SUBJECT: The Regulation of Improperly Plated Vehicles under the On-Street Parking By-law (PED06180) (City Wide)

RECOMMENDATION:

(a) That, in order to improve the delivery of enforcement services respecting “abandoned vehicles”, Section 12(5) of City of Hamilton Parking By-law No. 01-218 be amended such that no person shall park any vehicle, of any class, that does not bear a valid license plate, on any highway for any period of time exceeding four consecutive hours.

(b) That a by-law in the form attached as “Appendix A to Report PED06180” be passed and enacted, accordingly.

EXECUTIVE SUMMARY:

The recommended amendment to the By-law No. 01-218, being the “On-Street Parking By-law”, is intended to improve enforcement services delivery by addressing a minor deficiency in the by-law in its current form.

Enforcement staff report that the number of “abandoned” vehicles, which are either improperly plated or which display no license plates whatsoever, has increased to such an extent that the current 12 hour parking time limit regulation, as it applies to such
vehicles, impedes the Department’s ability to deal with complaints in an expeditious manner.

At present, all non-commercial passenger vehicles, whether plated or not, are prohibited from parking on the roadway for a period of time exceeding 12 consecutive hours. The regulation is intended to prevent vehicle owners from using the highway for long term vehicle “storage”, to provide a reasonable parking turn-over on City roadways where parking is normally allowed, and to facilitate the posting and enforcement of temporary parking regulations for various purposes. Staff would point out that, in cases where a vehicle is improperly plated, or where a vehicle displays no license plates at all, reasonable grounds exist to believe that the vehicle owner is not routinely operating the vehicle and, therefore, the vehicle would be more properly stored off street. While Police Officers have the authority to tow and impound improperly plated and unplated vehicles without waiting for 12 hours to elapse\(^1\), it is staff’s opinion that, in the majority of cases, calling upon the Police to expedite the tow and impound of such vehicles, given competing policing priorities, constitutes an inappropriate expenditure of human resources.

Since Parking Infraction Notices cannot be issued to vehicles that are improperly plated or which bear no license plate, the only viable means of enforcing parking regulations respecting such vehicles is through towing. In order to facilitate the expedient tow and impound of improperly plated and unplaced vehicles for which a complaint has been received, staff recommends that improperly plated vehicles and vehicles that display no license plates be subject to the same four hour parking time limit regulation that currently applies to commercially plated vehicles.

**BACKGROUND:**

On June 15, 2001, as part of the amalgamation process, Council enacted By-law No. 01-218, being a by-law to regulate on-street parking. Section 12(5)(a) of said by-law provides that no person shall park any vehicle; “for an unreasonable length of time having regard to all circumstances, or in any event for a period in excess of twelve hours, or, in the case of a commercial motor vehicle which is not registered with the Ministry of Transportation Ontario as being primarily for personal use, for a period in excess of four hours”.

This 12 hour parking time limit regulation is cited in all cases where vehicles are alleged to have been abandoned by their owners, under which regulation Parking Control Officers are authorized to issue Parking Infraction Notices and, if necessary, to eventually have the vehicles removed from the roadway and stored until such time as the owner claims the vehicle. In cases where a vehicle owner does not lay claim to their vehicle, the towing agency can, after 60 days, recover their costs by disposing of the vehicle under their lien rights pursuant to the Repair and Storage Liens Act.

When dealing with complaints about “abandoned” vehicles which display a valid license plate, there is no prima facie evidence suggesting that the subject vehicle has actually

\(^1\) Pursuant to Section 221 of the Highway Traffic Act
been “abandoned”, or that the vehicle owner does not intend to continue their use of the vehicle. Accordingly, staff advises that the existing 12 hour parking time limit is a reasonable means by which to deter vehicle owners from abusing their on-street parking privilege. Due to the fact that enforcement staff work eight hour shifts, the existing 12 hour parking time limit results in enforcement action only taking place on the day after an offending vehicle is first observed by the officer, that being the third day after receipt of the original complaint. In cases where the offending vehicle bears valid license plates, the preferred enforcement option, once the officer establishes that an offence has occurred, is issuing a Parking Infraction Notice and affixing a warning to the vehicle stating that said vehicle is subject to being towed and impounded. The issuance of the parking ticket and the warning provides the vehicle owner with a reasonable opportunity, i.e. 24 hours, to comply with the regulation and avoid the escalation of enforcement. This process, from an enforcement perspective, is appropriate when dealing with a vehicle owner who is maintaining valid license plates on their vehicle.

In cases where the vehicle identified in a complaint does not display valid license plates, however, it is reasonable to suspect that the vehicle is abandoned, or that the owner is not likely intending to use their vehicle in the near future. Further, when a vehicle does not bear valid license plates, parking tickets cannot be issued and, therefore, the only viable enforcement option is removing the vehicle from the street. It should be noted that, since the 12 hour Parking By-law is normally enforced only on complaint, improperly plated and unplated vehicles have often been occupying the roadway for several days before the complaint has even been received by the Department.

For the purpose of removing abandoned vehicles from the highway that are improperly plated or unplated, the current 12 hour time limit parking regulation is cumbersome, given that the officer must first identify and mark the vehicle; then return the following day to confirm that the vehicle is, in fact, in violation of the by-law before corrective action can be taken. Reducing the time limit from 12 hours to 4 hours in cases involving a vehicle that is improperly plated, or which displays no plates whatsoever, will correspondingly reduce the amount of time that area residents must wait before their complaint is resolved. In many cases, the officer would be able to investigate the complaint and remove the vehicle from the street on the same day. By streamlining the process, constituents are able to see that their concerns are being addressed in a timely and efficient manner.

