

THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN

BY-LAW NO. 2011-61

BEING A BY-LAW TO CONTROL THE IDLING OF VEHICLES AND BOATS

WHEREAS Section 8(1) of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 11(3)(1) of the *Municipal Act* provides that a municipality may pass by-laws respecting matters within the sphere of jurisdiction of highways, including parking and traffic on highways;

AND WHEREAS Section 11(3)(8) of the *Municipal Act* provides that a municipality may pass by-laws respecting matters within the sphere of jurisdiction of parking, except on highways;

AND WHEREAS Section 425 of the *Municipal Act* establishes that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

AND WHEREAS Section 428 of the *Municipal Act* states that a by-law may provide that, where a vehicle has been left parked, stopped or standing in contravention of a by-law, 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 possession of another person without the owner's consent.

NOW THEREFORE the Council of the Corporation of the Municipality of West Elgin enacts as follows:

1. DEFINITIONS

In this by-law:

- a) "Boat" means a ship or any other description of a 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;
- b) "Council" means the Council of the Municipality of West Elgin;
- c) "Idle" means the operation of a vehicle while the vehicle is not in motion and not being used to operate auxiliary equipment that is essential to the basic function of the vehicle and "idling" has a corresponding meaning;
- d) "mobile workshop" means
 - i) a vehicle containing equipment that must be operated in association with the vehicle, or
 - ii) a vehicle serving as a facility for taking measurements or making observation which is operated by or on behalf of a public utility or a police, fire or ambulance service vehicle;
- e) "Municipality" means the Municipality of West Elgin;

- f) “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 property advanced farm management practices;
- g) “Official” means a police officer, police cadet, municipal law enforcement officer or any person authorized to enforce this by-law;
- h) “transit vehicle” means public transit vehicles, tour buses and motor coaches;
- i) “vehicle” means a motor vehicle, trailer, traction engine, farm tractor or road building machine as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended, and any vehicle drawn, propelled or driven by any kind of non-muscular power but does not include cars of electric or diesel electric railways running on rails.

2. GENERAL PROVISIONS

- a) No person shall cause or permit a vehicle or boat to idle for more than five (5) consecutive minutes.
- b) Section 2(a) shall not apply to:
 - i) Police, fire or ambulance vehicles, while engaged in operation activities, including training activities;
 - ii) Vehicles and boats assisting in an emergency activity;
 - iii) Boats not at anchor;
 - iv) Mobile workshops, while using the equipment that must be operated in association with the vehicles;
 - v) 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;
 - vi) Vehicles or boats required to remain motionless because of an emergency, traffic, weather conditions or mechanical difficulties over which the driver has no control;
 - vii) Vehicles or boats engaged in a parade or race or any other event authorized by Council;
 - viii) Transit and passenger vehicles, while passengers are embarking or disembarking en route or at terminals;
 - ix) Vehicles transporting a person where a medical doctor certifies in writing that for medical reasons a person in the vehicle requires that temperature or humidity be maintained within a certain range;

- x) Occupied vehicles or boats when the temperature outside the vehicle or boat is greater than twenty-seven degrees Celsius (27°C) or less than five degrees Celsius (5°C);
- xi) Vehicles engaged in a normal farm practice; or,
- xii) Vehicles, including hybrid vehicles that eliminate the emission of green house gases and criteria air contaminants during the idling phase of operation.

3. ENFORCEMENT

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

4. VALIDITY

- a) If a Court of competent jurisdiction declares any provision or provisions, or part thereof, of this By-Law as invalid, it is the intention of Council that the remainder of the By-Law shall continue to be in force.

5. EFFECTIVE DATE

- a) This By-Law shall come into full force and effect on the day of its final passing thereof.

6. SHORT TITLE

- a) This By-Law shall be referred to as the "Idling Control By-Law".

READ A FIRST AND SECOND TIME this 13th day of October, 2011.

READ A THIRD TIME and FINALLY PASSED this 13th day of October, 2011.

"Bernie Wiehle"
MAYOR

"Norma I. Bryant"
CLERK