

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2024-XX

BEING A BY-LAW TO REGULATE THE PARKING OF MOTOR VEHICLES ON LANDS WHICH ARE NOT HIGHWAYS

WHEREAS Section 11(3) of the *Municipal Act, 2001*, authorizes municipalities to pass by-laws respecting parking, on highways;

AND WHEREAS Subsection 11(3)(8) of the *Municipal Act, 2001*, provides that the power of a municipality to pass a by-law under subsection (3) with respect to parking except on highways does not include the power to pass a by-law respecting parking except on highways provided by any person other than the municipality, except where otherwise provided;

AND WHEREAS Section 100, of the *Municipal Act, 2001*, provides that a local municipality may, in respect of land not owned or occupied by the municipality that is used as a parking lot, regulate or prohibit the parking or leaving of motor vehicles on that land without the consent of the owner of the land or regulate or prohibit: traffic on that land if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition;

AND WHEREAS Subsection 100.1(1) of the *Municipal Act, 2001*, provides that a local municipality may, in respect of land not owned or occupied by the municipality, which is not a parking lot, regulate or prohibit the parking or leaving of motor vehicles without the consent of the owner of the land;

AND WHEREAS Subsection 101(1) of the *Municipal Act, 2001*, provides that if a municipality passes a by-law regulating or prohibiting the parking or leaving of a motor vehicle on land, it may provide for the removal and impounding or restraining and immobilizing of any vehicle, at the vehicle owner's expense, parked or left in contravention of the by-law and section 170 (15) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, applies with the necessary modifications to the by-law;

AND WHEREAS Subsection 101(2) of the *Municipal Act, 2001*, provides that a municipality may enter on land at reasonable times for the purposes described in section 101 (1);

AND WHEREAS Subsection 101(3) of the *Municipal Act, 2001*, provides that, if signs are erected on land specifying conditions on which a motor vehicle may be parked or left on the land or regulating or prohibiting the parking or leaving of a motor vehicle on the land, a motor vehicle parked or left on the land contrary to the condition or prohibition shall be deemed to have been parked or left without consent;

AND WHEREAS the *Highway Traffic Act* section 30 provides the restriction and penalties for Electric Vehicles and Electric Vehicle Charging Stations;

AND WHEREAS Section 102.1 of the *Municipal Act, 2001*, provides that if a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-law respecting the parking, standing or stopping of vehicles;

AND WHEREAS Ontario Regulation 333/07 under the *Municipal Act, 2001* ("the Regulation") provides that a municipality shall not require a person to pay an administrative penalty under section 102.1 of the *Municipal Act, 2001* unless the municipality has met the requirements of "the Regulation";

AND WHEREAS the Corporation of the Township of West Lincoln has established a system of administrative penalties in accordance with section 102.1 of the *Municipal Act, 2001* and the regulation;

AND WHEREAS council of the corporation of the Township of West Lincoln deems it necessary and desirable to enact this By-law;

Now Therefore the Council of the Corporation of the Township of West Lincoln enacts as follows:

1. SHORT TITLE.

This By-law Shall be known as the “Private Property Parking By-law”.

2. DEFINITIONS

In this by-law.

“**By-law Enforcement Officer**” means an appointed By-law Enforcement Officer of the Township of West Lincoln.

“**Electric Vehicle**” has the same meaning as in the *Highway Traffic Act*.

“**Electric Vehicle Charging Station**” has the same meaning as in the *Highway Traffic Act*.

“**Emergency Service Vehicle**” means an ambulance, fire truck or other fire department vehicle, a police vehicle or a vehicle of the Ontario Ministry of Transportation.

“**Highway**” has the same meaning as in the *Highway Traffic Act*.

“**Motor Vehicle**” has the same meaning as in the *Highway Traffic Act*.

“**Officer**” means any provincial offences officer or police officer authorized to enforce this By-law, the *Highway Traffic Act* and any other applicable legislation.

“**Park**” means the standing of a Motor Vehicle, whether it is occupied or not, except standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise, passengers and the terms “**Parked**” and “**Parking**” have corresponding meanings.

“**Parking Space**” means an area of Township Property or Private Property set aside for the temporary Parking of one (1) Motor Vehicle and normally designated by lines or other suitable markings painted or marked on the land surface;

“**Person**” means and individual, corporation, partnership or association.

“**Private Property**” means a lot, parcel or otherwise designated piece of land that is privately owned and in which the owner provides in writing, legal authorization for the Township to exercise parking enforcement on the aforementioned lands as published in Schedule “A” of this By-law.

“**Township**” means the Corporation of the Township of West Lincoln.

“**Township Property**” means any land or property owned or occupied by the Township, other than a Highway, that is intended for the temporary Parking of Motor Vehicles and on which there are one (1) or more Parking Spaces.

3. GENERAL PROHIBITIONS

- 3.1 No person shall park or leave a *Motor Vehicle* or permit a *Motor Vehicle* to be Parked or left on any land or property owned by the Township other than on *Township Property*.
- 3.2 No Person shall park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or Permit a *Motor Vehicle* to be Parked or left on *Township Property* or *Private Property* except in accordance with this By-law.

