

Authority: Licensing and Standards Committee Item LS4.4, adopted as amended, by City of Toronto Council on June 10, 11 and 12, 2015

CITY OF TORONTO

BY-LAW No. 804-2015

To amend City of Toronto Municipal Code Chapter 545, Licensing, Chapter 441, Fees and Charges, Chapter 150, Municipal Law Enforcement Officers, and Chapter 915, Parking on Private or Municipal Property, to amend regulations relating to commercial parking lots and private parking enforcement agencies.

Whereas section 8 of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A, as amended, provides the Council of the City of Toronto with the authority to pass by-laws related to business licensing; and

Whereas the City of Toronto currently licenses and regulates business that operate as commercial parking lots and private parking enforcement agencies under City of Toronto Municipal Code Chapter 545, Licensing; and

Whereas members of the public have complained to the Toronto Police Service, City staff and City Council concerning the abusive and misleading parking enforcement practices used by private property enforcement agencies and commercial parking lot operators, including the issuance of "look-alike" parking tags and invoices, inadequate or misleading signage, and the imposition of inflated and unjustified administrative fees or "fines"; and

Whereas Council wishes to consolidate regulations relating to commercial parking lots under a new article of the City of Toronto Municipal Code Chapter 545, Licensing, entitled "Commercial Parking Lots" for clarity, and to expand on the protections provided to consumers by enacting clearer requirements for the signage posted at parking lots and the format of private invoices that may be issued by commercial parking lot operators; and

Whereas Council wishes to prohibit the restraining or immobilizing of vehicles, commonly known as "booting", by commercial parking lot operators and private parking enforcement agencies for reasons of consumer protection and public safety; and

Whereas Council wishes to facilitate the towing of vehicles that do not bear a licence plate and make other changes that ease the duties of municipal law enforcement officers;

The Council of the City of Toronto enacts:

1. City of Toronto Municipal Code Chapter 545, Licensing, § 545-1 is amended by adding a definition that reads as follows:

COMMERCIAL PARKING LOT - Any location that demands compensation in relation to the use of a parking space, but does not include:

- A. Any parking location operated by or under the authority of the Toronto Parking Authority, regulated under Chapter 179, Parking Authority.
- B. Any City agency, board, commission, or division.

- C. Any parking space rented on a weekly, monthly, or yearly basis for one person's exclusive use.
 - D. Any parking space located upon the driveway of a residential building.
 - E. Any parking location operated by a registered charitable organization, as defined in subsection 248(1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), or successor legislation, that has a registration number issued by the Canada Revenue Agency, or successor agency.
2. City of Toronto Municipal Code Chapter 545, Licensing, is amended by creating a new article entitled "Commercial Parking Lots" and inserting the provisions set out in Schedule "A" to this By-law, with necessary modification to the section numbering used as required by the City Clerk's Office for the purpose of codification.
3. City of Toronto Municipal Code Chapter 545, Licensing, is amended by:
- A. Deleting the definition of "Public Garage" found in § 545-1 and replacing it with the following:

PUBLIC GARAGE - Includes a building or place where motor vehicles are hired or kept or used for hire or where such vehicles or gasoline or oils are stored or kept for sale, and a building or place used as a motor vehicle repair shop or for washing or cleaning motor vehicles, and an automobile service station other than as described in § 545-2A(40) and a collision reporting centre.
 - B. Deleting the definition of "Parking Enforcement Services" found in § 545-1 and replacing it with the following:

PARKING ENFORCEMENT SERVICES - Any parking enforcement activity, including but not limited to the monitoring of property and the issuance of City of Toronto parking infraction notices, Toronto Police Service tow cards, and warning notices, carried on in relation to vehicles parked on private property without the consent of the owner or occupant of such property.
 - C. Deleting the definition of "Private Parking Enforcement Agency" found in § 545-1 and replacing it with the following:

PRIVATE PARKING ENFORCEMENT AGENCY - A business which provides or performs parking enforcement services at a property for compensation.
 - D. Adding a new licence requirement to the list found at § 545-2 that reads "Every operator of a commercial parking lot."
 - E. Deleting the phrase "A parking station, a parking lot" from § 545-263A.
 - F. Deleting § 545-269 in its entirety.

G. Adding the following definition to § 545-443:

WARNING NOTICE - Any document that provides or is intended to provide notification to a vehicle owner or driver that a City of Toronto parking infraction notice or Toronto Police Service tow card may be issued to that vehicle.

