production for inspection of documents or things; and,

(b) require information from any person concerning a matter related to a property or part thereof.

4.4. Every person is guilty of an offence who:

(a) Hinders or obstructs or attempts to hinder or obstruct an Officer exercising a power or performing a duty under this By-law

(b) Neglects or refuses to produce or provide any information or thing to an Officer

(c) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this By-law.

4.5. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

4.6. Should any provision of this By-law be declared by a court of competent jurisdiction to be void or ultra vires for any reason, the remaining provisions shall, nevertheless, remain valid and binding and the By-law shall be read as if the provisions had been struck out.

## **5. Short Title**

5.1. This By-law may be referred to as the “Unauthorized Area Parking By-law”.

## **6. Effective Date**

6.1. This By-law shall come into force and effect on the date of passing.

By-law read and passed this 29th day of November, 2021.

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Don Mitchell, Mayor

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Christopher Harris, Town Clerk