

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 15.1.2
Halifax Regional Council
26 Sept 2023

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: 19 September 2023

SUBJECT: Amendments to By-law V200 – Respecting Immobilization of Vehicles on Private Property

ORIGIN

This is a staff-initiated housekeeping amendment to *By-Law V-200 - Respecting Immobilization of Vehicles on Private Property*.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter:

Power to make by-laws.

- 188 (1) The Council may make by-laws, for municipal purposes, respecting...
- (b) the safety and protection of property.
 - (f) businesses, business activities and persons engaged in business.

(2) Without restricting the generality of subsection (1) but subject to Part VIII, the Council may, in any by-law

- (a) regulate or prohibit.
- (b) regulate any development, activity, industry, business, animal, or thing in different ways, divide each of them into classes and deal with each class in different ways.

...

- (e) provide for a system of licences, permits or approvals, including any or all (i) establishing fees for licences, permits or approvals, including fees for licences, permits and approvals that may be a reasonable tax for the activity authorized or for the purpose of raising revenue, which fees may be set or altered by policy,
- (ii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval is granted,
- (iii) providing that terms and conditions may be imposed on a licence, permit or approval, the nature of the terms and conditions and who may impose them,
- (iv) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them,

(v) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition or the by-law or for any other reason specified in the by-law.

By-law V-200, the Respecting Immobilization of Vehicles on Private Property By-law

Summary Proceedings Act and the Summary Offense Ticket Regulations

RECOMMENDATION

It is recommended that Halifax Regional Council adopt *By-Law V-201*, amending *By-law V-200, Respecting Immobilization of Vehicles on Private Property*, as set out in revised Attachment B to this report.

BACKGROUND

On January 15, 2019, Regional Council requested a staff report on the authority for and options to regulate vehicle immobilization on private property. The January 23, 2020, information report addressed the legality of vehicle immobilization (also known as vehicle booting) on private property and resulted in the motion requesting a By-law to provide a regulatory framework for the oversight and administration of such activity.

Private parking lots are an integral part of the parking supply across the Halifax Regional Municipality. Private lot owners are responsible for the management of their parking facilities. These facilities range from gated, multi-level parking structures to monitored and unmonitored surface parking lots. Halifax Regional Municipality is responsible for the management and enforcement of parking in the street right of way and provides limited enforcement support to private lots. Currently, private lot owners can call 311 and enforcement staff will respond.

Two companies in the area provide vehicle immobilization services as part of their enforcement offerings to private lot owners: One-Shot Parking Solutions Limited and RFM Parking. Vehicle immobilization is a mechanism (usually a tire clamp) to prevent a vehicle from being moved. The mechanism is placed and locked until the fee is paid, and the vehicle is released. Between One-Shot Parking Solutions Limited and RFM Parking, there are more than 50 private lots that are managed using several enforcement techniques, including vehicle immobilization devices. The service providers and private lot owners have indicated that the immobilization services provide an effective additional enforcement option beyond ticketing.

By-law V-200, Respecting Immobilization of Vehicles on Private Property was adopted by Regional Council on 14 September 2021.¹

DISCUSSION

The first housekeeping item to address pertains to section 7(a) of the By-law, which requires that every person carrying on, engaging in, or operating a vehicle immobilization business, be appointed a special constable in accordance with the *Police Act*. This provision was established to align with the anticipated implementation of the new *Traffic Safety Act* in the autumn of 2021. However, in October 2021, after the enactment of HRM's By-law, the province announced a three to four-year delay in the rollout of the *Traffic Safety Act*. Consequently, a gap has arisen between HRM's *By-Law V-200* and the provincial legislation governing special constables and vehicle immobilization.

