

CITY OF HAMILTON

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Long Range Planning Division**

Report to: Chair and Members Planning & Economic Development Committee	Submitted by: Lee Ann Coveyduck General Manager Planning and Economic Development Department
Date: December 16, 2005	Prepared by: Linda Harvey (905) 546-2424 Ext. 1276

SUBJECT: Hamilton Idling Control By-law (PD05092(a)) (City Wide)

RECOMMENDATIONS:

- (a) That the hiring of one (1) full-time employee for the Building and Licensing Division to enforce the Idling Control By-law and other Municipal By-laws be referred to the 2006 Budget process for consideration.
- (b) That, subject to Budget approval, the Draft By-law, attached as Appendix A to Report PD05092(a) be forwarded to City Council for enactment in June, 2006 after commencement of an Anti-idling Awareness Campaign to be delivered by the Planning and Economic Development Department staff in collaboration with community partners.
- (c) That the direction in Report PD05092, April 27, 2005, to develop and implement an Anti-idling Awareness Campaign delivered in partnership with Green Venture and other community partners be expanded to include a campaign that will educate and inform the general public as well as schools.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

Pursuant to the April 27, 2005 direction of the Planning and Economic Development Committee, (Report PD05092), staff has reviewed the City of Burlington Idling Control By-law and are reporting back to Committee with a similar by-law and information on the implications for implementation in Hamilton. It should be noted that: (1) a by-law and an Awareness Campaign are both needed, (2) enforcement is mandatory given that the decision to impose standards brings the duty to enforce and the City could be found to

SUBJECT: Hamilton Idling Control By-law (PD05092(a)) (City Wide) - Page 2 of 13

have acted negligently if it fails to enforce its by-laws, and (3) current resources for enforcement are stretched to their limit creating a need to fund one (1) addition full-time employee for the Building and Licensing Division for any level of service. It should be noted that enforcement may prove to be challenging and not overly effective given that the vehicle may no longer be idling by the time that the Enforcement Officer arrives at the site to respond to the complaint.

The proposed By-law expands the initiative of the Hamilton Internal Anti-Idling Policy for City Vehicles to the general public. It will apply outdoors on private and public property. The By-law proposes to restrict idling to three (3) minutes in a 60-minute period, and provides for a number of exemptions, similar to those found in By-laws in other cities in South-Western Ontario. These exemptions include vehicles stopped due to traffic conditions, police and emergency vehicles, transit vehicles on layover or stopover, weather conditions when idling may be necessary for heating or air conditioning, among others. The Anti-idling Awareness Campaign will be delivered in partnership with Green Venture and other community partners, using the Planning and Economic Development Budget allocation for the Air Quality Program, pending approval of the 2006 Budget by Council. City policies will be made consistent through collaboration with relevant departments. Legal Services advises that HSR and municipal vehicles by exempted entirely from the by-law; Planning and Economic Development staff is proposing that the City should not be exempted except for specific circumstances outlined in the by-law.

BACKGROUND:

On April 19, 2005 staff from the Long Range Planning Division provided an update to the Planning and Economic Development Committee on the status of vehicle idling control in Hamilton (PD05092). Staff was directed to:

- review the City of Burlington Anti-idling By-law and report back to the Committee outlining the implications of implementing a similar By-law;
- prepare the appropriate By-law, in consultation with appropriate Departments for consideration by the Committee; and,
- develop and implement an Anti-idling Awareness Campaign for the community in collaboration with Clean Air Hamilton and Green Venture Inc. that is targeted toward elementary and secondary schools.

Long Range Planning staff has collaborated with City Departments and conducted research with other municipalities, senior governments and non-governmental organizations. A draft by-law is attached as Appendix A to Report PD05092(a). There are three (3) issues for the Committee to consider with respect to enacting the by-law:

- (1) **A By-law and an Awareness Campaign are Both Needed—** Legislation and regulation address issues directly by prohibiting behaviour and indirectly by demonstrating government commitment to the issue. This demonstration of commitment strongly influences the effectiveness of education and awareness campaigns.

- (2) **Enforcement is Mandatory**—The courts have held that with the decision to impose standards comes the duty to ensure compliance, that is, to inspect and enforce. Potentially, the City could be found to have acted negligently if it fails to enforce its by-laws.
- (3) **Resources for Enforcement are Stretched Beyond Their Capacity**—Buildings and Licensing need additional resources to perform the by-law enforcement function at the City. A budget enhancement in the range of \$130,000 (\$72,000 in one-time costs and approximately \$55,000 in annual operating costs) to hire, equip and train one (1) new full-time employee (FTE) will assist in alleviating current problems with existing by-laws and allow the Idling Control By-law to be absorbed. The need for the Budget enhancement should be considered in light of other by-laws being anticipated in the future. Training and changing job descriptions for Parking Services personnel is cost-prohibitive (\$350,000). Public Health and Community Services advise that by-law enforcement for idling control is not within their Public Health mandate, which is legislated and funded 65% by the Province of Ontario.

