SUBJECT: Amendment to Heavy Vehicle Provisions of Traffic By-Law 01-215 (PW07106) - (City Wide)

RECOMMENDATION:

(a) That Schedule 27 (Truck Routes) of the City of Hamilton Traffic By-law 01-215 be revised to reflect the current truck route signing in the field; that being the designation of King Street between Centennial Parkway South and Paradise Road South, as a full-time truck route, except for the segment between Wellington Street North and Bay Street North,

(b) That the amending By-laws outlined in Report PW07106 as Appendix “A” and “B” respecting the heavy vehicle provisions of the City of Hamilton Traffic By-law 01-215 be passed and enacted.

EXECUTIVE SUMMARY:

Section 56 of By-law No. 01-215, the Traffic By-law, designates truck routes for heavy vehicle use and prohibits use of non-designated City streets, with exceptions where diverting from a designated truck route is necessary. Recent discussions with McMaster University representatives have identified issues with the content of the By-law and the raise the possibility that interpretations contrary to the intended protection of City streets and control of heavy traffic will result, not just in the University area but throughout the
City. In addition, consolidation of the By-law and amendments since amalgamation has caused or included errors in the numbering of the section and an apparent description of a truck route that does not match the understood condition, and that presently signed on-street. In particular, the By-law implies that King Street at its westerly end continues past Paradise and dead ends onto non-designated streets, contrary to signing in place now and contrary to normal practice with connection to other truck routes.

It is recommended that the wording of the regulatory section of the By-law be improved to clarify the requirements for heavy vehicles and exceptions allowing their use of non-designated truck routes. These changes are not intended to in any substantive way modify the current intent of the truck route regulations, but simply to provide as complete clarity as possible. At the same time it is appropriate to address the errors in designation for King Street identified in the By-law schedules.

McMaster’s interest in the section arises from a substantial construction project, and future intentions of construction, and they may wish to speak to or even oppose the amendment of the By-law. Or alternatively the University may wish to propose temporary truck routes or conditions of those routes such as time and day of week to accommodate their construction projects, which can be dealt with designations of temporary or conditional routes under the By-law. Accordingly McMaster representatives may wish delegation status to speak to their specific interest before the By-law is passed. This is recommended even though the issues raised with the By-law would have City-wide implications and need to be addressed in a timely way. The issues raised may also mean that citizens affected by truck route issues will seek delegation status.

**BACKGROUND:**

That the information/recommendations contained within this report have city wide implications.

By-law No. 01-215, being the new City of Hamilton’s Traffic By-law, was one of the first consolidated regulatory By-laws after amalgamation. The consolidation combined the content and regulations of the six former area municipalities and of the regional government, and has over 30 lengthy schedules of detailed regulations. The By-law has subsequently been amended on a routine basis since enactment resulting in a large volume of original and amending By-laws. The By-law contains provisions intended to designate heavy truck travel, and to restrict truck travel to designated streets with exceptions to allow local deliveries and related travel that require the use of non-designated streets.

McMaster University has been carrying out construction on its main campus for a large project, at times requiring dozens of heavy vehicles daily for delivery and removal of soil and other construction-related travel. Heavy vehicles operated by contractors or other suppliers have at times used the two designated truck routes which border the south and west sides of University property and which routes have entrances to the property. These vehicles then travelled on the University’s internal road system to reach the project site or other points of delivery on the property. However, construction vehicles have also used non-designated residential streets adjacent to the university before entering the University property. McMaster representatives became involved in enforcement discussions, both for the University’s interests in the current construction
project and for its interests in future construction projects. These discussions raised issues with the clarity of the By-law provisions which allow for exceptions. This also led McMaster to identify in the By-law schedules, a third truck route which had been designated to the edge of the University, contrary to information staff had been working with and which staff had provided to McMaster in initial discussions. The University has expressed its dissatisfaction to staff and elected officials over that discovery and over the difficulty they encountered in collecting the By-law, its schedules and amendments, including raising the possibility of litigation. Staff have their own concern because the section of street, while made a truck route through the By-law consolidation, had never been a truck route and has never been signed as such. Historically, it was likely decided that the section of King Street in question should not be designated for heavy traffic because of its character and its lack of connection to other truck routes. Through By-law amendments, Council has the opportunity to address the clarity of the By-law and its exceptions, provide for the control of heavy traffic and intent towards protecting non-designated streets from heavy vehicles across the City, and also to consider the University’s construction or other heavy traffic needs or requirements. The intent of the proposed changes is not to materially change the way the truck route system works at present, but simply to ensure that the interpretation is clear. Further, additional examination of schedules of the By-law suggests that housekeeping changes are necessary in the short term to reflect conditions as they have existed on-street for many years.

The upcoming truck route study will address the overall approach to heavy truck management in Hamilton and as well, may offer an opportunity to do a full review of the By-law schedules for errors and omissions. That process will have full public consultation, so if changes to the intent of the truck route regulations are deemed appropriate, they can be discussed fully and openly at that time.