H. Deleting §§ 545-449B and 545-449C.

I. Deleting the phrase "Municipal Licensing and Standards" from § 545-449D and replacing it with the phrase "Toronto Police Service Parking Enforcement Unit".

J. Deleting the phrase "Municipal Licensing and Standards" from § 545-449E and replacing it with the phrase "Toronto Police Service Parking Enforcement Unit".

K. Deleting § 545-450C and replacing it with the following:

No person employed, engaged or otherwise acting under the authority of an agency shall issue any document, tag, ticket or notice, or request or demand for payment in relation to vehicles parked on private property, other than:

- (1) a parking infraction notice under Part II of the *Provincial Offences Act*, as amended;
- (2) a Toronto Police Service tow card; and
- (3) a warning notice.

L. Creating a new § 545-450D that reads as follows:

Every agency shall ensure compliance with § 545-450C.

M. Creating a new § 545-450.1 that reads as follows:

§ 545-450.1 Restraining and immobilizing vehicles prohibited.

No person employed, engaged or otherwise acting under the authority of an agency shall restrain or immobilize a vehicle in any manner whatsoever and every agency shall ensure compliance with this section.

4. City of Toronto Municipal Code, Chapter 441, Fees and Charges, Appendix C - Schedule 12, Municipal Licensing and Standards is amended by adding the following fees:

Ref No.	Service	Fee Description	Category	Fee Basis	Fee	Annual Adj.
432	Business Licensing & Permitting	Application Fee: Commerical Parking Lot Operator Licence	Full Cost Recovery	Per application	\$392.73	Yes

Ref No.	Service	Fee Description	Category	Fee Basis	Fee	Annual Adj.
433	Business Licensing & Permitting	Renewal Fee: Commerical Parking Lot Operator Licence	Full Cost Recovery	Per application	\$264.04	Yes

5. City of Toronto Municipal Code Chapter 150, Municipal Law Enforcement Officers, is amended by:
- A. Adding the following definition to § 150-1:
- WARNING NOTICE - Any document that provides or is intended to provide notification to a vehicle owner or driver that a City of Toronto parking infraction notice or Toronto Police Service tow card may be issued to that vehicle.
- B. Deleting the contents of § 150-5B(8)(c) and replacing it with the phrase "A warning notice."
- C. Creating a new § 150-5F that reads as follows:
- No person employed, engaged or otherwise acting under the authority of an agency shall restrain or immobilize a vehicle in any manner whatsoever and every agency shall ensure compliance with this section.
- D. Deleting the contents of § 150-13E and replacing it with the phrase: "A Toronto Police Service tow card is issued in respect of the vehicle at the time of the removal."
- E. Creating a new § 150-13F that reads as follows:
- Subsections C and D shall not apply in the case of a vehicle that does not bear a licence plate if the municipal law enforcement officer has obtained prior authorization to tow that vehicle from the Toronto Police Services Parking Enforcement Unit.
6. City of Toronto Municipal Code Chapter 915, Parking on Private or Municipal Property, is amended by:
- A. Deleting the contents of § 915-5D and replacing it with the phrase: "A Toronto Police Service tow card is issued in respect of the vehicle at the time of the removal."
- B. Creating a new § 915-5E that reads as follows:
- Subsections B and C shall not apply in the case of a vehicle that does not bear a licence plate if the municipal law enforcement officer has obtained prior authorization to tow that vehicle from the Toronto Police Services Parking Enforcement Unit.

7. This By-law shall come into force on September 1, 2015.

Enacted and passed on July 9, 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE "A"

ARTICLE XLV
Commercial Parking Lots

§ 545-1. Definitions

As used in this article, the following terms shall have the meanings indicated:

OPERATOR - The operator of a commercial parking lot.

§ 545-2. Separate licence required for each commercial parking lot.

Every operator shall take out a separate licence for each commercial parking lot.

§ 545-3. Owners of commercial parking lots to ensure operators are licensed.

No owner of a property shall permit any person to operate a commercial parking lot at such property unless that person holds a commercial parking lot operator's licence under this chapter.

§ 545-4. Operators of commercial parking lots to ensure agencies are licensed.

No operator of a commercial parking lot shall permit any person to conduct parking enforcement services at the commercial parking lot unless that person holds a private parking enforcement agency licence under this chapter or is a Municipal Law Enforcement Officer appointed to operate at that commercial parking lot.

§ 545-5. Information to be provided upon licence application.