ANALYSIS/RATIONALE:

A By-law and Awareness Campaign Are Both Needed

Legislation and regulation have an important role in tackling environmental and health issues. Enacting legislation sends a clear message that government is committed to addressing an issue. This draws media attention that helps reinforce the educational piece in the community.

A combination of voluntary and regulatory tools is a consistently proven approach for achieving desired results. It provides the greatest benefit for the least cost. Hamilton has had great success using this approach to move toward the 65% reduction in waste going to the landfill.

Enforcement is Mandatory

Regulation without the provision for enforcement increases the City's risk exposure, therefore no by-law should be undertaken without providing the means to enforce. The courts have held that there is a duty to enforce if standards are imposed. In some cases Ontario municipalities have been found legally negligent for failure to enforce a by-law. Risk Management staff note that "A claim could arise if a third party were to file a claim against the City for health problems arising from exposure to vehicle emissions arising from an idling vehicle."

In addition, enacting legislation that does not have a credible enforcement strategy and resources can frustrate the public by creating a false expectation, and staff, who are not given the resources necessary to carry out their responsibilities. Laws that are not seen to be enforced also lose the power to affect changes in behaviour and damage the credibility of the government that has passed them.

Resources for Enforcement are Stretched To Their Limit

Enforcing the Idling Control By-law will be a challenge for the City due to the larger issue of having an under-resourced by-law enforcement function. Since amalgamation, the by-law enforcement function in the City of Hamilton has been increasingly centralized to the Building and Licensing Division of the Planning and Economic Development Department. Since the structure of this Division was not designed or resourced to accommodate an ever-increasing variety and volume of enforcement activities, service-level expectations have now outpaced the ability to deliver.

There is concern over the continuing addition of responsibilities to this Division and the impact this is having on staff and supervisors. There has been little time or consideration given to the impact of these changes or the ability of staff to absorb the added responsibilities. Although this may be a side issue with respect to this by-law, it is a very real concern on the part of staff and supervisors.

It is noted that enforcement of the Idling Control By-law does not logically or strategically fall within their area of operations. They do not patrol the streets with inspectors and enforcement of this by-law will further diffuse their business focus.

Building and Licensing Division staff are trained under Parts I and III of the *Provincial Offences Act*, which are the appropriate sections to enforce idling control, however, as noted above, there is no ability for this Division to take on additional responsibilities.

Parking Enforcement staff are authorized, trained, and paid to enforce Part II of the *Provincial Offences Act*¹ which does not enable them to issue tickets for contravening an Idling Control By-law. Having Parking staff enforce the by-law would mean establishing an entirely new program and conducting a job evaluation process to increase training and remuneration, at an estimated cost of approximately \$350,000. (This training issue is not unique to Hamilton. The City of Burlington identified the need to retrain their Parking Enforcement Officers as part of their implementation plan, but this is now being reconsidered from a cost-benefit point of view.)

A further consideration is the fact that the Hamilton Municipal Parking System is self-sustaining and operates on a business plan model. Parking revenues are used to offset expenses. Resources directed towards enforcing and monitoring the Idling Control By-law could result in a re-allocation of staff away from revenue-generating activities. Research in other municipalities indicates that revenue generation from enforcing the idling by-law is not common.

¹ Part II of the *Provincial Offences Act* cannot currently be applied in the enforcement of Idling Control By-laws as this part of the Act only allows for ticketing a vehicle, not a driver (i.e. parking tickets).

Public Health and Community Services staff advise that they are unable to absorb by-law enforcement for idling control as this function is not within their Public Health mandate, which is legislated and funded 65% by the Province of Ontario.

Enforcement of the Idling Control By-law will require a Budget enhancement to hire one (1) full-time employee (FTE) in the range of \$130,000 (\$72,000 in one-time costs and \$55,000 in ongoing costs) as this function cannot be absorbed into any existing Division within the Planning and Economic Development Department.

Set Fines: *“By-laws with set fines are easier to enforce. An enforcement officer can write a ticket for an idling infraction, and the offending driver in most cases simply pays the fine in the same way they would a parking ticket, with the option to go to court if they wish to contest the charge.”²* In other words, enforcement can be simplified. This is not say however, that people may still opt for a trial, but at the very least the set fine offers the option so they are not required to go to trial. As part of the implementation process, Hamilton staff will follow the example of neighbouring municipalities and Provincial legislation in this regard. About one half of municipalities with idling control by-laws have set fines, which range from \$100 to \$380 (the Burlington fine is \$155). Legal Services advises that the amount of the fine is set by judges and ultimately the fine is determined in court and may vary.

Conclusion

The goal at the end of the day is to effectively reduce vehicle idling and decrease potential adverse health risks due to poor air quality. An important side benefit is the amount of money saved through reduced fuel costs. Experience shows that a by-law and Awareness Campaign are both necessary, and that some way of enforcing the regulation must be found. In order to achieve the desired result the only realistic solution is to establish an expectation of the level of service and provide resources to carry out the required duties to the functional area best qualified and located to do the job.

