

# The Corporation of the Town of Amherstburg

## By-law No. 2022-026

### A By-Law of the Corporation of the Town of Amherstburg to Control the Idling of Vehicles and Boats

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**WHEREAS** Section 10.2 (6) of the Municipal Act, R.S.O. 2001, c. 25, as amended, authorizes the Town Council of a local municipality to pass by-laws and make regulations for the health, safety and well-being of the persons of the municipality in matters not specifically provided for by the Municipal Act;

**AND WHEREAS** under Section 425. (1) of the Municipal Act, 2001, S.O. 2001, C.25, as amended, a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence. 3006, c, 32, Schedule. A, s. 184.;

**AND WHEREAS** boats and vehicles are major sources of nitrogen oxides, carbon monoxide, sulphur dioxides and volatile organic compounds in the Town of Amherstburg's outdoor air;

**AND WHEREAS** the Town of Amherstburg is supportive of recent global, Federal and Provincial initiatives to reduce emissions that may contribute to climate change and poor air quality;

**AND WHEREAS** the Police Services Act, R.S.O. 1990, Section 15 authorizes the municipality to appoint persons to enforce the by-laws of a municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing municipal by-laws;

**THEREFORE**, the Council of the Town of Amherstburg enacts as follows:

#### **Short Title**

This By-law may be, referred to as the "**Anti Idling By-law**".

#### **1. Definitions:**

"Agricultural Equipment" means equipment that is operated on agricultural property;

"Agricultural Property" means a property that is zoned for agricultural use in the zoning by-law that applies to the property;

"Boat" means a ship or any other description of vessel not propelled by oars and includes a boat used exclusively for towing purposes, a water taxi and a boat used on water for living purposes;

"Commercial Motor Vehicle" means a motor vehicle having permanently attached thereto a truck or delivery body, and includes ambulances, hearses, casket wagons, fire apparatus, tow trucks, buses and tractors used for hauling purposes on the highways, and any vehicle bearing commercial license plates;

"Corporation" means The Corporation of the Town of Amherstburg;

"Drive-Through" means the uses of land, buildings or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an

attendant or a window or an automated machine, to persons remaining in motorized vehicles that are in a lane designated for that purpose;

“Idle” and “idling” mean the stopping of a vehicle while the engine is running or the operation of an engine of a boat while the boat is not in motion;

“Livery Vehicle” means a vehicle, other than a taxicab, used for hire for the conveyance of passengers and available for hire by the general public;

“Emergency Vehicles and Emergency Boats” includes an ambulance, a fire department vehicle or boat, police and any other public agency vehicle or boat being used to respond to an emergency;

“Mobile Workshop” means a vehicle containing equipment that must be operated inside or in association with the vehicle, or a vehicle serving as a facility for taking measurements or making observations or conducting maintenance, delivery of service or construction;

“Official” means a police officer, police cadet, municipal law enforcement officer, Provincial Offences Officer or any person authorized to enforce this by-law;

“Parking Lot” means a private or municipal parking area to which the public has access whether on payment of a fee or otherwise;

“Provincial Offences Officer” means any employee of the Corporation who is duly appointed by the Council of the Corporation, for the purpose of enforcing the provisions of the Corporation’s by-laws;

“School Bus” means a school bus as defined by the Highway Traffic Act, R.S.O. 1990, c. H.8;

“Stop” and “stopping” mean the halting of a vehicle, even momentarily, whether occupied or not except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control sign or signal;

“Taxi” means a vehicle, other than a car-pool vehicle, having a seating capacity of not more than six (6) people, not including the driver, hired for one specific trip for the transportation of one person or group of persons, with one fare or charge being collected or made for the trip;

“Transit Vehicle” means a school bus, tour bus, motor coach, and public transportation bus

“Tour Boat” means a water vessel that carries paying passengers on a regular route;

“Tow Truck” means a vehicle used for hire for towing or otherwise conveying a vehicle;

“Vehicle” means a motor vehicle, trailer, traction engine, farm tractor or road building machine as defined in the Highway Traffic Act and any vehicle drawn, propelled or driven by any kind of non-muscular power.