Every applicant for a licence to operate a commercial parking lot shall include in his or her application a statement setting forth:

- A. The location and dimensions of the lands in respect of which he or she seeks such licence;
- B. The maximum number of motor vehicles proposed to be parked or stored at the commercial parking lot;
- C. The hours during which such the commercial parking lot shall be open for business;
- D. The location of each proposed entrance to and exit from the commercial parking lot;
- E. The location, size and type of construction of any office proposed to be used or erected at or upon the commercial parking lot; and
- F. If no public garage licence or commercial parking lot licence was issued in respect of a building in the previous year, plans approved by the Ministry of Labour for the Province

of Ontario for providing adequate ventilation facilities in the part of the building where motor cars may be stored.

§ 545-6. Regulations concerning agreements with property owners.

- A. No person shall operate a commercial parking lot at a property unless he or she has filed proof, to the satisfaction of the Executive Director, Municipal Licensing and Standards, or his or her designate, that the owner of such property has authorized the operator to do so.
- B. The authorization referred to in Subsection A may be in the form of a letter signed by the owner of such property, or in the form of a copy of an operating agreement to which the operator is party that has been signed by the owner of such property.
- C. Every operator shall notify the Municipal Licensing and Standards Division in writing of any expiration, termination, or change in such authorization within 5 days.

§ 545-7. General requirements of operators of commercial parking lots.

- A. No operator shall store or park or allow to be stored or parked at the commercial parking lot for a period longer than 48 hours any trailer used for human habitation while so stored or parked.
- B. No operator shall employ or permit any person to engage in driving, operating, or moving motor vehicles parked or stored at the commercial parking lot unless that person holds a valid driver's licence under the *Highway Traffic Act*.
- C. Every operator shall:
 - (1) Provide proper means of ingress and egress to and from the commercial parking lot, to the satisfaction of the Executive Director, Municipal Licensing and Standards, or his or her designate; in the case of any commercial parking lot located at a corner lot, no entrance or exit shall be located less than 7.6 metres from the nearest intersection of the curb of the intersecting streets unless, on December 19, 1956, the entrance or exit was properly located less than 7.6 metres from such intersection in accordance with all local by-laws applicable thereto.
 - (2) Keep the commercial parking lot free from rubbish and in a clean and neat condition, and keep any sidewalk or street abutting such premises free from any dirt or other foreign substance derived from such premises; and
 - (3) Prevent the drainage of surface water across any sidewalk abutting the commercial parking lot.

- D. No operator shall:
- (1) Move or cause to be moved any snow from the commercial parking lot to any abutting sidewalk or roadway;
 - (2) Park or store any motor vehicle on any highway that abuts the commercial parking lot;
 - (3) Use, lend, hire, rent, or cause or permit any employee to use, lend, hire or rent any motor vehicle that has been received for the purpose of parking or storing it upon the commercial parking lot, except for purposes necessarily incidental to parking or storing the vehicle; or
 - (4) Permit the engine of a motor vehicle in any building to run, while stationary, unless adequate ventilation is provided to ensure dilution of any fumes.
- E. Every operator shall at all times permit the Municipal Licensing and Standards Division to enter a commercial parking lot licensed or required to be licensed under this chapter and make such inspection as may be deemed necessary to ascertain whether or not the provisions of this chapter are being followed.

§ 545-8. Operator to charge time-based rate for parking.

Every operator shall charge a time-based rate for parking, the payment of which shall indicate the operator's unqualified consent for a vehicle to park during that time period, subject to § 545-10 of this article.

§ 545-9. Signage required upon premises.

- A. Every operator shall display at each public entrance to the commercial parking lot and at each pay station, so as to be clearly visible to every driver of a vehicle about to enter the premises and any patron paying for parking, identical signs bearing:
- (1) In letters and figures of a uniform size not less than 7.62 centimetres in height at each public entrance, and not less than 2.54 centimetres in height at each pay station, the rates for parking;
 - (2) In readily legible text, the ways in which patrons may pay for parking;
 - (3) In readily legible text, the hours during which the licensed premises is open for business; and
 - (4) In readily legible text, the operator's name or registered business name and license number, together with a telephone number where a voice message can be left and e-mail address to which inquiries may be directed.
- B. No operator shall issue any demand for payment or private invoice in relation to a vehicle parked at the commercial parking lot unless the signs referred to in Subsection A bear, in

letters and figures of a uniform size not less than 3.81 centimetres in height at each public entrance, and not less than 1.905 centimetres in height at each pay station:

- (1) The text, "VEHICLES PARKED WITHOUT PAYMENT OF THE POSTED RATE MAY BE SUBJECT TO A DEMAND FOR PAYMENT"; and
 - (2) The amount of any demand for payment and any associated charge.
- C. Every operator shall file clear photographs of the signage required by this section with the Executive Director, Municipal Licensing and Standards, or his or her designate, prior to posting such signage at the commercial parking lot.
- D. No operator shall post any signage at the commercial parking lot setting out parking rates, charges or conditions, except in accordance with this section.

