

BY-LAW 2013-xx

**A BY-LAW OF THE CITY OF GREATER SUDBURY
TO CONTROL VEHICLE IDLING**

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, requires that a municipal power be exercised by by-law;

AND WHEREAS paragraphs, 5, 6 and 8 of section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, grant municipalities the authority to pass by-laws respecting the the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons and the protection of persons and property;

AND WHEREAS section 128(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, grants municipalities the authority to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS section 428(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, states that where a by-law provides that, where a vehicle has been left parked, stopped or standing in contravention of a by-law passed under that Act, 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.

AND WHEREAS section 100.1(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes municipalities in respect of land not owned or occupied by the municipality to

DRAFT A-FOR PUBLIC CONSULTATION

regulate or prohibit the parking or leaving of motor vehicles without the consent of the owner of the land;

AND WHEREAS subsection 425(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes municipalities to pass by-laws providing that any person who contravenes a municipal by-law passed under that Act be guilty of an offence;

AND WHEREAS subsection 429(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipality may establish a system of fines for offences under a by-law passed under that Act;

AND WHEREAS Council for the City of Greater Sudbury desires to support the reduction of atmospheric pollutants and greenhouse gases that are harmful to the environment and the health of persons in the City of Greater Sudbury;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:**

Interpretation

Definitions

1. (1) In this by-law:
 - a. “By-law Enforcement Officer” means a member of any police service with jurisdiction in the City or any person appointed by Council for the enforcement of by-laws, including this by-law;
 - b. “City” means the municipal corporation of the City of Greater Sudbury or the geographic area, as the context requires;
 - c. “Council” means the municipal council of the City of Greater Sudbury;

APPENDIX A

DRAFT A-FOR PUBLIC CONSULTATION

- d. “Drive-Through Lane” means an area of land that is used exclusively for the passage of Vehicles occupied by one or more natural persons who are waiting to be provided with goods, materials or services;
- e. “Emergency” means a situation requiring police, fire, ambulance or military response;
- f. “General Manager” means the General Manager of Growth and Development and includes his or her delegate;
- g. “Highway” means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- h. “Idle” means the Parking or Stopping of a Vehicle while the engine is running and “Idling” has a corresponding meaning;
- i. “Idling Control Policy” means the policy adopted by Council by By-law 2008-195, A By-law of the City of Greater Sudbury to Adopt an Idling Control Policy, and any successor policy or by-law;
- j. “Limousine” means a means a motor vehicle, as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8 hired by unit of time for the transportation exclusively of one natural person or group of natural persons with one charge only being collected or made for the time hired;
- k. “Municipal Property” means real property or premises owned by the City or any of the City’s local boards or municipal corporations;
- l. “Normal Farm Practice” means a practice that:

- i. is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances; or
- ii. makes use of innovative technology in a manner consistent with proper advanced farm management practices;
- m. “Park” means the standing of a vehicle, whether occupied or not, and “Parking” or “Parked” has the corresponding meaning;
- n. “Person” includes any natural person, firm, partnership, association, corporation, company or organization of any kind;
- o. “Private Property” means real property or premises owned by Persons, other than property owned or occupied by other levels of government and Municipal Property;
- p. “Shuttle” means a motor vehicle, as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, having a seating capacity of seven natural persons or more, inclusive of the driver, providing transportation on demand to individuals or groups on a shared, multiple destination basis, and with separate charges being collected or made to each individual or group of individuals and such motor vehicles include, but are not limited to, those providing transportation to and from Greater Sudbury Airport and excludes such vehicles operated by municipal, provincial or federal governments or their agencies;
- q. “Stop” means the halting of a vehicle, whether occupied or not and “Stopped” or “Stopping” have the corresponding meaning;

DRAFT A-FOR PUBLIC CONSULTATION

- r. “Taxicab” means a motor vehicle, as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, having a seating capacity of not more than nine natural persons, inclusive of the driver, hired for one specific trip for the transportation exclusively of one natural person or group of natural persons, containing a taximeter and with one fare or charge only being collected or made for the trip, and includes an accessible taxicab;
- s. “Temperature” means the temperature as determined by Environment Canada for the City of Greater Sudbury;
- t. “Traffic Control Sign” means a sign prescribed by the *Highway Traffic Act*, including a stop sign and a yield sign and signs used on highways for construction purposes;
- u. “Traffic Control Device” means a coloured lens mounted on a frame and commonly referred to as a signal head used for the purpose of controlling traffic but does not include railway crossing signal devices; and
- v. “Vehicle” means a vehicle that has a motor as a source of power , including but not limited to an automobile, motorcycle, motorized snow vehicle, a motor-assisted bicycle, farm tractor, a self-propelled implement of husbandry, a road-building machine as defined by the *Highway Traffic Act*, R.S.O. 1990, c. H.8, but does not include an airplane, train, street car or other motor vehicle running only upon rails.

Use of the Word “include”

- 2. (1) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them.

DRAFT A-FOR PUBLIC CONSULTATION

Application

3. (1) This by-law applies in the City of Greater Sudbury on a Highway, on Private Property or on Municipal Property.

Prohibition

4. (1) No Person shall cause, allow or permit a Vehicle to Idle continuously for more than two (2) minutes.