A combination of complaint-based and proactive enforcement based on available resources is the service level for idling control by-laws utilized in other municipalities. A Budget enhancement to create a new full-time employee (FTE) position for the Building and Licensing Division would place resources in the area currently enabled issue tickets and respond to complaints under the appropriate sections of the Provincial Offences Act.

Public education through the Awareness Campaign needs to be a Corporate priority, with all Departments contributing to the overall effectiveness. Having Parking Enforcement Officers will be part of the Awareness Campaign by distributing brochures and other educational materials during the normal course of their duties. Public Health

² “Cracking Down on Idling: A Primer for Canadian Municipalities on Developing and Enforcing Idling Control By-laws”, A Report Prepared for Natural Resources Canada and the GTA Clean Air Partnership, September 2005.

and Community Services can also contribute by adding capacity to the Awareness Campaign.

Strong community partnerships are a hallmark of creating positive change in Hamilton. Non-governmental organizations such as Green Venture, Clean Air Hamilton and Environment Hamilton are prepared to provide resources and participate in the Awareness Campaign. Companies such as Canadian Tire are already participating in the "Repair Our Air" anti-idling challenge with the City's Fleet Division. A partnership between community groups and City enforcement staff could form the basis for proactive enforcement of Hamilton's Idling Control By-law.

In this way, limited resources could be leveraged to effectively address idling control in Hamilton.

Ensuring Compliance Through An Awareness Campaign

Ensuring compliance with the regulation (i.e. the by-law), is highly dependent on educating the public on the reasons for idling control. Design of the Idling Awareness Campaign is currently the responsibility of the Air Quality Program in the Long Range Planning Division. If the Air Quality Budget is renewed in 2006, the funding for the Idling Awareness Campaign will be in place. Non-governmental organizations are interested in partnering with the City on idling awareness and have already explored external funding through private, Provincial and Federal Programs to add to the City's contribution.

ALTERNATIVES FOR CONSIDERATION:

Options Regarding Process for Implementing the By-law:

Enacting the By-law With No Provision for Enforcement: In order to avoid exposure to risk, Council does not have the option of enacting a by-law without allocating resources and responsibility for enforcement. If a Budget enhancement to the 2006 Operational Budget to provide resources is not feasible given the time of year, Council does have the option to direct staff to seek funding for the FTE from other sources in the existing 2006 Budget proposals.

Using an Advisory By-law: In December 2005, Legal Services noted that the City may wish to "consider a by-law which is only advisory (i.e. no penalty section, no enforcement, no one gets charged)". Council can take this option, however, Planning and Economic Development staff do not recommend this option for the following reasons: (1) it is not consistent with the approach taken with other municipalities in the GTA and across Ontario, (2) laws that are not seen to be enforced lose the power to affect changes in behaviour, frustrate citizens who wish to see action on environmental and health issues, and damage the credibility of the government that passed them, (3) enacting a by-law that is not meant to be enforced will not address the City's larger problem of the sparse resources the Building and Licensing Division has for enforcing current and future regulations.

Taking A Phased Approach: Council has the option of initiating the Awareness Campaign as a first phase, and then following up with enactment of the by-law in a second phase, where awareness would be stepped up with enforcement campaigns targeted in specific areas such as outside schools. This option is recommended as the Awareness Campaign would be supported by definite timing for enactment of the regulatory framework. This option could give the City more time to seek the necessary funds for the Building and Licensing Division.

Public Consultation: Council has the option of deferring consideration of the by-law until after a round of public consultation. Consultations on the by-law have not been undertaken to date given that the by-law is consistent with direction from the public regarding the importance of air quality and human health as expressed in numerous planning consultation events and given that an Idling Control By-law was identified by the public as a specific air quality strategy in “Strategies for A Sustainable Community”. The specific exemptions in the by-law were defined based on the best practice of other GTA municipalities. Public notice regarding the by-law’s consideration at Planning and Economic Development Committee and Council occurs through the City Clerk’s Office, in the manner of all matters being considered at Committee. Public consultation could take the form of inviting commentary through web-site and mail, in response to a newspaper advertisement, making the by-law available at municipal service centres and libraries, or a public meeting. The cost of recent, similar consultations has been in the range of \$70,000.

Adding Specific Exemptions: Legal Services has suggested public consultation “as a way to raise any particular difficulty that a business or any other vehicle operator may face which should be an added exception”. Council has the option of including additional exemptions to address specific circumstances or concerns. The exemptions proposed in the By-law are consistent among many cities in the GTA and are found in the model by-law published by the Ministry of Environment. A GTA-Clean Air Council report notes that “the effect of having too many exemptions together is to create a patchwork law that is unevenly applied to some vehicles in some circumstances, frustrating citizens who call to lay a complaint only to discover that the vehicles are exempted from the provisions of the By-law for one reason or another.”

Options that Determine the Scope of the By-law

In reviewing the Burlington By-law, other idling control by-laws and model by-laws, it became evident that certain options would result in significant changes in the scope of the By-law, which in turn could have significant implications for the resources needed to achieve compliance. Options for Council to consider are outlined below:

Exempting HSR & Municipal Vehicles from the By-law: Legal Services recommends that “*HSR and municipal vehicles should be exempted entirely, but should certainly have their own fleet policies to eliminate unnecessary emissions.*” The reason for this exemption stems from the cost and possible human resource issues associated with laying charges against the City, either through an enforcement officer, or through a private prosecution brought on by a citizen (see the Financial Implications section of this report).