The direct impact of the draft amending By-law attached would be to clarify the exceptions to heavy vehicles streets not designated as truck routes. In particular to the University Main Campus, the draft wording would make it clear that virtually all heavy vehicle traffic must enter campus off of the boundary roads which are truck routes, those on the southerly or westerly sides of campus, and use the existing University entrances on those routes. The only exception would be buildings where a loading area access or other delivery for a building which is not accessible from the internal University roadway system. An example of the latter is the medical centre which requires use of non-designated City streets. Such an exemption is still provided for in the proposed amended By-law. McMaster University may request designation of additional routes, or temporary routes which Council can consider as general amendments to the By-law or its schedules. Staff would then analyse such a request for new routes and consider impacts on the highway and traffic flows, and may suggest conditions on time of day, direction of travel or even security or other requirements to protect City property or address traffic safety issues. Alternately, these changes may be considered in the truck route study. Information on this draft By-law and options has been provided to McMaster representatives to allow them to consider their interests, and they may seek a delegation with Committee, or a future delegation to propose routes or By-law changes for their needs.

By-law 01-215 had previously been extensively amended for traffic regulation changes. This accessibility and ease of reference for the entire By-law can be addressed in the
future through a consolidation of all amendments and regular updating, but the immediate issues described above should not be left to the timing of what will be a substantial project to consolidate the amendments to By-law 01-215. Further the truck route study is pending, but again this is a substantial project and waiting for those results would delay correcting or clarifying the By-law and preserving the general intent of all truck route regulations, and the inconsistent truck route designation on King Street.

ANALYSIS/RATIONALE:

The draft By-law will clarify heavy traffic restrictions and exceptions, limit use of non-designated City streets and correct other problems with the By-law. As well, it will remove a truck route designation for a portion of King Street to bring it back in line with staff’s understanding of the route and the current on-street signing, and eliminate the difficulty truck traffic will face in attempting to use a dead-end truck route to connect to other routes. The impact of the change to the portion of King Street will be minimal in that staff had not been providing information that this portion was a truck route to the public until this came to light in June 2007. Further, the use of portions of King Street for heavy vehicles in the area in question is accommodated by exceptions in the draft By-law where necessary.

Truck route designations in the By-law can be altered by further amendment, including temporary routes and restricted routes, and citizens, businesses or organizations can propose alterations to the City for their purposes which can be analyzed and reported on for possible amendments.

ALTERNATIVES FOR CONSIDERATION:

(a) Council could leave the existing By-law without change. This is not recommended because the current version contains errors, and the content can be clarified to help protect City highways from damage, heavy traffic loads and related nuisances, which could be considerable in areas of the City serving large industrial properties or other intensive truck traffic. McMaster University may prefer to challenge the existing By-law, and the potential impact of a negative interpretation would be not just on streets around their property but City-wide. The easiest way to address this is to clarify the heavy traffic provisions, and consider additional or temporary routes which balance the needs of persons and the impact of heavy traffic on the highway system, pedestrians and others affected by traffic. In particular to King Street, staff recommend the change to a portion of its designation to prevent problems and in keeping with current signing, its street character and other truck route connections.

(b) In particular to the University, Council could consider a general exemption for their heavy traffic. Again this is not recommended because it does not address the protection of highways under the jurisdiction of the City, the municipal highway repair and maintenance responsibilities, pedestrian and traffic safety, or other impacts from uncontrolled heavy traffic on primarily residential streets which border the Main Campus. This option would fail to balance the interests of persons affected by such traffic including those of the municipality.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:
There are no financial or staffing implications.
Legal Implications: Any changes to the content of By-Law 01-215 must be made through amending By-law. Council has new broad authorities to enact and amend its By-laws for general purposes including protection of property, the public and its assets including highways and traffic issues. It is recommended McMaster representatives be given opportunity to address committee on their interests before enactment of the amendment, though this should not be taken as an opportunity to delay necessary corrections and clarifications to complete the intent of the original Council enactment.

Further legal implications may be discussed in camera given the indication that the University may take legal action respecting the By-law, its interpretation or amendment.

POLICIES AFFECTING PROPOSAL:
By-law 01-215 already provides for heavy traffic restrictions, routes and exceptions. The draft By-law seeks to clarify the intent of Council and the By-law content for the purposes described. There is no change to the ability of Council to make amendments recognizing new or temporary truck routes, though Council may want to consider where appropriate security or other considerations.

RELEVANT CONSULTATION:
Traffic Engineering & Operations Section, Operations & Maintenance Division

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
Protection of Public and Municipal Streets

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Assists in municipal maintenance of highways, adds to control of highway repair costs

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

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No
WHEREAS sections 8, 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25, authorize the City of Hamilton to pass by-laws as necessary or desirable for the public and municipal purposes, and in particular paragraphs 4 through 8 of subsection 10(2) authorize by-laws respecting: assets of the municipality, the economic, social and environmental well-being of the municipality; health, safety and well-being of persons; the provision of any service or thing that it considers necessary or desirable for the public; and the protection of persons and property;

AND WHEREAS on the 18th day of September, 2001, the Council of the City of Hamilton enacted By-law No. 01-215 to regulate traffic;

AND WHEREAS it is necessary to amend By-law No. 01-215.