The *Motor Vehicle Act* and Incoming *Traffic Safety Act*

¹[By-law V200 Respecting Immobilization of Vehicles on Private Property](#)

The current *Motor Vehicle Act* in Nova Scotia does not address vehicle immobilization, only the removal of vehicles. Section 149(1) of the *Act* states that no person shall leave a vehicle standing on property of which he is not the owner or tenant without the consent of the owner or tenant of the property. If a vehicle is left on private property for over an hour, section 149(2) permits a peace officer, on the request of the owner or tenant of the property, to remove and detain the vehicle.

Section 64 of the incoming *Traffic Safety Act* states, “Where a peace officer is satisfied that a vehicle or other conveyance has been left standing on private property for longer than one hour without the consent of an owner or tenant of the property, the peace officer may, on the request of an owner or tenant of the property, seize the vehicle or other conveyance and impound or immobilize it in accordance with the regulations”. The *Traffic Safety Act* is not yet in force and will not be proclaimed until the regulations are complete. Regulations addressing this issue have not been drafted, but the province intends that there will be regulations addressing vehicle immobilization on private property. Until those regulations are drafted, it is not known what, if any, impact the regulations could have on the *Vehicle Immobilization By-law*. In the meantime, the province will not grant special constable status to operators of vehicle immobilization businesses. It is recommended that this section be repealed.

Modifying the requirement for special constables will not compromise the oversight of immobilization businesses, as they will still be obliged to adhere to all other provisions of the By-law. Moreover, HRM Parking Services compliance staff will continue to investigate all complaints.

To enhance compliance with the By-law, we propose a revision to section 7(b) of the V-200 By-law, which will state: “maintain a list of all employees and produce same to the Municipality within two business days upon request.” This will ensure that HRM staff has access to an updated roster of all individuals and companies involved in this activity.

To further strengthen oversight, we suggest including the phrase “and produce same to the Municipality within two business days upon request” at the end of section 7(c), which mandates written authorization from property owners for immobilizing vehicles on private property.

By implementing the amendments, HRM will strike a balance between vehicle immobilization companies not requiring special constables while ensuring public safety.

Other Housekeeping Changes

To keep up with technology, it is recommended that section 7 (e) be amended by changing – “prior to immobilizing a vehicle, place a written notice on the windshield of the vehicle, setting out the reasons and authority for the immobilization as prescribed in Schedule B” to “prior to immobilizing a vehicle, place a notice on the windshield of the vehicle, setting out the reasons and authority for the immobilization and contain the same information as prescribed in Schedule B.”

It is also recommended that sections 9 (d) and (e) be amended to keep up with off-street technology by changing “ticket dispenser” and “parking meter” to “payment system(s)”.

Release Fees

During the first and second readings of the V-200 By-law, it was requested by Regional Council that “a staff report assessing the impact of economic conditions on the fee cap at least once every five years to enable the companies to raise/adjust their fees in conjunction with inflation, and other relevant economic circumstances.”²

Staff were set to bring this back in another 2.5 years, however, since this report addresses other issues

² [Halifax Regional Council, August 17, 2021 - Item No. 7.1](#)

with V-200, staff decided to also address the release fees now. After consultation with HRM finance, it was recommended that the jurisdictional analysis would provide what a reasonable release fee should be, as opposed to inflation dynamics, as the release fee isn't linked to underlying economics as much as a firm price decision.

Based on this, a jurisdictional scan was conducted on vehicle immobilization fees as regulated by comparable cities and municipalities:

City	Booting Release Fee	Release Fee is Set By
Burnaby	\$35	Municipal By-Law
Moncton	\$45	Municipal By-Law
Victoria	\$85	Municipal By-Law
Sudbury	\$140	Private Industry
St. John's	\$130	Private Industry
Halifax	\$100	Municipal By-Law

Staff is recommending a fee of \$115 plus tax for the removal of the vehicle immobilization device. Some factors that went into this were the jurisdictional scan, it is intended that the release fee will be in place for another five years, and this is an industry that is affected by the carbon tax. A consultation was done with the vehicle immobilization businesses in HRM, and they both desire a \$130.00 release fee.

