

THE CORPORATION OF THE TOWN OF MARATHON

BY-LAW NO. 1592

Being a by-law to regulate the parking of vehicles where winter road maintenance operations must be conducted within the Municipality and to repeal selected provisions of By-Law No. 716.

WHEREAS Section 8 of the Municipal Act, S.O. 2001, c. 25, as amended, states that the powers of a municipality under this or any other Act shall be interpreted broadly 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 10 (1), of the same Act, conveys broad authority to single-tier municipalities and states a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public and further, Section 10 (2), specifically empowers a single-tier municipality to pass by-laws respecting, among other matters, by-laws concerning the following:

- i) Economic, social and environmental well-being of the municipality, and
- ii) Health, safety and well-being of persons, and

AND WHEREAS Part III of the said act grants specific municipal powers related to highways within the municipality.

AND WHEREAS Council deems it desirable and necessary to facilitate snow removal operation on municipal streets in an efficient and orderly manner.

NOW THEREFORE the Council of the Town of Marathon hereby enacts as follows:

1. DEFINITIONS

Terms and expressions shall, for the purposes of this by-law, be interpreted as defined in Appendix “A” to this by-law.

2. SEASONAL TERM

- (1) This by-law shall be in effect annually from the period beginning November 1st in one year, thru to April 1st, inclusive in the succeeding year and shall be known as Winter Parking Restrictions.
- (2) Notwithstanding Subsection 2(1) above, where a heavy snowfall or ice storm occurs at any other time of the year, the C.A.O. or Mayor may implement this by-law for whatever period necessary by posting notices at municipal locations and by giving reasonable notice by other means of communication available at that time.
- (3) Where notice is given for a specific period pursuant to subsection 2(2) above, this by-law will be of full force and effect for the specified period.

3. ANNUAL NOTICE

- (1) Each year, the Town will erect a sign on the approach to Town along Peninsula Road, advising residents and visitors that Winter Parking Restrictions are in effect.
- (2) Additionally, the Town will post a notice in the local paper and on the radio,

advising residents and others, that Seasonal Parking Restrictions are in effect.

- (3) Notwithstanding the requirement of the Town to give forms of notice as set out in Subsections 3(1) and 3(2) above, the fact that a notice was missed by the Town or a resident shall not act as relief to a violation or non-compliance with any sections of this by-law.
- (4) Notice as required pursuant to subsection 2(2) shall be deemed to have met the intent of this section.

4. SEASONAL PARKING RESTRICTION HOURS

- (1) No person shall park or permit the parking of a vehicle or equipment on any highway under the jurisdiction of the Corporation of the Town of Marathon between the hours 2:00 am (0200 hrs) and 12:00 pm (1200 hrs) – noon the following day, every day.

EXEMPTION WHERE WINTER ROAD MAINTENANCE NOT REQUIRED

- (2) Notwithstanding Subsection 4(1) above, and subject to the provisions of Parking By-Law No. 716, as amended, AND Section 5, on any day where no snowfall as occurred overnight **and** where pre-existing accumulation of snow has been previously cleared, parking will be permitted starting at 9:00 am (0900 hrs) on such days.

8 AM EXEMPTION – STEVENS AVENUE (KING ST. –WOODSON ST.)

- (3) Notwithstanding Subsection 4(1) above, but and subject to Section 5 and the provision of Parking By-Law No. 716 as amended, a person may park or cause to be parked, a vehicle after 8:00 am (0800 hrs) daily on the portions of Stevens Avenue between King Street and Woodson Street.

5. REQUIREMENT TO MOVE VEHICLES

- (1) Notwithstanding Section 4 above, at any time during the day, where a vehicle is parked on a municipal highway or other municipal property in such a way as to interfere or prevent the safe and efficient winter road maintenance activities, to continue, the owner or operator may be required to move or relocate the vehicle and shall:
 - (i) Where the owner or operator is at or near the vehicle and a town employee requests verbally or by hand signal to relocate or remove the vehicle from its parked location, the owner or operator shall immediately move the vehicle from its parked location, the owner or operator shall immediately move the vehicle to a location it will no longer cause interference with winter road maintenance operations, or
 - (ii) Where the owner or operator are located at another location, away from the vehicle, and requested by a town employee to move the vehicle, the owner or operator shall move or cause to be moved the vehicle, within one (1) hour of the request, to a location where it will no longer cause interference with winter road maintenance operations, or
 - (iii) Where the owner or operator is not present and is not immediately contacted, a town employee may affix a notice to the vehicle requiring the vehicle be moved within a specified period as set out in the notice, and the owner or operator shall comply with the terms of the notice and move the vehicle to a location it will no longer cause interference with the winter road maintenance operations.