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

1. Schedule 27 (Truck Routes) of By-law No. 01-215, as amended, is hereby further amended by adding to Section "E" thereof the following items, namely:

   "King St.    Centennial Parkway  to            Wellington St.  Anytime
   King St.     Bay St.    to       Paradise Rd.  Anytime"

and by deleting from Section “E” thereof the following items, namely;

   “King Street   Highway 403 to Highway 20       Anytime
   King Street   Westerly boundary            to easterly boundary Anytime”
   Old Hamilton    Old Hamilton

2. Subject to the amendments made in this By-law, in all other respects, By-law No. 01-215, including all Schedules thereto, as amended, 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 , 2007

_________________________________________  ________________________________
Fred Eisenberger                                   Kevin C. Christenson
Mayor                                              City Clerk
CITY OF HAMILTON

BY-LAW NO. 07-_____

To Amend By-law 01-215 respecting Heavy Vehicles and Traffic

WHEREAS Council desires to provide for the protection of highways under its jurisdiction from damage, and for the purpose of controlling of traffic, and in particular to limit the travel of heavy vehicles on roads not designated for their use so as to limit the effect of such traffic of the highway and public using such highways;

AND WHEREAS sections 8, 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25, authorize the City of Hamilton to pass by-laws as necessary or desirable for the public and municipal purposes, and in particular paragraphs 4 through 8 of subsection 10(2) authorize by-laws respecting: assets of the municipality, the economic, social and environmental well-being of the municipality; health, safety and well-being of persons; the provision of any service or thing that it considers necessary or desirable for the public; and the protection of persons and property;

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

1. Section 56 of By-law No. 01-215 as amended, is hereby further amended by adding the following as subsection (1a) immediately after subsection (1):

“(1a) The intent of this section is to protect highways under the jurisdiction of the City from the potential for damage from heavy vehicles and also to limit heavy vehicle traffic as much as possible on such highways, for the purposes of maintaining the condition of the highways, limiting municipal repair and maintenance costs and for the control of traffic, unless the highway or part has specifically been designated for heavy vehicle use by this by-law and its schedules, being a “designated highway” as referred to in this section, and the Council for the City intends that interpretation of this section and the relevant schedules of the by-law should recognize and conform to this intent and purpose.”

2. Section 56 of By-law No. 01-215 as amended is hereby further amended by repealing and replacing subsection (3) with the following:

“(3) Subsection 56(2) shall not apply where a heavy vehicle is required to travel on City highways which are not designated for heavy traffic in order to reach a property for such purposes as are provided in this subsection, provided that the heavy vehicle takes the shortest route possible from the designated highway on non-designated City highways both to the property at which said purposes are carried out and in returning from such property to a designated highway, and said purposes shall be as follows:
a) for the purpose of garaging or storing the vehicle where it is normally stored by the operator or owner when not in use;

b) for the purpose of having the vehicle maintained or repaired at the premises of the operator or owner, or at a commercial motor vehicle repair facility;

c) for the purpose of delivery or receipt of goods to a property or for a similar commercial or other purpose requiring the heavy vehicle at the property; or

d) when attending multiple properties for the purposes in (c) which properties are not reachable from designated highways and where the travel between such properties involves less use of non-designated City highways than if the heavy vehicle were required to return from each property to designated highways, provided further that the route taken by the heavy vehicle between such properties is the shortest possible in terms of its use of non-designated City highways. “

3. Section 56 of By-law No. 01-215 as amended, is hereby further amended by adding the following as subsections (3a) and (3b) respectively, immediately after subsection (3):

“(3a) Subsection 56(3) does not apply to any property where the property can be accessed by use of a designated highway and without use of highways under the jurisdiction of the City which are not designated for heavy vehicles other than crossing a non-designated highway, except a non-designated City highway may still be used for the purpose of access to a building, loading or work area on the property which can only be reached by the heavy vehicle from a non-designated City highway provided that the heavy vehicle takes the shortest route possible on non-designated City highways between the property and a designated highway.

(3b) Subsection 56(2) shall not apply where a heavy vehicle is operated in compliance with the requirements for travel in subsection 56(7).”

4. Section 56 of By-law No. 01-215 as amended, is hereby further amended by renumbering subsection (6) as was added by amending By-law No.02-181, as subsection (7).

5. In all other respects, By-law No. 01-215 as amended be and the same is hereby confirmed.

6. This By-law comes into force and effect on the day it is passed and enacted.

PASSED and ENACTED this day of , 200 .

Fred Eisenberger Kevin C. Christenson
Mayor City Clerk