

BYLAW NO. 5689

A BYLAW TO AUTHORIZE THE IMMOBOLIZING AND SEIZING OF VEHICLES

WHEREAS *The Cities Act*, S.S. 2002, c. C-11.1, provides that a city has a general power to pass any bylaws for city purposes that it considers expedient in relation to the following matters respecting the city:

8(1) A city has a general power to pass any bylaws for city purposes that it considers expedient in relation to the following matters respecting the city:

(g) streets, including temporary and permanent openings and closings;

8(2) A city has the power to make bylaws respecting the enforcement of bylaws made pursuant to this or any other Act, including any or all of the following:

(j) remedying contraventions of bylaws, including providing for moving, seizing, impounding, immobilizing, selling, destroying or otherwise dealing with or disposing of any type of real or personal property, including animals;

(k) subject to section 335.1, providing for the seizing, impounding, immobilizing, selling or otherwise dealing with or disposing of vehicles to enforce and collect:

(i) fines for parking offences, including any charge the city may impose for late payments of fines; and

(ii) costs incurred by the city in enforcing and collecting fines for parking offences.

AND WHEREAS *The Summary Offences Procedure Act*, 1990, S.S. 1990-91, c. S-63.1, provides that a city has the authority to complete the following:

32.8(1) Nothing in this section limits the right of an authority to pursue any other remedy that the authority has for the recovery of a fine, late payment charge and any costs authorized by an Act.

(2) An authority has a lien on a vehicle of a vehicle owner if:

(a) a fine, late payment charge or costs were imposed on the vehicle owner as a result of a conviction for a parking offence for which the vehicle owner was liable;

(b) the fine, late payment charge or costs are in default; and

(c) any portion of the fine, late payment charge or costs is payable to the authority pursuant to an Act.

AND WHEREAS the City is desirous of enacting a bylaw to remove impediments from City streets and to collect fines, late payment charges and costs related to parking offences;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

PART I
GENERAL

Title

1. This Bylaw may be cited as The Impounding Bylaw.

Purpose and Interpretation

2. The purpose of this Bylaw is to provide for the impounding of any vehicle:
 - a. that is parked, placed, left or kept in violation of The City of Moose Jaw's Bylaw No. 5556, Traffic Bylaw;
 - b. that is parked, placed, left or kept on any street, in any public or commercial parking place, on property owned by the City or on privately-owned property where the owner of the vehicle is in default of payment of parking fines; and
 - c. that is unlawfully parked, placed, left or kept on any privately owned shopping centre property.
3. This Bylaw is to be interpreted in accordance with the legislation applicable to the City, the common law and the policies and bylaws of the City.

Definitions

4. In this Bylaw, in any amending bylaws, and in any schedules attached hereto, the following words and terms shall have the following meanings unless there is something in the subject matter or context inconsistent therewith:
 - a. "**Act**" means *The Cities Act*, S.S. 2002, c. C-11.1;
 - b. "**City**" means The City of Moose Jaw;
 - c. "**Costs**" means the reasonable costs of immobilizing and seizing a vehicle in accordance with this Bylaw;
 - d. "**Council**" means the Council of The City of Moose Jaw;
 - e. "**Fine**" means a fine imposed by the City for a parking offence, and includes any costs awarded to the City by any court in relation to the enforcement and collection of the fine;
 - f. "**Immobilize**" with respect to a vehicle, includes booting or moving;

- g. **"Impounding charges"** means all costs incurred to immobilize or seize any vehicle as provided by Schedule "A" to this Bylaw;
 - h. **"Late payment charge"** means a charge imposed for failure to pay a fine for a parking offence within the time prescribed for payment;
 - i. **"Officer"** means any member of the Moose Jaw Police Service, and any other City employee or agent appointed by Council to enforce this Bylaw;
 - j. **"Owner"** means, with respect to any vehicle, the person to whom a current certificate of registration or registration permit for a vehicle is issued;
 - k. **"Seize"** with respect to a vehicle, includes any or all of the following:
 - i. seizing, impounding, towing and storing a vehicle;
 - ii. repairing, processing or otherwise preparing a vehicle for sale or disposition;
 - iii. selling or otherwise disposing of a vehicle; and
 - l. **"Street"** includes all or any part of a culvert or drain or a public highway, lane, bridge, place, alley, square, thoroughfare or way intended for or used by the general public for the passage of vehicles or pedestrians.
5. Schedule "A" attached hereto shall form part of this Bylaw.