Compliance History

There have been 14 service requests/complaints about vehicle immobilization since the By-law was implemented. The main complaints have been about poor customer service and vehicle immobilization in general. After investigations were concluded, none of the complaints were found to be valid.

FINANCIAL IMPLICATIONS

There are no immediate financial implications resulting from the recommendations contained in this report. The housekeeping amendments in this report can be made with approved operating budgets and with existing resources.

RISK CONSIDERATION

There is a risk that without the By-law amendments, specifically section 7(a,) it will negatively impact select business and private property owners. This risk is considered high and can only be mitigated by the proposed changes.

COMMUNITY ENGAGEMENT

Staff had meetings with both vehicle immobilization companies to discuss the changes that staff were recommending in this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Halifax Regional Council may:

1. Adopt amending *By-law V-201* subject to modifications. This may include different release fees. This may require a supplementary staff report.
2. Refuse to adopt *By-law V-201*. This would maintain the status quo. This alternative is not recommended.

ATTACHMENTS

Attachment A: Showing Proposed Changes to By-law V-200

Attachment B: Amending By-law V-201

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Steven Berkman, Supervisor Parking Administration

HALIFAX REGIONAL MUNICIPALITY

BY-LAW V-200

RESPECTING IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY

WHEREAS vehicles are being parked or left on private property without the consent of the owner or operator of such property;

AND WHEREAS the owner or operator of such property have engaged individuals or business to immobilize vehicles left parked on the property without consent;

AND WHEREAS Council for the Halifax Regional Municipality considers it necessary and desirable to establish a by-law regulating the activity of vehicle immobilization;

AND WHEREAS section 188 of the *Halifax Regional Municipality Charter, 2008, c.39* permits Halifax Regional Council to establish by-laws respecting the safety and protection of property, and businesses, business activities, and persons engaged in business;

BE IT ENACTED by the Council of the Halifax Regional Municipality pursuant to the *Halifax Regional Charter* as follows:

Short Title

1. This By-law may be cited as By-Law V-200, the *Vehicle Immobilization By-law*.

Interpretation

2. In this By-law:
 - (a) "Council" means the Halifax Regional Council;
 - (b) "HRM" means Halifax Regional Municipality;
 - (c) "immobilize", with respect to a vehicle, means to detain using an immobilizing device;
 - (d) "immobilizing device" means a wheel locking device, a Denver boot, or other device designed to be attached or affixed to a parked vehicle to immobilize the vehicle;
 - (e) "Municipality" means Halifax Regional Municipality; and
 - (f) "vehicle immobilization business" means any person who carries on the business of immobilizing vehicles.

Application of this By-law

3. This By-law applies throughout the Halifax Regional Municipality.

Compliance with By-law

4. No person shall carry-on, engage in, or operate, or cause to carry-on, engage in, or operate a vehicle immobilization business unless that person complies with the provisions of this By-law.

Signage

5. Where an owner or an occupant of property affected by this By-law has posted signs stating conditions on which motor vehicles may be parked or left on the property, or prohibiting the parking or leaving of a vehicle on the property, a motor vehicle parked or left on the property contrary to such conditions or prohibition shall be deemed to have been parked or left without consent.
6. No person shall immobilize or cause to immobilize a vehicle in a parking lot unless there is signage displayed in the parking lot meeting the following requirements:
 - (a) any sign must conform with the applicable Land Use By-law;
 - (b) signs must be clearly visible and legible at all times;
 - (c) text of the signs must contain:
 - (i) a warning to the effect that improperly or unlawfully parked vehicles will be immobilized at the owner's expense;
 - (ii) the name and telephone number of the vehicle immobilization business; and
 - (iii) the immobilizing fees that will apply.