Complete exemption was not requested by Fleet Services, nor by HSR. The proposed by-law, attached as Appendix A to Report PED05092(a), does not exempt HSR or municipal vehicles for the following reasons: (1) costs to the City could be eliminated if staff adhere to the regulation, (2) exempting the City from its own by-laws would severely hinder the ability of the Awareness Campaign to have citizens voluntarily change behaviour, (3) City staff have calculated significant cost-savings due to reduced fuel consumption, as has been proven in private industry, and (4) it does not demonstrate a positive leadership image to the community. Council has the option of following the advice from Legal Services.

Public and Private Property: Legal Services advises that the by-law can be applied to private property in the same approach taken by Pesticide By-laws that have been upheld. The City would have the common law right of entry for enforcement purposes to driveways or pathways to make contact with the owner. Sections of the by-law have been drafted by Legal Services to facilitate this approach. Entry to structures would not be covered but it is not anticipated that enforcement of the Idling Control By-law would require entry into a dwelling unit.

Council has the option of limiting application of the by-law to public property. In this case, property owners would be responsible for regulating idling on their property. This option has a reduced environmental benefit because many sources of vehicle emissions are exempt. This option does limit the scope of enforcement for the City.

Exempting Government Vehicles: Federal and Provincial agencies and public utilities have been exempted from the by-law as Legal Services advises that the City has limited jurisdiction. Council has the option of not specifying the exemption for senior government agencies in the by-law at all. The exemption was included in the by-law to provide information to citizens.

General Provisions: The By-law proposes to restrict idling to three (3) minutes in a 60-minute period. This time period was chosen based on the advice of Legal Services and to be consistent with other by-laws in the GTA, (Burlington, GVRD, Kingston, Niagara Falls and Toronto). The Hamilton Anti-Idling Policy for City Vehicles previously approved by Council restricts idling to ten (10) seconds which provides the City with significant fuel cost savings. This time period was considered too short for situations encountered outside City operations. It is expected that marketing the fuel-cost savings that result from the three (3) minute idling time would make this reasonable to Hamiltonians. Council has the option of choosing to restrict idling to less than three (3) minutes in a 60-minute period. The Toronto Medical Officer of Health noted that reduced idling times had a beneficial effect by keeping vehicle emissions to a minimum. Toronto's By-law was not changed from three (3) minutes to one (1) minute as the change to an existing regulation was considered to be confusing. Other options for time periods commonly used in Ontario are five (5) and ten (10) minutes.

Boats: The Hamilton Anti-idling Policy for City Vehicles applies to motor vehicles and boats over which the City has operation and control. The proposed By-law does not apply publicly to boats as Legal Services advises that boats fall under Federal

jurisdiction, and because any expansion of the scope of the By-law would increase enforcement costs. Council could direct staff to investigate enabling legislation used by those cities that do include boats in their By-laws (Toronto, Kingston and Windsor).

Transit buses: The proposed By-law allows transit buses to idle for up to 15 minutes at a layover or a stopover or in situations where engine shutdown will result in restart complications. This was written to accommodate the shutdown and re-starting requirements for the Compressed Natural Gas (CNG) buses used by HSR, and it is consistent with the existing Hamilton Anti-Idling Policy for City Vehicles with regard to transit. Council could opt to follow the lead of some cities that allow a lesser ten (10) minute idling time for transit buses, but this has not been recommended due to the specific needs of the HSR transit fleet.

Temperature: The proposed By-law includes a temperature exemption. The By-law does not apply to occupied vehicles on days where the outside temperature is below 5°C or over 27°C where engines are necessary to run air conditioning or heating. Hamilton staff have followed the example of the Province of Ontario Model Idling Control By-law, and cities of Toronto, Burlington, Oakville, Huntsville, Kingston, London, Niagara Falls, Stratford, Vaughan, Windsor and Woodstock, and included a temperature provision to recognize the human health burden brought on by heat stress and other climate related problems³. Some cities, including Guelph and the Greater Vancouver Regional District do not include a temperature provision, as this can lead to increased idling on smog days and cause problems for enforcement officers who must determine temperatures before proceeding. Including hard numbers in legislation and regulation is always problematic as the science behind the numbers can seldom provide an exact threshold where risk becomes untenable or harm occurs. Also, there are often a variety of contributing factors to heat stress, such as air movement and clothing. Council has the option of not including an exemption to the By-law based on temperature.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial — Enforcement of the Idling Control By-law will result in the need for a budget enhancement in the range of approximately \$130,000 (\$72,000 in one time costs, \$55,000 in ongoing costs) for one (1) new FTE to increase the ability of the Building and Licensing Division to enforce all of the City's by-laws, including the Idling Control By-law. If the idling control function falls under the duties of existing Parking Enforcement Officers, the cost for training and job evaluation could be in the range of \$350,000. Training other City staff is already being conducted through the Public Works and Planning and Economic Development Departments' Operational Budgets for Fleet and Air Quality.