PART II SEIZURE

Immobilizing and Seizing of Vehicles

6. Where any vehicle is parked, placed, left or kept in violation of The City of Moose Jaw Traffic Bylaw, Bylaw No. 5556, an officer may immobilize or seize that vehicle from any of the following locations:
- a. any street;
 - b. any public parking place;
 - c. any property owned by the City; or
 - d. any privately owned shopping centre, if the owner of the shopping centre has given written authorization to Council to do so; or
 - e. any travelled portion of a highway in a place or in a manner that constitutes a hazard to other users of that highway if that vehicle is apparently abandoned.

7. Where the owner of a vehicle is in default of payment of parking fines, an officer may immobilize or seize any vehicle registered to that owner.
8. The City shall have the right to immobilize and seize any vehicle regardless of whether the owner of the vehicle is charged with or convicted of an offence.

Notice of Seizure

9. Upon seizing any vehicle, a notice shall be provided to the owner of the vehicle:
 - a. personally; or
 - b. via registered mail to the address shown on the motor vehicle registration certificate.
10. A notice served by registered mail is deemed to have been received on the seventh day following the date of its mailing.
11. A lack in the sufficiency of the notice or a claim that notice was not received shall not invalidate the seizure or the owner's responsibility to pay any costs and impounding charges, fines and late payment charges, if applicable.

Redemption of Seized Vehicles

12. Any vehicle seized pursuant to sections 6 or 7 shall be stored at the compound provided by the towing company, a City compound, or any other place authorized by an officer, at the cost of the owner for a minimum of 30 days after the date of deemed service of the notice provided for in sections 9 and/or 10, unless the impounding charges, costs and any outstanding fines and late payment charges are sooner paid.
13. Upon providing proof of its ownership and upon payment of any outstanding fines, costs, late payment charges and impounding charges as set out in Schedule "A", any vehicle seized pursuant to sections 6 or 7 may be redeemed by the owner, or a person authorized, in writing, by the owner, at any time up to the date of sale.

Failure to Redeem a Seized Vehicle

14. If a vehicle is not redeemed prior to the date of sale in accordance with section 13, the vehicle shall be sold, and the proceeds applied to any outstanding impounding charges, costs, fines, and late payment charges.
15. If, upon the sale of the vehicle, the amount recovered exceeds any outstanding impounding charges, costs, fines and late payment charges, the owner of the vehicle shall be notified.

16. Upon notification that the City is holding any excess proceeds from the sale, the vehicle owner shall be responsible to contact the City and arrange to have the funds transferred.
17. Excess proceeds from the sale of a vehicle shall be claimed within one year of the date of the sale, otherwise, they shall form part of the City's general revenue.
18. If, upon the sale of the vehicle, the amounts recovered are insufficient to satisfy all outstanding fines, costs, late payment charges and impounding charges, the deficiency becomes an amount owing to the City and may be collected by civil action for debt in a court of competent jurisdiction.

PART III
ENFORCEMENT

Parking Fines in Default – Liens

19. In addition to any other remedy that the City is entitled to pursue to recover outstanding fines, late payment charges and costs related to a conviction for a parking offence, the City has the authority to lien a vehicle of a vehicle owner if:
 - a. a fine, late payment charge or costs were imposed on the vehicle owner as a result of a conviction for a parking offence for which the vehicle owner was liable;
 - b. the fine, late payment charge or costs are in default; and
 - c. any portion of the fine, late payment charge or costs is payable to the City.
20. A lien on a vehicle takes effect when the City registers a financing statement in the Personal Property Registry with respect to the vehicle.
21. A lien with respect to which a financing statement is registered in the Personal Property Registry by the City secures the amount of the following which the owner is liable to the City:
 - a. the sum of the fines, late payment charges and costs in default on the date of registration of the financing statement; and
 - b. with respect to fines, late payment charges and costs in default subsequent to registration of the financing statement, the sum of all those fines, late payment charges and costs for which the owner is liable before discharge of the lien.