§ 545-10. Operator deemed not to consent to improperly parked vehicles.

For the purpose of this article and Chapter 915, Parking on Private or Municipal Property, and despite the requirements of §§ 545-8 and 545-9, an operator shall be deemed to not consent to the parking, stopping or standing of any vehicle:

- A. In a marked, designated accessible parking space for which no accessible parking permit is displayed;
- B. In any location where parking is prohibited by the operator and clear signage is posted to indicate such prohibition;
- C. In a designated emergency access or fire route;
- D. That is occupying more than one parking space;
- E. That is preventing other vehicles from entering or exiting the licensed premises; or
- F. That does not bear vehicle license plates.

§ 545-11. Duty to provide attendant or maintain automatic payment systems.

- A. Every operator, except in the case of a metered or automatically controlled parking lot, or where payment for parking can be made through a mobile application, shall ensure that an attendant is on duty at all times during business hours to provide patrons an opportunity to pay for parking.
- B. Every operator, in the case of a metered or automatically controlled parking lot, or where payment for parking can be made through a mobile application, shall ensure that all devices and systems used to accept payment for parking are maintained in good working order at all times to provide patrons an opportunity to pay for parking.

§ 545-12. Duty to provide parking receipt.

- A. Every operator shall, at the time of receiving each motor vehicle for the purpose of parking or storing it upon the commercial parking lot, provide each customer a numbered receipt bearing on the same side as the number:
 - (1) A clear statement of the extent of responsibility accepted by the operator with respect to loss of, or damage to, such motor vehicle and its contents while the vehicle is parked, stored or otherwise in the care and custody of the operator or any of his or her employees; and
 - (2) The operator's name or registered business name, the location of the commercial parking lot, and the business hours specified on the sign or signs required by § 545-9.

§ 545-13. Duty to respond to public inquiries.

Every operator shall:

- A. Maintain the telephone number and e-mail address provided upon the signage referred to in § 545-9 of this article;
- B. Ensure that a live person responds to inquiries at such telephone number during the business hours of the commercial parking lot; and
- C. Ensure that a voice message can be left at such telephone number outside the business hours of the commercial parking lot.

§ 545-14. Issuance of demands for payment.

- A. No person shall issue any demand for payment in relation to vehicles parked at a commercial parking lot except as prescribed by this section, though nothing in this section shall prevent an operator from attempting to collect upon a demand for payment previously issued in accordance with this section or to bring a court proceeding.
- B. Where signage is posted upon the commercial parking lot in accordance with § 545-9, an operator may issue a written demand for payment in the form of a private invoice in relation to vehicles parked on the commercial parking lot, provided that the invoice:
 - (1) Clearly outlines the alleged contravention of parking terms and conditions;
 - (2) Does not resemble, in colour or design, or simulate the colour or design, of a City of Toronto Parking Infraction Notice;
 - (3) Does not include the City of Toronto logo;

- (4) Indicates in bold lettering on the front and back of each notice, in a font size larger than the rest of the notice:

"This is not a City of Toronto Parking Infraction Notice", and

"This is a private invoice issued by (operator name and licence number)."
 - (5) Provides detailed information on the process for making payment;
 - (6) Provides detailed information on how an invoice may be disputed;
 - (7) Includes on the face of the notice:
 - (a) the operator's registered name and licence number;
 - (b) the address of the commercial parking lot;
 - (c) the commercial parking lot's hours of operation; and
 - (d) a telephone number and e-mail address to patrons may address inquiries regarding the payment process or dispute the invoice; and
 - (8) Is consistent with the terms and conditions posted upon the commercial parking lot in accordance with § 545-9.
- C. Every operator shall file a blank copy of the invoice referred to in Subsection B with the Executive Director, Municipal Licensing and Standards, or his or her designate, prior to issuing such an invoice.
- D. No operator shall issue a certificate of parking infraction or parking infraction notice under Part II of the *Provincial Offences Act*, or a Toronto Police Service Tow Card.

§ 545-15. Operator not to restrain or immobilize vehicles.

No operator shall restrain or immobilize or cause to be restrained or immobilized any vehicle parked, stopped, or standing at the commercial parking lot by any means whatsoever.