

City of Kelowna

Idling Control Bylaw No. 12378

A Bylaw to regulate the idling of motor vehicles within the City of Kelowna

WHEREAS the City of Kelowna may, by bylaw, regulate, prohibit and impose requirements with respect to the protection and enhancement of the well-being of its community in relation to the emission of smoke, fumes and other effluvia that is liable to foul or contaminate the atmosphere;

AND WHEREAS the City of Kelowna may, by bylaw, regulate, control, and prohibit stopping, standing, or parking of motor vehicles;

AND WHEREAS the City of Kelowna recognizes that motor vehicles emit smoke and fumes which are the source of particulate matter, nitrogen oxide, carbon monoxides, sulphur dioxide, volatile organic compounds and other pollutants that are liable to foul or contaminate the atmosphere and affect the comfort, convenience and health of its citizens;

AND WHEREAS the City of Kelowna is committed to reducing greenhouse gases emitted from community activities and its operations;

AND WHEREAS it is desirable to pass a bylaw to regulate the idling of motor vehicles in the City of Kelowna;

NOW THEREFORE, the Council of the City of Kelowna, in an open meeting assembled, enacts as follows:

1. INTRODUCTION

1.1 This Bylaw may be cited for all purposes as the "Idling Control Bylaw No. 12378".

2. APPLICABILITY

2.1 This Bylaw applies within the area incorporated as the City of Kelowna to all drivers or operators of motor vehicles on **highways, real property, commercial property**, or property owned or in the control of the **City**.

3. SEVERABILITY

3.1 If any provision, section, subsection, clauses, sub-clause, or phrase of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

3.2 The headings contained in this Bylaw are for convenience only and are not to be construed as defining or in a way limiting the scope or intent of the provisions of this Bylaw.

4. DEFINITIONS

4.1 In this Bylaw:

Bylaw enforcement officer means a bylaw enforcement officer appointed by Council of the City of Kelowna pursuant to section 36(1) of the Police Act, RSBC 1996, c. 367.

City means the City of Kelowna.

Commercial property means any land owned by individuals or corporations or building(s) on the property for an enterprise or activity involving the exchange of goods or services, including but not limited to office buildings,

industrial property, medical centres, hotels, malls, retail stores, farmland, multifamily housing buildings, warehouses, garages, parking lots, restaurants, **drive-throughs** or car washes.

Commercial vehicle means a motor vehicle, used in the course of business for the transportation of persons or freight that is:

- a) a truck or truck tractor with a licensed gross vehicle weight exceeding 5,000 kilograms and includes an attached trailer,
- b) a bus,
- c) a motor vehicle the operator of which is required to hold a license or temporary operating permit under the *Passenger Transportation Act*, or
- d) a business vehicle, as defined in section 237 of the Motor Vehicle Act, that has a gross vehicular weight in excess of 5,000 kilograms.

Drive-through means any commercial development providing a product or service where a queuing lane exists onsite where customers typically remain within the vehicle.

Full zero-emission vehicle or **full ZEV** means a motor vehicle that, under the provincial Greenhouse Gas Reduction Act, is deemed to have no emissions of prescribed greenhouse gases, or other prescribed substances under prescribed operating conditions.

Highway includes a common and public highway, street, avenue, lane, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for or used by the public for the passage of motor vehicles and includes but is not limited to the area between the lateral property lines thereof.

Idle or **idling** means the operation of a **motor vehicle** that is not in motion.

Mild hybrid vehicle means a **motor vehicle** with an internal combustion engine equipped with an electric motor/generator primarily to assist the gas engine, including but not limited to stop-start systems that automatically turn off the gasoline engine whenever the car is stopped, coasting or braking.

Mobile work vehicle means a motor vehicle serving as a facility for taking measurements, making observations, conducting maintenance, construction, conducting agricultural operations, or performing a job function operated by or on behalf of a federal, provincial, or local government or public utility.

Motor vehicle means any vehicle that is capable of being driven or drawn on roads or off roads by any means other than muscular power exclusively, including but not limited to automobiles, commercial vehicles, tractor-trailer units, farm tractors, recreational vehicles, motorcycles, lawn mowers, snowmobiles, all-terrain vehicles, transit vehicles, or road-building machines.