Legal Services advises that if the City does not exempt all HSR and Municipal vehicles from the by-law, costs would be incurred to hire outside counsel. Internal staff could not be used due to the conflict of being both accused and prosecutor. Costs are estimated

³ These temperature exemptions for the idling control By-law were supported by the City of Toronto's Guidelines for the Prevention of Cold Stress-Related Injuries and Heat Stress Guidelines in a City of Toronto Staff Report on the Idling Control By-law, from Dr. David McKeown, Medical Officer of Health, to the Board of Health, May 25, 2005.

SUBJECT: Hamilton Idling Control By-law (PD05092(a)) (City Wide) - Page 10 of 13

to be between \$500 to \$1,000 per charge. It should be noted that no costs would be incurred if City vehicles adhered to the by-law.

Staffing — Current resource difficulties and adoption of the Idling Control By-law will result in the need to hire one (1) additional FTE for the Building and Licensing Division.

The Awareness Campaign can be delivered in partnership with Green Venture and other community partners using Planning and Economic Development Budget allocations for the Air Quality Program (no new funding required). This is dependent upon Council's approval of the 2006 Budget. The anticipated budget for the Awareness Campaign is \$40,000. As reported in Report PD05092, an internal anti-idling campaign has already been launched by Public Works, with signage funded through the Planning and Economic Development Department. Public Works is continuing to implement the Idling Control Policy through employee communications and supervision. Parking Enforcement staff and Public Health staff could participate in the Awareness Campaign through collaboration with the Planning and Economic Development Department staff.

Legal — This By-law has been reviewed by Legal Services and Risk Management. Specific legal issues are discussed in the Analysis/Rationale and Alternatives For Consideration sections of this report.

This report varies from Legal Services advice in a significant manner. Legal Services reiterated in several communications that "*HSR and municipal vehicles should be exempted entirely, but should certainly have their own fleet policies to eliminate unnecessary emissions.*" As noted in the Alternatives section of this report, this was not the response received from Fleet Services, nor from HSR. The proposed by-law being recommended does not exempt HSR or Municipal vehicles.

Legal Services also notes that that the issue of laying charges under Part I or Part III of the Provincial Offences Act is procedural at the time a charge is laid and not a matter for the by-law. Also, set fines for tickets are obtained after the passage of the by-law through a Court approval process.

As noted above, Risk Management advises there is potential liability if the City has not shown due diligence in providing enforcement resources for its by-laws.

POLICIES AFFECTING PROPOSAL:

The Noise By-law (By-law No. 03-020), Section 3.(6) which restricts noise from the operation of an engine in a stationary vehicle to a continuous period of five (5) minutes in a Residential or Quiet Area, has been used in the past to restrict idling. The effectiveness of this approach has decreased over time as engines have become quieter. Now, many engines can idle without making enough noise to invoke the Noise By-law. The Noise By-law should be made consistent with the Idling Control By-law. This entails amending the five (5) minute engine noise limit to three (3) minutes.

SUBJECT: Hamilton Idling Control By-law (PD05092(a)) (City Wide) - Page 11 of 13

Amendments to the Green Fleet Implementation Plan are required to update it regarding the current stage of various programs and policies (i.e. Hamilton Anti-Idling Policy for City Vehicles and references to the Idling Control By-law).

An analysis of specific changes required to all policies and By-laws will be prepared by the Planning and Economic Development Department in collaboration with other Departments.

RELEVANT CONSULTATION:

City of Hamilton Departments: Public Works, Hamilton Street Railway, Corporate Services, Planning and Economic Development, Public Health and Community Services, Legal Services, Risk Management, Fire, EMS, Police Services.

External: Ministry of Environment, Clean Air Hamilton, Green Venture, the. GTA-Clean Air Council and the cities of Burlington, Toronto, Collingwood, Guelph, London, Kingston, Niagara Falls, and Oakville.

Staff have reviewed the City of Burlington's Idling Control By-law which came into effect on May 2, 2005⁴ along with examples from By-laws enacted in the cities of Toronto, London, Guelph, Huntsville, Kingston, Niagara Falls, Oakville and the Greater Vancouver Regional District. Further information on idling control By-laws was obtained from the GTA-Clean Air Council, the Ontario Ministry of Environment and the Hamilton Internal Idling Control Policy (Public Works Operational Update August 2004). A summary of these By-laws is attached as Appendix B to Report PD05092(a).

Aside from questions regarding the exemption of all HSR and Municipal vehicles, and costs of implementation and enforcement described in the "Analysis/Rationale" section of this report, the main concerns expressed concerned the idling time limit and specified exemptions. The ten (10) second time limit in the City's existing Idling Control Policy is considered too short for many situations encountered outside of City operations. The proposed Hamilton by-law sets the time limit for idling at three (3) minutes in a 60-minute period. Further, Emergency Services wanted to be sure that engines could idle in order to keep necessary electronics operating. This is ensured through the exemption for police, fire or emergency medical service vehicles while engaged in operational activities.