## **2. Application**

2.1 This By-Law applies to:

- Private property;
- Public property;
- Highways forming part of the road system under the jurisdiction of The Corporation of the Town of Amherstburg.

### 3. General Regulations

- (1) No person shall cause or permit a Motor Vehicle, a Commercial Motor Vehicle or a Boat to idle for more than three (3) continuous minutes (180 seconds);
- (2) Subsection 3 (1) does not apply to:
  - (a) Police, fire or ambulance vehicles or boats while engaged in operational activities, including training activities;
  - (b) Motor Vehicles, Commercial Motor Vehicles and Boats assisting in an emergency activity;
  - (c) Boats not at anchor or tied to a dock;
  - (d) Mobile workshops while they are in the course of being used for their basic function;
  - (e) Motor Vehicles, Commercial Motor Vehicles or Boats where idling is required to repair the Motor Vehicle, Commercial Motor Vehicle or Boat or to prepare the Motor Vehicle, Commercial Motor Vehicle or Boat for service;
  - (f) Armoured vehicles where a person remains inside the vehicle while guarding the contents of the vehicle or while the vehicle is being loaded or unloaded;
  - (g) Motor Vehicles, Commercial Motor Vehicles or Boats required to remain motionless because of an emergency, traffic, weather conditions or mechanical difficulties over which the driver has no control;
  - (h) Motor Vehicles, Commercial Motor Vehicles or Boats engaged in a parade or race or any other event authorized by the Council of the Corporation;
  - (i) Transit vehicles;
  - (j) Transit vehicles while at a layover or stopover location except where idling is substantially for the convenience of the operator of the vehicle;
  - (k) Motor Vehicles transporting a person where a medical doctor certifies in writing that for medical reasons the person requires that the temperature or humidity level be maintained within a certain range and the idling of the Motor Vehicle is necessary to achieve that temperature or humidity level;
  - (l) Motor Vehicles, Commercial Motor Vehicles or Boats when the ambient temperature outside is:
    - (i) More than thirty degrees Celsius (30°C); or
    - (ii) Less than five degrees Celsius (5°C)
  - (m) Motor Vehicles when operating on the traveled portion of a Drive Through lane;

- (n) Motor Vehicles or Commercial Motor Vehicles when halting temporarily to obey a Traffic Control Device;
- (o) Motor Vehicles or Commercial Motor Vehicles when halting temporarily to obey the directions of an Official;
- (p) Taxicabs or Livery Vehicles when stopping temporarily for the purpose of receiving or discharging persons for a fare;
- (q) Tow Trucks while hoisting and pulling wrecked or disabled vehicles, or while removing vehicles unlawfully parked;
- (r) Publicly operated boats to ferry passengers and vehicles on a set route and schedule;
- (s) Hybrid or electric vehicles.

#### **4. Offence and Penalty**

- 4.1 Any person who contravenes any provision of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than Five Thousand Dollars (\$5,000), exclusive of costs, and every such fine is recoverable under the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended from time to time.
- 4.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 4.3 Where a vehicle has been left stopped in contravention of this By-Law, the owner of the vehicle, even though the owner was not the driver of the vehicle at the time of the contravention of the By-Law, is guilty of an offence and liable to a fine in accordance with the provisions of the Provincial Offences Act, unless at the time of the offence the vehicle was in the possession of some person other than the owner without the owner's consent.

#### **5. Validity**

- 5.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of City Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.
6. This By-law shall come into force and take effect on the day of the final passing thereof.



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ALDO DICARLO, MAYOR



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VALERIE CRITCHELY, CLERK

First Reading – March 14, 2022

Second Reading – March 14, 2022

Third Reading – March 14, 2022