It does not include airplanes, boats, **full zero-emission vehicles**, **partial zero-emission vehicles** only while the electric motor or generator assists the gas engine, or any vehicle designed to run exclusively on rail.

Motor vehicle owner includes any person who owns, leases, operates, or controls a motor vehicle or fleet of motor vehicles or a person in possession of a motor vehicle under a contract by which he or she may become its owner on full compliance with the contract.

Motor vehicle with power take-off means a motor vehicle containing equipment that must be operated inside of or in association with the vehicle.

Partial zero-emission vehicle or **partial ZEV** means a motor vehicle that, under the provincial Greenhouse Gas Reduction Act is deemed to have emissions of:

- a) prescribed greenhouse gases, or

- b) other prescribed substances

under prescribed operating conditions that are greater than those of a full ZEV but less than the prescribed level, including but not limited to a Plug-in Hybrid Electric Vehicles (PHEVs), Hybrid Electric Vehicles (HEVs) or **Mild Hybrid vehicles**.

Real property means land, owned by individuals or corporations other than the government with or without improvements so affixed to the land as to make them in fact and law a part of it, including but not limited to driveways, garages, parking lots, lots or backyards.

Transit vehicle means a motor vehicle that is designed to carry many passengers by road from one place to another, including but not limited to tour bus, school bus, buses or vans that are equipped to facilitate persons with disabilities and buses part of the British Columbia Regional Transit System, which includes, among others, low-floor buses, double-decker buses, articulated buses and midibuses.

5. GENERAL REGULATION

5.1 An operator or **motor vehicle owner** must not cause or permit a **motor vehicle** to idle for more than one minute (60 seconds).

6. EXCEPTIONS

6.1 The one-minute (60 seconds) limit does not apply to the following situations, except where **idling** is substantially for the convenience of the operator or passengers of the motor vehicle:

- (a) police, fire, or ambulance **motor vehicle**, while engaged in operational activities, including training activities;
- (b) armoured **motor vehicle**, used to transport money or valuables, in which a person remains to guard the contents, during the loading or unloading of such money or valuables;
- (c) **motor vehicle with power take-off** and **mobile work vehicles** while they are in the course of being used for their basic function;
- (d) **motor vehicle** while engaged in a mechanical test or maintenance procedure;
- (e) **motor vehicle** during a race or parade with a valid permit issued pursuant to Outdoor Events Bylaw No. 8358;
- (f) **motor vehicle** forced to remain motionless because of **highway** traffic, an emergency, or mechanical difficulties over which the driver has no control;
- (g) **motor vehicle** that must remain **idling** to power a heating or refrigeration system or any ancillary equipment for the preservation of perishable cargo, but not when **idling** disturbs the quiet, peace, rest, enjoyment, or convenience of a neighborhood or of persons in the vicinity; and
- (h) **transit vehicles** while its passengers are in the course of embarking or disembarking.

7. LIMITATION ON LIABILITY

7.1 This Bylaw shall not create a duty of the City of Kelowna, its officers, employees, or person acting on its behalf pursuant to this Bylaw concerning enforcement or failure to enforce any matter contained in this Bylaw.

7.2 No act error, omission, or other neglect of the City of Kelowna in relation to any matter contained in the Bylaw shall give rise to a cause or action or liability to any person.

8. OFFENCE AND PENALTY

8.1 Every person who violates any provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw, or who does any act which constitutes an

offence against the bylaw is guilty of an offence against this bylaw and liable to the penalties hereby imposed. Each day that the violation continues to exist, shall constitute a separate offence.

8.2 Every person who commits an offence against this bylaw is liable on conviction, to a fine of up to \$10,000, or liable to a term of incarceration for a period of not more than 90 days, or both. Any penalty imposed pursuant to this bylaw shall be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, bylaw or legislation.

9. ENFORCEMENT

9.1 The provisions of this Bylaw may be enforced by any **bylaw enforcement officer**.

9.2 Any **bylaw enforcement officer** may enter at all reasonable times on any **real property, commercial property** or property owned or in the control of the **City** that is subject to this Bylaw to ascertain whether the requirements of this Bylaw are being met and the regulations in this Bylaw are being observed. No person shall interfere with, hinder or obstruct a **bylaw enforcement officer** from doing so.

10. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this 11th day of July, 2022.

Adopted by the Municipal Council of the City of Kelowna this 25th day of July, 2022.

Mayor

City Clerk