4. PARKING ON TOWNSHIP PROPERTY or PRIVATE PROPERTY

- 4.1 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* without the consent of the Township.
- 4.2 A *Motor Vehicle* that is Parked or Left on *Township Property* contrary to any provision of this By-law shall be deemed to have been parked or left without the consent of the *Township*.
- 4.3 Where the *Township* has posted one or more signs stating conditions on which a *Motor Vehicle* that is *Parked* or left on *Township property*, contrary to any such conditions shall be deemed to have been *Parked* or left without the Consent of the *Township*.
- 4.4 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* other than in a Parking Space and in conformity with signs and markings.
- 4.5 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* in such a manner that it is not wholly within a Parking Space.
- 4.6 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* in any Parking Space that is occupied by another *Motor Vehicle*.
- 4.7 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* in any Parking Space that is temporarily closed.
- 4.8 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* in such a manner as to interfere with the clearing of snow or other maintenance or repair of the Township Property.
- 4.9 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* in such a manner as to obstruct or interfere with the ability of other *Motor Vehicles* to access or travel through the Township Property.
- 4.10 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* in any Parking Space for which the Township has posted signs reserving the use of the Parking Space for specific Persons or *Motor Vehicles*.

- 4.11 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* for a consecutive period longer than twenty-four (24) hours.
- 4.12 No person shall Park or leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be parked or left on *Township Property* or *Private Property* in a designated Electric Vehicle Charging Station space that is identified by a sign unless the *Motor Vehicle* is an Electric Vehicle and the Electric Vehicle is attached to the Electric Vehicle Charging Station's charging equipment.
- 4.13 To the extent that the *Township* By-law Nos. (Accessible parking By-law Number) and/or (Fire route parking by-law number) apply to *Township Property* or *Private Property*, no *Person* shall Park or Leave a *Motor Vehicle* on *Township Property* or *Private Property* or permit a *Motor Vehicle* to be Parked or left on *Township Property* in a manner that contravenes said By-law(s).
- 4.14 No *Person* that Parks or leaves a *Motor Vehicle* on *Township Property* or *Private Property* or that permits a *Motor Vehicle* to be Parked or left on *Township Property* or *Private Property* shall injure, encumber, obstruct or foul the *Township Property* or *Private Property* by placing, discarding or leaving any object, material, substance, debris, item or thing in or upon the *Township Property* or *Private Property* or permit the *Township Property* or *Private Property* to be injured, encumbered, obstructed or fouled by the placing, discarding or leaving of any object, material, substance, debris, item or thing in or upon the *Township Property* or *Private Property*.

5. EXEMPTIONS

- 5.1 Where compliance with this By-law would be impractical, this By-law shall not apply to *Motor Vehicles* operated by or on behalf of the *Township* and engaged in *Township* operations including but not limited to inspection, maintenance or repair of *Township property* and by-law enforcement.
- 5.2 Where compliance with this By-law would be impractical, this by-law shall not apply to any *Emergency Service Vehicle* while carrying out its lawful duties.

6. ENFORCEMENT

- 6.1 This By-law shall be administered and enforced by the *Township*, a *By-law Enforcement officer* and/or an *Officer*.
- 6.2 A *By-law Enforcement Officer* and/or an *Officer* may, for the purpose of enforcing this By-law, exercise any power, authority or remedy granted to the *Township* pursuant to the *Municipal Act, 2001* and/or the *Highway Traffic Act*.
- 6.3 No *Person* shall obstruct or hinder, or attempt to obstruct or hinder, any *By-law Enforcement Officer* and/or an *Officer* in the exercise of a power or the performance of a duty under this By-law.

7. PENALTY

- 7.1 Any offence created by this By-law is not subject to the Penalty Provisions of the *Provincial Offences Act, R.S.O. 1990, c. P. 33*.
- 7.2 Subject to Section 7.1, any *Person* who contravenes any provision of this By-law is guilty of an offence and upon Conviction is Liable to such Penalties as are provided for in the *Municipal Act, 2001* and the *Highway Traffic Act*.

- 7.3 Administrative Penalty System By-law No. 2016-67 applies to each administrative penalty issued pursuant to this By-law.
- 7.4 Every *Person* who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty System By-law No. 2016-67, be liable to pay to the Township an administrative penalty in accordance with that By-law.
- 7.5 For greater certainty, both the driver and the owner of a *Motor Vehicle* are liable to the penalties prescribed by section 7.3 and section 7.4 of this By-law unless, at the time of the offence or By-law Contravention, the *Motor Vehicle* was in the possession of a *Person* other than the owner without the consent of the Owner.
- 7.6 A *By-law Enforcement Officer* and/or an *Officer*, upon the discovery of a *Motor Vehicle Parked* or left in contravention of this By-law may cause the *Motor Vehicle* to be moved or taken to and placed or stored in a suitable place, and all costs and charges for the removal, care and storage thereof, if any, are a lien upon it that may be enforced in a manner provided by the *Repair and Storage Liens Act*.
- 7.7 Notwithstanding any other provision of this By-law, a *By-law Enforcement Officer* may, before removing or causing to be removed the *Motor Vehicle* as provided for in this By-law, issue and attach to the *Motor Vehicle* a *Township Parking Infraction Notice* alleging that the provisions of this By-law have been contravened.

8. GENERAL

- 8.1 If any provision of this By-law is found by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, the balance of the By-law shall not be affected and shall remain in full force and effect.
- 8.2 If there is a conflict between a provision of this By-law and a provision of any other By-law of the Township, the provision that establishes the higher standard shall prevail.
- 8.3 This By-law shall be read with all changes in number or gender as are required by context.
- 8.4 Any reference to legislation in this By-law includes the legislation and any amendment, replacement, subsequent enactment or consolidation of such legislation.
- 8.5 The Township Clerk is hereby authorized to effect any minor modifications or corrections solely of an administrative, clerical, numerical, grammatical, semantical or descriptive nature or kind to this By-law as are determined to be necessary.

9. EFFECTIVE DATE

- 9.1 This By-law shall come into force and effect on May 1st, 2024.

**READ A FIRST, SECOND AND THIRD
TIME AND FINALLY PASSED THIS
22nd DAY OF APRIL, 2024.**

MAYOR CHERYL GANANN

NANCY FIORENTINO, CLERK