There were questions regarding a possible exemption for construction vehicles; sometimes it is not feasible for construction vehicles to turn off their engines while waiting for other work to be completed. Additionally, frequent stopping and restarting of diesel-fuelled construction equipment can be a significant source of emissions, possibly overwhelming any savings from reduced idling of the vehicle. However, on-road equipment and off-road vehicles are a significant source of nitrogen dioxide in the City and a significant source of the precursors of both ozone and fine particulate matter. Considering all these factors staff are proposing not to exempt construction vehicles from the By-law; Burlington's By-law does not make such an exemption, referring to

⁴ The Corporation of the City of Burlington By-law No. 71-2004.

SUBJECT: Hamilton Idling Control By-law (PD05092(a)) (City Wide) - Page 12 of 13

“necessary idling” in their enforcement approach. The reduction of excessive or unnecessary idling of construction vehicles can have a significant positive impact on air quality and the issue of necessary idling through the course of construction work can be handled through education and appropriate enforcement as it is in other municipalities in the GTA.

Another concern raised was the idling of transit vehicles on layovers or stopovers. This exemption was included in the by-law to address the difficulties of Compressed Natural Gas (CNG) buses restarting after a short shut-down. This helps facilitate transit service which has an overall positive effect on reducing vehicle emissions. Some municipalities exempt transit layovers and stopovers from their Idling Control By-laws.

There was also discussion regarding the generic nature of the wording in Section 5 - “Penalties” of the By-law. It was decided by Legal Services in September that the wording should be generic in order to maintain maximum flexibility, but alternative wording has since been provided that provides better clarity.

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

The public are involved in the definition and development of local solutions. Involving the entire community in reducing vehicle idling and developing the awareness/education campaign in partnership with community partners is consistent with the principle of self-determination and participation.

Environmental Well-Being is enhanced. Yes No

Human health and safety are protected. Reducing idling improves local air quality which can reduce the burden of illness, reduce air quality impacts on ecosystems as well as reduce emissions of the greenhouse gases that contribute to climate change.

Economic Well-Being is enhanced. Yes No

Hamilton’s high-quality environmental amenities are maintained and enhanced. As most other cities in the GTA have already adopted idling control by-laws, Hamilton’s Idling Control By-law should not affect the City’s competitive position. Reducing idling also saves fuel costs for citizens, businesses and government. Improving air quality can help attract investment in the community by making Hamilton a more desirable place to live and work. Increasing the City’s capacity for enforcing all of its by-laws, including the Idling Control By-law, may have an affect on the tax levy unless offsets can be found.

Does the option you are recommending create value across all three bottom lines?

Yes No

SUBJECT: Hamilton Idling Control By-law (PD05092(a)) (City Wide) - Page 13 of 13

Controlling excessive idling creates value across all three bottom lines as there are environmental, social/health and economic benefits as noted above. There is a financial cost to enforce the by-law and to design and implement the community Awareness Campaign. However these costs are offset by the economic benefit of making Hamilton a more desirable place to live, work and play and the reduced costs of health care and loss of productivity due to the health effects of air pollution.

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

The recommendations are intended to realistically respond to the need for an effective idling policy framework in the City. Adopting a by-law without providing sufficient or appropriate resources for enforcement and other implementation actions would not support Hamilton's reputation as an employer of choice for high-performing public servants. Unfunded regulation constrains the efficient performance of duties, aggravating worker frustration.

LH/dkm

Attachs. (2)

Authority: Item 22, Committee of the Whole
Report
CM: Date

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

To Prohibit Unnecessary Idling of Vehicles within the City of Hamilton

WHEREAS Section 130 of the Municipal Act, S.O. 2001, Chapter 25, authorizes municipalities to regulate matters not specifically provided for by this Act or any other Act for the purposes related to the health, safety, and well-being of the inhabitants of the municipality;

AND WHEREAS Section 425 of the Municipal Act, S.O. 2001, Chapter 25, authorizes municipalities to pass any by-law and provide that any person who contravenes any by-law of the municipality be guilty of that offence;

AND WHEREAS motor vehicles are a major source of greenhouse gases, nitrogen oxides, carbon dioxide, sulphur dioxides, volatile organic compounds and fine particulate matter emitted into the outdoor air in the City of Hamilton;

AND WHEREAS the levels of air pollution in the City of Hamilton are associated with adverse health effects, including deleterious effects on respiratory and cardiovascular health;

AND WHEREAS Section 2 of the Municipal Act, S.O. 2001, Chapter 25, provides that municipal purposes include providing services and things considered desirable, and fostering the current and future economic, social and environmental well-being of the municipality;

AND WHEREAS the Council of the City of Hamilton desires to assist in the reduction of adverse health effects by reducing the unnecessary emissions of nitrogen oxides, carbon dioxide, sulphur dioxides, volatile organic compounds and fine particulate matter;

AND WHEREAS the City of Hamilton has committed to reducing greenhouse gas emissions as part of our commitment to the Federation of Canadian Municipalities Partners for Climate Protection Program;

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

1. Short Title:

This by-law may be cited as “The Idling Control By-law.”