**ANALYSIS/RATIONALE:**

As the following chart illustrates, unplated and improperly plated vehicles abandoned on the City’s roadways accounted for 25% of all abandoned vehicles in 2005. Therefore, reducing the “wait” time respecting the tow and impound of improperly plated and unplated vehicles from the roadway from 12 hours to 4 hours would result in an overall improvement in the efficiency of the towing operation by approximately 16%.

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2 Two thirds reduction in wait time for 25% of towed vehicles.
2005 Towing Statistics

<table>
<thead>
<tr>
<th></th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Vehicles Towed</td>
<td>640</td>
<td>100%</td>
</tr>
<tr>
<td>Unplated / Improperly Plated Vehicles Towed from Private Property</td>
<td>205</td>
<td>32%</td>
</tr>
<tr>
<td>Unplated / Improperly Plated Vehicles Towed from Roadway</td>
<td>160</td>
<td>25%</td>
</tr>
<tr>
<td>Total Unplated / Improperly Plated Vehicles Towed</td>
<td>365</td>
<td>57%</td>
</tr>
<tr>
<td>Total Vehicles Claimed by Owners</td>
<td>141</td>
<td>22%</td>
</tr>
<tr>
<td>Total Unplated Vehicles Claimed by Owners</td>
<td>44</td>
<td>7%</td>
</tr>
</tbody>
</table>

This improved efficiency will translate into a higher degree of “customer satisfaction” for constituents and, potentially, higher overall compliance levels.

**ALTERNATIVES FOR CONSIDERATION:**

**Status Quo**

Maintaining the status quo with respect to the parking time limit would result in the perpetuation of a less efficient operation. At present, when a constituent contacts the City respecting an unplated vehicle that appears to be “abandoned” on their street, the perceived time required to remove the vehicle is three to four days. Reducing the parking time limit from 12 hours to 4 hours for unplated and improperly plated vehicles would result in these complaints being resolved, in most cases, within 48 hours.

**Prohibiting Parking**

Staff recommends against entirely prohibiting the parking of unplated vehicles on the roadway since such a prohibition would likely be deemed “ultra vires”\(^3\) by the Courts. There are some circumstances where it would be unreasonable to entirely prohibit the parking of unplated vehicles on the roadway, for example, in the case of a vehicle being test driven by a potential buyer who might need to park the vehicle for only a brief period of time. Leaving the dealer plate with the vehicle while the vehicle is temporarily unattended might result in the theft of the plate. This would force a constituent, who would otherwise be acting lawfully, to assume an unconscionable risk. Accordingly, in staff’s view, a four hour parking time limit regulation would be less onerous and, therefore, more defensible than an outright prohibition.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial**

None

**Staffing**

None

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\(^3\) Exceeding the municipality’s authority
Legal

Enactment of the appropriate by-law to amend City of Hamilton By-law No. 01-218 is the only legal implication that applies.

POLICIES AFFECTING PROPOSAL:

N/A

RELEVANT CONSULTATION:

Legal Services and Corporate Counsel staff concur with the recommendation. Hamilton Police Services staff strongly supports the recommendation.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected. Abandoned vehicles, once vandalized, pose identifiable risks to the safety of local residents. Environmental well-being is further enhanced since the expeditious removal of abandoned vehicles from the highway results in reduced levels of waste automotive fluids being released into the environment.

Economic Well-Being is enhanced. ☐ Yes ☑ No
N/A

Does the option you are recommending create value across all three bottom lines? ☐ Yes ☑ No
N/A

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No
N/A

PDB/MBH/kag
Attach. (1)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend By-law No. 01-218, as amended,
Being a By-law To Regulate On-Street Parking

WHEREAS Section 11(1)1 of the Municipal Act 2001, S.O. 2001, Chapter 25, as amended, confers upon the councils of all municipalities the power to enact by-laws for regulating parking and traffic on highways subject to the Highway Traffic Act;

AND WHEREAS on the 18th day of September, 2001, the Council of the City of Hamilton enacted By-law No. 01-218 to regulate On-street Parking;

AND WHEREAS it is necessary to amend By-law No. 01-218, as amended;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. By-law No. 01-218, as amended, is hereby further amended by deleting sub-section (5)(a), in its entirety, from Section 12 thereof and by substituting in its place the following sub-section, namely;

“(5) No person shall park any vehicle:

(a) For an unreasonable length of time having regard to all circumstances, and;

(i) in any event for a period in excess of twelve hours; or,

(ii) in the case of a commercial motor vehicle which is not registered with the Ministry of Transportation Ontario as being primarily for personal use, for a period in excess of four hours; or,

(iii) in the case of a vehicle to which valid number plates (licence plates) are not attached, in accordance with the Highway Traffic Act and the Regulations thereunder, for a period in excess of four hours.
For the purposes of this sub-section, any vehicle which has not been moved a distance of not less than eighteen (18) metres (60 feet) from its original parking location, shall be deemed to have not been moved, and to have remained parked;“

2. Subject to the amendments made in this By-law, in all other respects, By-law No. 01-218, as amended, including all Schedules thereto, is hereby confirmed unchanged.

3. This By-law shall come into force and take effect on the date of its passing and enactment.

PASSED and ENACTED this day of , 2006

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MAYOR CLERK