FORM OF NOTICE

- (2) A notice affixed to the vehicle pursuant to clause 5(1)(iii) above shall include:
 - i) a minimum time to comply of at least four (4) hours and,

- ii) specify the employee's identification number, and
- iii) the time the notice was written, and
- iv) the location, and
- v) the licence plate number and general description of the vehicle given notice, and
- vi) the date and time the vehicle must be moved by.

6. **OWNER LIABLE**

Where a vehicle has been left parked, stopped or standing in contravention of this 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.

7. **VEHICLE TO BE TOWED**

- (1) Where a vehicle is parked in contravention of the provisions of the by-law or where the owner or operator refuses to comply with a requirement to move a vehicle pursuant to Section 5 of the by-law, a Police Officer or Municipal Law Enforcement Officer may;
 - (i) cause such vehicle to be moved to another location, in close proximity to where it was parked, to facilitate the winter road maintenance operations, and in addition to fines or penalties that may be incurred the Town may levy an administration fee to sufficiently recover all reasonable costs and expenses associated with moving the vehicle and such fees shall be recoverable as a debt due to the Town pursuant to the Municipal Act, or
 - (ii) cause such vehicle to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage of such vehicle, if any, are in lien upon the vehicle, which may be enforced in a manner provided by Repair and Storage Liens Act, R.S.O. 1990, c.R.25.
- (2) Where a vehicle is moved in accordance with Section 7, the municipality shall not be liable for any damages or liability that may arise out of the action except as permitted by Statute.

8. **HINDER/OBSTRUCTION**

- (1) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law, made pursuant to the Municipal Act.
- (2) For the purposes of Subsection 8(1) above, an owner or operator of a vehicle whom; has verbally been instructed pursuant to Section 5 (1)(i) or 5(1)(ii) to move a vehicle and fails or refuses to comply, without lawful excuse, shall be deemed to have hindered such person making the request whether or not that person making the request was the operator of the winter maintenance equipment that actually was interfered with.

9. **OFFENCE**

- (1) Any person who contravenes any of the provisions of this by-law is guilty of an offence and is subject to such fines and penalties authorized pursuant to the Municipal Act, S.O. 2001, c.25, as amended.

SYSTEM OF FINE

- (2) For the purpose of establishing a system of fines, as set out in Subsection 429(2)

of the Municipal Act, the following applies;

PROHIBITED HOURS – Continuous Offence

- i) Where the offence of parking during prohibited hours, contrary to provisions of Section 4 of this by-law occurs at a fixed location and is;
 - a) one vehicle, and
 - b) continuously in a location, and
 - c) continues for more than one (1) hour,

it shall be deemed to be a continuing offence and the minimum fine for each hour of prohibited parking shall be \$20 (twenty dollars) per hour.

FAILURE TO MOVE VEHICLE – Continuous Offence

- ii) Where the offence of fail to move vehicle when required, pursuant to Section 5 occurs at a fixed location and is
 - a) involving one vehicle, and
 - b) continuously in one location, and
 - c) continues for more than one(1) hour,

it shall be deemed to be a continuing offence and the minimum fine for each hour of failure to comply with requirement to move vehicle shall be \$100 (one hundred dollars) per hour

PROHIBITED HOURS – Multiple Offence

- iii) Where the offence of parking during prohibited hours, contrary to provisions of Section 4 of this by-law occurs;
 - a) at more than one location on the same day, or
 - b) intermittent, at the same location on the same day, or
 - c) resumes after being instructed by a Town Employee to move the vehicle,
or
 - d) occurs on more than one day,

each event, location, day or failure to comply with instructions shall be considered multiple offences and each offence shall have a minimum fine of \$100 (one hundred dollars) each, per day.