2. Definitions

In this By-law:

2.1 “City” means the City of Hamilton;

2.2 “Council” means the City Council for the City of Hamilton;

2.3 “Idling” means the operation of the combustion engine of a vehicle while the vehicle is not moving forward or in reverse, and not being used to operate auxiliary equipment essential to basic operation of the vehicle, and “idle” shall have a corresponding meaning;

2.4 “Vehicle” means a motor vehicle, including a traction engine, farm tractor, or road building machine, motorized snow vehicle or other conveyance that operates by way of combustion engine but does not include any vehicle designed to run exclusively on rails;

2.5 “Transit Vehicle” means public transit vehicles, tour buses, and motor coaches;

2.6 “Mobile Work Vehicle” means:

- a) A vehicle containing equipment that must be operated inside or in association with the vehicle, including waste and snow removal vehicles; or
- b) A vehicle serving as a facility for taking measurements or making observations operated by or on behalf of a municipality, public utility or police, fire or ambulance service;

2.7 “Stopover” means a scheduled delay of a maximum of fifteen (15) minutes at a transit vehicle terminal to allow transit vehicles to adjust to service schedules;

2.8 “Layover” means a stopping point along a transit route for a maximum of fifteen (15) minutes to allow transit vehicles to adjust service schedules;

3. General Provisions

3.1 No person shall cause or permit a vehicle to idle for more than three (3) minutes in a sixty-minute period.

3.2 Article 3.1 does not apply to the following vehicles or situations:

- a) Police, fire or emergency medical service vehicles while engaged in operational activities, including training and patient transfer activities;
- b) Vehicles assisting in an emergency activity, including tow trucks while engaged in hooking up to or moving another vehicle;
- c) Vehicles required to remain motionless because of an emergency, traffic (including congestion and signals), weather conditions, or mechanical difficulties over which the driver has no control;
- d) Mobile work vehicles while they are in the course of being used for their basic function;
- e) During weather conditions where outside temperatures are over 27⁰ C or below 5⁰ C where idling may be necessary for the operation of air conditioning or heating equipment as long as the vehicle is occupied;
- f) Vehicles engaged in the course of a parade, race or any other event authorized by Council.
- g) Vehicles transporting a person where a medical doctor certifies in writing for medical reasons that a person in a vehicle requires temperature or humidity to be

maintained within a certain range, and where the medical note is up-to-date and is kept with the vehicle operator;

- h) Transit vehicles while passengers are embarking or disembarking en route or in terminals;
- i) Transit vehicles while at a layover or stopover location except where idling is substantially for the convenience of the operator of the vehicle or in situations where engine shutdown will result in restart complications;
- j) Vehicles where idling is required as part of the repair process or to prepare a vehicle for service while the vehicle is in the possession or on the property of a commercial vehicle repair facility;
- k) Armoured vehicles where a person remains inside the vehicle while guarding the contents of the vehicle or while the vehicle is being loaded or unloaded;
- l) Commercial vehicles using heating or refrigeration systems powered by the motor or engine for the preservation of perishable cargo;
- m) A vehicle whose engine is being operated to boost the battery of another vehicle, or which vehicle is connected to an external stationary device which relies on the power of the vehicle to carry out work such as a tractor or traction engine powering another such device by pulley or other connection, or
- n) Any vehicle operated by any federal or provincial government ministry or agency, or by a public utility.

4. Enforcement

4.1 Any Police Officer or a Municipal By-law Enforcement Officer appointed under any by-law of the City, for the purpose of this section is authorized to inform any person of the provisions of this by-law and to request compliance therewith.

4.2 Any Police Officer or a Municipal By-law Enforcement Officer appointed under any by-law of the City may enforce the provisions of this by-law.

4.3 The Court, in which a conviction has been entered, and any other court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted and such order shall be in addition to any other penalty imposed on the person convicted.

5. Offence and Penalty

Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to the penalties provided in section 61 of the Provincial Offences Act, R. S. O. 1990, c. P.33 as amended.

PASSED and ENACTED this day of , 200 .