22. Within 15 days of registering a financing statement in the Personal Property Registry, the City shall cause a notice to be served on the vehicle owner.
23. The notice mentioned in section 22 shall state:
 - a. that the authority has a lien pursuant to *The Summary Offences Procedure Act, 1990* with respect to unpaid parking fines, late payment charges and costs and has registered a financing statement in the Personal Property Registry with respect to a vehicle of a specified make, model and year;
 - b. if the vehicle is registered pursuant to *The Traffic Safety Act*, the name and address of the registered owner;
 - c. if the vehicle is not registered pursuant to *The Traffic Safety Act*, that there is reason to believe that the vehicle is owned by the person whose name and address are specified;
 - d. the amount of the unpaid parking fines, late payment charges and costs as at the date of registration of the financing statement;
 - e. that, if the amount of the lien is not paid within 15 days after the notice is served, the authority may take possession and dispose of the vehicle; and
 - f. the address and telephone number of the place where further information can be obtained from the City.
24. A notice mentioned in section 22 shall be served on the vehicle owner:
 - a. by delivering it personally; or
 - b. by ordinary mail.
25. A notice sent by ordinary mail in accordance with subsection 24 b.:
 - a. is sufficiently given if it is sent to the last postal address of the vehicle owner shown in the records of the administrator pursuant to *The Traffic Safety Act*; and
 - b. is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of their own, the person did not receive the notice or received it at a later date.
26. In addition to the expenses permitted pursuant to *The Personal Property Security Act, 1993* for retaking, holding, repairing, processing, preparing for disposition of and disposing of a vehicle, the City is also entitled to be paid:
 - a. any other reasonable expenses incurred by the City; and

- b. an administrative fee in the amount of \$25.00.

Parking Fines In Default - Immunity From Liability

- 27. Where the owner of a vehicle is in default of payment of parking fines and the vehicle is immobilized or seized, the City is not liable for any loss or damage to the vehicle, or to the contents of the vehicle.

Offences and Penalties

- 28. No person shall:
 - a. obstruct or interfere with the immobilization or seizure of any vehicle; or
 - b. tamper with or remove any immobilization device that may be used to immobilize or seize any vehicle.
- 29. Every person who contravenes section 28 is guilty of an offence and is liable on summary conviction to a fine of not more than:
 - a. \$10,000.00 in the case of an individual; and
 - b. \$25,000.00 in the case of a corporation.
- 30. Any person who tampers with or removes any immobilization device that may be used to immobilize or seize any vehicle shall be liable for any loss or damage to the immobilization device.

Coming Into Force

- 31. This Bylaw comes into force on the day of its final passing.

READ a first time the ____ day of _____, 2024.

READ a second time the ____ day of _____, 2024.

READ a third time and passed the ____ day of _____, 2024.

Schedule "A"
Impounding Charges

1.	Towing	Actual Cost
2.	Impound Fee	The impounding fee set by the towing contractor in agreement with the City
3.	Storage Fee, to be paid in addition to the Impound Fee on the first day, and for each day or part of a day thereafter	The storage fee set by the towing contractor in agreement with the City
4.	Advertising Costs	Actual Cost
5.	Administration Fee: includes lien search and preparing for sale	The administration fee set by the towing contractor in agreement with the City
6.	Sales charge if sold	The sales charge set by the towing contractor in agreement with the City

If a vehicle requires extra services, or if additional facilities are necessary for its proper handling, the cost of such extra service or additional facilities shall be added to the charges set out in this Schedule. Also, any costs associated with the selling of a vehicle and of transferring title shall be paid by the Purchaser.