FAILURE TO MOVE VEHICLE – Multiple Offence

- iv) Where the offence of failure to move vehicle when required, pursuant Section 5, occurs;
 - a) at more than one location in the same day, or
 - b) is interrupted or intermittent, at the same location on the same day, or
 - c) resumes after being instructed by a Town Employee to move the vehicle;
 - d) occurs on more than one day,

each event, location, day or failure to comply with instructions shall be considered multiple offences and each offence shall have a maximum fine of \$100 (one hundred dollars) each, per day.

PREVIOUS CONVICTIONS

- (3) Where the owner or operator has been previously convicted for the same offence, the minimum fine for each subsequent offence shall be \$200 (two hundred

dollars) per offence for Section 4 offences and \$500 (five hundred dollars) for Section 5 offences.

CORPORATIONS

- (4) Where a director or officer of a corporation knowing by concurs in the contravention of the by-law by the corporation, is quilty of an offence.

10. VOLUNTARY OUT OF COURT PAYMENT

- (1) The Corporation of the Town of Marathon is authorized, pursuant to Section 432 of the Municipal Act, to establish a procedure for the voluntary payment of penalties out of court where it is alleged that this by-law as been contravened.
- (2) Such procedure shall be implemented when the policy and procedure for voluntary payments is established by Administration and approved by Council.

11. SECTIONS REPEALED

- (1) On the day that this by-law comes into force, Section 17 and Section 22 of By-Law No. 716 are hereby repealed.

- 12. This by-law shall come into effect on the final day of its passing.

READ A FIRST AND SECOND TIME THIS 10TH DAY OF DECEMBER, 2007.

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Mayor

(SEAL)

.....
Clerk

READ A THIRD TIME AND FINALLY PASSED THIS 10TH DAY OF DECEMBER, 2007.

.....
Mayor

(SEAL)

.....
Clerk

Appendix "A"
To By-Law No. 1592

DEFINITIONS

For the purpose of this by-law:

1. "C.A.O." shall mean the Chief Administrative Officer of the Corporation of the Town of Marathon or any person designated or acting in this capacity.
2. "Day" shall mean a calendar day composed of 24 hours.
3. "Equipment" shall include all vehicles which are not licensed pursuant to the Highway Traffic Act currently in force for the Province of Ontario.
4. "Highway" within the Municipal boundaries of The Corporation of the Town of Marathon, includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, via duct or trestle, any part of which intended for or used by the general public for the passage of vehicles and include the area between the lateral property line thereof, excluding the portions which are not owned by the Town.
5. "Municipal Act" shall mean Municipal Act, S.O. 2001, c.25, as amended.
6. "Near the Vehicle" shall be taken to mean within fifty (50) meters in a straight line measure.
7. "Operator" shall include a driver of a vehicle, whether or not said person is actually situated in the vehicle or any legally licensed or entitled to operate the vehicle and includes the registered owner(s) of the vehicle whether or not they currently hold a valid drivers licence or any other person(s) whom is/are responsible partially or wholly for the vehicle being situated at a particular location at the time an offence occurred.
8. "Park" or "Parking, when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading, merchandise or passengers but does not exempt licensed commercial vehicles to unload freight or merchandise.
9. "Time" shall mean a reference to local time as is followed in the Town of Marathon on the date the "time" becomes an issue, and the a.m. and p.m. symbols are a reference to before noon time and after noon time, respectively.
10. "Town" shall mean the Corporation of the Town of Marathon, and "The Town of Marathon" shall have a corresponding meaning.
11. "Town Employee" shall mean any person employed by the Town who is authorized to exercise authorities conveyed in this by-law by the C.A.O. and includes a person who is operating a town vehicle or road maintenance equipment at the time a request is made.
12. "Vehicle" includes an automobile, motorcycle, snow machine, all terrain vehicle, off-road vehicle, mechanical equipment and any other vehicle propelled or driven otherwise than by muscular power.