MAYOR

CLERK

Table 1: Key Features of Existing Anti-idling By-laws								
Feature	Burlington	GVRD	Guelph	Huntsville	Kingston	London	Niagara Falls	Oakville
When enacted	May 2005	Recommended June 2004	December 1998	September 2003	September 1997	August 1999	October 1998	August 2002
Application	Motor vehicle, trailer, traction engine, tractor, road building machine	Vehicles (except rail)		Vehicles (except rail)	Vehicles (except rail) and boats	Vehicles (except rail)	Vehicles (except rail)	Vehicles (except rail)
Exemptions	a, b, c, d, e, f, g, h, i, j (See below)	a, b, c, f, g, h, j, k, q	b, c, e, f, g, i, j, m, p	a, b, c, d, e, f, g, h, i, j, p	a, b, c, d, e, g, h, i, j, k, l, m,	a, b, c, d, e, f, g, h, i, j, p	a, b, c, d, e, f, g, h, i, j, p	a, b, c, d, e, f, g, h, i, j, p
Location	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified
Time allowed	3 minutes in 60-minute period; Transit – 10 minutes	3 minutes in a 60-minute period	10 minutes in 60-minute period	5 minutes Transit – 15 minutes	3 minutes in 60-minute period	5 minutes Transit – 15 minutes	3 minutes Transit – 15 minutes	5 minutes; Transit – 15 minutes
Enforcement agents	Parking enforcement officers	Not specified	By-law enforcement; Police dept.	Parking enforcement	Parking enforcement	Public health inspectors	By-law enforcement officers	By-law enforcement officers
Type of enforcement	Not yet enforced	Model by-law for enactment by GVRD municipalities			Mainly warnings, summons and fines “last resort”	Active surveillance of “hotspots” & complaints		Verified complaints
Fines	\$155 set fine (includes victim surcharge)	\$50 minimum (up to \$2000) recommended	No set fines	\$100	No set fines	\$105 + \$20 victim surcharge	No set fines	\$155 set fine
Charges, warnings or summons issued	Friendly warning letters sent; Mock tickets given out with info on idling & by-law	To be decided by specific municipalities enacting the model by-law	None to date	Have warned tour buses	Warnings issued mainly to tour buses in city centre; a few summons issued	Follow-up on 30-40 complaints since 1999, and several warnings issued	Warnings issued, mainly to bus companies	Several warnings issued; 2 trucking companies fined
Additional comments	Not yet in effect; Burlington also has provisions in noise by-law (5 min. limit)		Plans to review the by-law and incorporate set fines	Has specific exemptions for driver rest stations, tour buses & specified locations	By-law in effect in former City of Kingston; revised by-law proposed for amalgamated city	Active educational program		Focus on education

Feature	Pickering	Stratford	Toronto	Vaughan	Whitchurch/ Stouffville	Windsor	Woodstock
When enacted	February 2004	July 2001	October 1998	June 2004	June 2003	June 2001	June 2002
Application	Vehicles (except rail)	Vehicles (except rail)	Vehicles (except rail), ferries and boats	Vehicle (except rail)	Vehicles	Vehicles (except rail) and boats	Vehicles (except rail)
Exemptions	a, b, c, e, f, g, h, i, j, p	a, b, c, d, e, f, g, h, i, j, p	a, b, c, d, e, f, g, h, i, j, p, q, r	a, b, c, d, e, f, g, h, i, j, p,	a, b, c, e, j, p	a, b, c, d, e, f, g, h, i, j, p, r	a, b, c, d, e, f, g, h, i, k, j
Location	Not specified		Not specified	Not specified	Listed idle-free zones (16 sites)	Not specified	Not specified
Time allowed	5 minutes; Transit – 15 minutes	5 minutes; Transit – 15 minutes	3 minutes in 60-minute period; Transit – 15 minutes	5 minutes	3 minutes in a 60 minute period	5 minutes in a 60 minute period	5 consecutive minutes
Enforcement agents	By-law enforcement or regional police	By-law enforcement	By-law staff in Transportation Services Div'n	By-law enforcement	No enforcement section		By-law enforcement
Type of enforcement	Not actively enforced	Complaints-based	Mainly complaints-based; One "blitz" in 2003	Complaints based; Computer code to track complaints	Rely on voluntary compliance		
Fines	No set fines	No set fine	\$105 set fine + \$25 victim surcharge	\$250 + victim surcharge requested	No set fine		No set fine
Charges, warnings or summons issued	None to date	No charges laid to date; Have given out warnings	247 tickets, 6 summonses, ~ 1350 warnings (to end of 2003)	None to date	None		
Additional comments			Toronto has included boats in its anti-idling provisions		Schools asking for idle-free signs		

Table 1: Key Features of Existing Anti-idling By-laws (cont.)

Exemptions

(Note: In most by-laws exemptions don't apply when idling is substantially for the convenience of the operator of the vehicle. Also note: The exemptions listed below are general categories. The specific wording varies somewhat from jurisdiction to jurisdiction.)

- a) Fire, police and emergency medical service vehicles
- b) Vehicles participating in an emergency activity
- c) Vehicles that remain motionless because of traffic conditions or mechanical difficulties
- d) During hot or cold weather (e.g. over 27°C or below 5°C)
- e) Where a medical doctor certifies in writing that a person requires temperature or humidity to be maintained within a certain range
- f) Where operation of the motor is essential to the basic function of the vehicle or auxiliary equipment
- g) Where idling is necessary for maintenance or repair
- h) Transit vehicles while passengers are embarking or disembarking
- i) Transit vehicles at a layover or stopover with passengers on board (Usually limited to 10 or 15 minutes)
- j) Vehicles in a parade or other event authorized by the municipality
- k) Armoured vehicles, where a person remains inside guarding the contents, or while the vehicle is being loaded or unloaded
- l) Ferry boats
- m) Boats not at anchor or tied to a dock

Reference: Clean Air Partnership, "Situational Analysis: The Status of Anti-Idling By-laws in Canada", Prepared by Jennifer Penney for the GTA Clean Air Council, February 2005.