Vehicle Immobilization

7. Every person carrying on, engaging in, or operating or causing the carrying on, engaging in, or operating a vehicle immobilization business shall:
 - (a) ~~be appointed a special constable in accordance with the *Police Act*, SNS 2004, c. 31;~~
 - (b) maintain a list of all employees, and produce same to the Municipality ~~at any time within two business days~~ upon request;
 - (c) have the written authority of the owner or occupant of the property to engage in vehicle immobilization on the property ~~and produce same to the Municipality within two business days upon request;~~
 - (d) maintain a written record of all vehicles which that person or any person in that person's employ has immobilized, identifying each vehicle by make, colour, and license plate number and the times when the vehicle was immobilized and released from immobilization, and make such record available to the Municipality upon request;
 - (e) prior to immobilizing a vehicle, place a ~~written~~ notice on the windshield of the vehicle, setting out the reasons and authority for the immobilization as prescribed in Schedule B;
 - (f) at all times have a person either present at each parking lot where a vehicle has been immobilized or available to be contacted by telephone for the purpose of immediately attending at the parking lot to remove the vehicle immobilizing device;
 - (g) within 45 minutes of having been requested by telephone to do so, attend at a parking lot for the purpose of removing a vehicle immobilizing device;

Attachment A - REVISED

- (h) remove the immobilizing device immediately after accepting payment of the prescribed fee, not to exceed the amount prescribed in Schedule A; and
 - (i) accept payment by either cash, credit, or debit card, and offer the same level of service and response time regardless of the method of payment selected.
8. A person carrying on, engaged in, or operating a vehicle immobilization business must issue a written receipt, including the following information, to a person who pays immobilizing fees:
- (a) the name, or identification numbered issued by the vehicle immobilization business, of the person who immobilized the vehicle;
 - (b) the time when the vehicle was immobilized;
 - (c) the location where the vehicle was immobilized; and
 - (d) the fees for removing the immobilizing device.
9. Without restricting the foregoing, no person carrying on, engaged in, or operating a vehicle immobilization business shall:
- (a) immobilize a vehicle parked in a parking stall or area designated as being for the use of mobility-disabled persons, or in a designated fire lane;
 - (b) immobilize a vehicle with mobility handicapped person identification permits or plates;
 - (c) without lawful authority, immobilize a validly parked vehicle on a parking lot;
 - (d) immobilize a vehicle on a parking lot for failure to obtain a parking ticket from a ~~ticket dispenser~~ **payment system** unless the ~~ticket dispenser~~ **payment system** is in sound working order and supplied with parking tickets;
 - (e) immobilize a vehicle on a parking lot for failure to purchase sufficient parking time from a ~~parking meter~~ **payment system** unless the ~~meter~~ **payment system** is in sound working order;
 - (f) immobilize a vehicle on a parking lot when the purchased parking time has expired unless at least 15 minutes have elapsed since the time of expiry; or
 - (g) immobilize a vehicle due to the failure of the owner or operator to pay the total charges for the previous removal of an immobilizing device from a vehicle.

Restrictions on Advertising

10. No person carrying on, engaged in, or operating a vehicle immobilization business shall display on their vehicles, premises, advertising, or any other place a statement that states or implies that their business is anyway endorsed by the Halifax Regional Municipality.

Uniform and Vehicle

11. Every person carrying on or operating a vehicle immobilizing business shall wear a uniform that meets the following conditions:

Attachment A - REVISED

- a) a professional appearing uniform identifying the vehicle immobilization business that is standardized with other employees of the vehicle immobilization business;
 - b) uniforms must not include wording referencing Halifax Regional Municipality, Halifax Regional Police, police, or parking enforcement; and
 - c) photo identification cards issued by the vehicle immobilization business that must be worn on the outside of the uniform in the chest area.
12. Any vehicle used for vehicle immobilizing business:
- (a) must be clearly identified with the company name and contact number affixed to the side of the vehicle;
 - (b) may be identified using magnetic signage or decals; and
 - (c) must not contain any signage referencing Halifax Regional Municipality, Halifax Regional Police, police, or parking enforcement.

Fees

13. No person carrying on, engaged in, or operating a vehicle immobilization business shall charge more than the amount set out in Schedule "A" for the combination of installation and removal of an immobilizing device.