Exemptions

5. (1) Section 4(1) does not apply to Persons causing, allowing or permitting the following Vehicles to Idle:
- a) a Vehicle subject to the Idling Control Policy;
 - b) an Emergency Vehicle while engaged in operational activities, including training activities, except where idling is substantially for the convenience of the operator of the Vehicle;
 - c) a Vehicle assisting in an Emergency;
 - d) a Vehicle transporting a natural person where a medical doctor certifies in writing that the natural person being transported requires the Temperature or humidity to be maintained within a certain range;
 - e) a Vehicle with one or more natural persons inside the Vehicle when the ambient outside Temperature is more than 27 degrees Celsius or less than 5 degrees Celsius;
 - f) a Vehicle that remains motionless due to Emergency, a Traffic Control Sign, a Traffic Control Signal, weather conditions, traffic congestion or mechanical difficulties which do not allow the Vehicle to be put safely into motion;

APPENDIX A

DRAFT A-FOR PUBLIC CONSULTATION

- g) a Vehicle engaged in a parade authorized by the City or engaged in a police or other event authorized by the City or police;
- h) a Vehicle which is being repaired or serviced;
- i) a Vehicle which is Idling for the purpose of conducting a circle check inspection or similar routine daily inspection for safety purposes where such inspections require the engine or transmission to be running;
- j) a Vehicle that is required to Idle to assist in the provision of services or repairs to another Vehicle;
- k) a Vehicle from which passengers are in the act of disembarking or embarking;
- l) an Armoured Vehicle where a natural person remains inside the Vehicle while guarding the contents of the Vehicle or while the Vehicle is being loaded or unloaded;
- m) a Vehicle engaged in a Normal Farm Practice;
- n) a Vehicle halted in compliance with the directions of a police officer;
- o) a Vehicle Idling to comply with the requirements of the *Highway Traffic Act* in order for windows to be in a condition to afford the driver a clear view;
- p) a Vehicle Idling in a Drive-Through Lane; or
- q) a Vehicle containing or associated with equipment that must be powered by the Vehicle engine or transmission to make the equipment function, including but not limited to, an assisted mobility device, a waste compactor, lift platform or concrete mixer, while the function is being performed that requires operation of that equipment, and does not include a Taxicab, Shuttle or Limousine.

6. (1) Section 4(1) does not apply to a Person causing, allowing or permitting a Taxicab or Shuttle to Idle prior to and including August 31, 2014.

Administration & Enforcement

Administration

7. (1) This by-law shall be administered by the General Manager who is also delegated the authority to make all decisions required of the General Manager under this by-law and to perform all administrative functions identified herein and those incidental to and necessary for the due administration of this by-law.

(2) The General Manager may delegate, in writing, the performance of any one or more of his or her functions under this By-law to one or more natural persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation.

Enforcement

8. (1) This By-law may be enforced by a By-law Enforcement Officer.

(2) Without limiting subsection (1), for the purpose of conducting an inspection to determine whether a Person is complying with this By-law, a By-law Enforcement Officer may:

- (a) enter onto lands at a reasonable time;
- (b) require the production for inspection of documents or things relevant to the inspection;
- (c) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

DRAFT A-FOR PUBLIC CONSULTATION

(d) require information from any Person concerning a matter related to the inspection; and

(e) take photographs.

9. (1) No Person shall hinder or obstruct, or attempt to hinder or obstruct, a By-law Enforcement Officer exercising a power or performing a duty under this By-law.

10. (1) No Person required to produce documents, things or information by a By-law Enforcement Officer shall fail to respond forthwith.

Offence

11. (1) Any Person, including an owner of a Vehicle even though the owner is not the Person causing, permitting or allowing the Vehicle to Idle at the time, who contravenes any of the provisions of this By-law is guilty of an offence and is liable:

(a) on a first conviction to a fine of not more than \$2,000; and

(b) on a subsequent conviction to a fine of not more than \$5,000.

(2) Any director or officer of a corporation who knowingly concurs in a contravention as provided for in (1) is guilty of an offence and liable to a fine, upon conviction.

Continuation of Offence

12. (1) Where a Person has been convicted of an offence under this By-law, the City may, in addition to any other penalty imposed on the Person convicted, seek an order from the Ontario Court (Provincial Division) or any court of competent jurisdiction, prohibiting the continuation of the offence or doing of any act or thing by the Person convicted directed towards the continuation of the offence.

13. (1) An offence and subsequent conviction under this By-law pursuant to the *Provincial Offences Act* or the *Municipal Act, 2001*, shall not be deemed in any way to preclude the City from issuing a separate legal proceeding to recover charges, costs and expenses incurred by the City and which may be recovered in a court of competent jurisdiction.

Voluntary Payment

14. (1) A Person in receipt of a summons, certificate of offence or certificate of parking infraction for a contravention of a provision of this by-law who does not wish to dispute the charge may pay the City, within seven (7) days of the time of the offence, the amount shown on the summons or certificate of parking infraction.

(2) Payments provided for in (1) shall be made payable to the City of Greater Sudbury.

(3) A payment provided for in (1) shall be made:

(i) at Tom Davies Square, 200 Brady Street, Sudbury, Ontario or at such other locations as the City Treasurer may authorize in writing; or

(ii) by mail to City of Greater Sudbury, PO Box 5000, Stn A, 200 Brady Street, Sudbury, Ontario, P3A 5W5, Attention: City Treasurer.

(4) The City Treasurer, or his or her delegate, shall accept payments made in accordance with (1).

DRAFT A-FOR PUBLIC CONSULTATION

(5) If a payment is not made in accordance with subsections (1) through (3) of this by-law, a proceeding will be commenced in accordance with the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.

Severability / Conflict

15. (1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or *ultra vires*, such section, subsection, paragraph, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

(2) Nothing in this By-law relieves any Person from complying with any provision of any federal or provincial legislation or any other By-law of the City.

(3) Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of Persons or the environmental well-being of the municipality shall prevail.

Effective Date

16. (1) This By-law shall come into force on September 1, 2013.

Short Title

17. (1) This By-law shall be known as the "Idling Control By-law".

APPENDIX A

DRAFT A-FOR PUBLIC CONSULTATION

READ AND PASSED IN OPEN COUNCIL this xxth day of xx, 2013.

_____ Mayor

_____ Clerk

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