Offence and Penalty

14. (1) A person who:
- (a) violates or contravenes a provision of this By-law;
 - (b) fails to do anything required by this By-law;
 - (c) permits anything to be done in violation of this By-law; or
 - (d) obstructs or hinders any person in performance of their duties under this By-law, is guilty of an offence.
- (2) Every person who commits an offence is liable upon summary conviction to a penalty of not less than \$500.00 and not more than \$10,000.00 and in default of payment, to imprisonment for a term of not more than two (2) months.
- (3) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

Severability

15. Where a court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an order to the contrary.

Attachment A - **REVISED**

Done and passed in Council this 14th day of September, 2021.

Mayor Mike Savage

Iain MacLean, Municipal Clerk

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted By-law was passed at a meeting of Halifax Regional Council on September 14th, 2021.

Iain MacLean, Municipal Clerk

Attachment A - **REVISED**

Notice of Motion:	June 29, 2021
First Reading:	August 17, 2021
Notice of Second Reading Publication:	August 21, 2021
Second Reading:	September 14, 2021
Approval of Minister of Municipal Affairs and Housing:	N/A
Effective Date:	September 18, 2021

Schedule A

Fees

Maximum Immobilization Fee	\$100.00 \$115.00
----------------------------	------------------------------

Schedule "B"

VEHICLE IMMOBILIZATION NOTICE

THE PARKING LOT LOCATED AT _____

MOTOR-VEHICLE DESCRIPTION: Make _____ Model _____

Colour _____ Licence No. _____

Date _____ Time _____ A.M. P.M.

PARKING TICKET NUMBER: _____

REASON FOR IMMOBILIZATION

No permission to occupy

No contract of occupancy

Vehicle is hazard

No meter ticket

Vehicle is obstruction

Meter ticket expired

Other

THIS IMMOBILIZATION NOTICE ISSUED BY: _____
(Print name)

(Signature)

TO BE COMPLETED BY WHEEL-LOCKING DEVICE OPERATOR:

OPERATOR NO. _____

IMMOBILIZATION DATE _____ IMMOBILIZATION TIME _____

COMPANY NAME, NUMBER

ORIGINAL - IMMOBILIZING OPERATOR 2ND COPY - LEAVE ON VEHICLE FOR OWNER
3RD COPY - TO BE RETAINED BY ISSUER

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW V-201
RESPECTING THE AMENDMENT OF BY-LAW V-200
RESPECTING IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY**

BE IT ENACTED by the Council of Halifax Regional Municipality that By-law V-200 is amended as follows:

1. Clause 7(a) is repealed.
2. Clause 7(b) is amended by:
 - a. deleting the words “at any time” following the word “Municipality”; and
 - b. adding the words “within two business days” following the word “Municipality”.
3. Clause 7(c) is amended by adding the words “and produce same to the Municipality within two business days upon request” following the word “property”.
4. Clause 7(e) is amended by deleting the word “written” after the words “place a”.
5. Clause 9(d) is amended by:
 - a. deleting the words “ticket dispenser” following the words “from a”;
 - b. adding the words “payment system” following the words “from a”;
 - c. deleting the words “ticket dispenser” following the words “unless the”; and
 - d. adding the words “ticket dispenser” following the words “unless the”.
6. Clause 9(e) is amended by:
 - a. deleting the words “parking meter” following the words “from a”;
 - b. adding the words “payment system” following the words “from a”;
 - c. deleting the words “meter” following the words “unless the”; and
 - d. adding the words “payment system” following the words “unless the”.
7. The Fees table in Schedule A is amended by:
 - a. deleting the number \$100.00; and
 - b. adding the number \$115.00.

Done and passed in Council this day of , 2023.

MAYOR

MUNICIPAL CLERK

I, Iain MacLain, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on March 31, 2015.

Iain MacLean
Municipal Clerk

Notice of Motion:

First Reading:

Notice of Public Hearing Publication:

Second Reading:

Effective Date: