



Town of Niagara-on-the-Lake

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REPORT #: OPS-23-062 **COMMITTEE DATE:** 2024-03-19
REPORT TO: COTW-General **DUE IN COUNCIL:** 2024-03-26
SUBJECT: Improving Regulation of Heavy Motor Vehicles in Historic Old Town

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council approve the expansion of 3,000 kg Gross Registered Weight (GRW) restrictions to include all streets in the area bounded by Queen-Picton Streets, Simcoe Street and the Niagara River.
- 1.2 Council direct the Town Clerk to amend By-Law 5157-19 (Regulating Heavy Motor Vehicles on Town Roads) to modify the definition of a Police Officer to include Municipal Law Enforcement Officers, to add definitions for "Driving", "Moving", "Operating", "Parking", "Standing" and "Stopping", to add infill streets in the area described in 1.1 above to Schedule "A", and to declare enforcement and fines for Sections 3.1.2 and 6.1 subject to the provisions of By-Law 4744-14 (Administrative Penalties).
- 1.3 Council directs the Town Clerk to amend By-Law 4744-14 (Administrative Penalties) to incorporate the enforcement of Heavy Motor Vehicle parking, standing and stopping infractions defined in By-Law 5157-19 into the Administrative Penalties by-law.
- 1.4 Council directs once the by-law amendments are complete that the Operations Department erect the necessary 3,000kg GRW signage on infill streets as noted in 1.1 at an estimated cost of \$2,000.

2. EXECUTIVE SUMMARY

- For more than 30 years the Town has faced ongoing issues with heavy motor vehicles (primarily tour buses) intruding on residential areas in the Historic Old Town. These buses impact residents' quality of life and degrade the environment with air and noise pollution.
- The most successful strategy to manage visiting tour buses is directing them to the Fort George bus parking lot. Paired with the Heritage Shuttle, this lot minimizes the impact of bus tourism on the Heritage District by transporting tour bus passengers to and from the Court House in small buses on a fixed route avoiding residential areas.
- The entry price at the Fort George Bus Parking Lot has risen from \$10 to \$55 per trip since the lot opened in 2001. Many bus drivers find the current parking charge

unreasonable and avoid the bus lot, opting instead to settle under a shady tree in a residential neighbourhood or near the river to wait for their passengers.

- NOTL's Municipal Law Enforcement Officers cannot issue tickets for moving violations including weight limits and are restricted to writing parking tickets in their efforts to control the buses. Fines of \$25 to \$30 are not a deterrent when compared to the \$55 fee at the Fort George bus lot.
- Bus drivers avoiding the Fort George bus lot have resulted in a decrease in the revenues used to fund the Heritage Shuttle service and our lease of Parks Canada lands where the lot is located.
- Old Town residents are becoming increasingly concerned about tour buses parking and idling near residences, parks, and historic properties. Homes north of Queen/Picton including the Dock Area are being disproportionately impacted.
- The legislative tools proposed in this report will provide staff with an effective means to address these concerns.
- The current proposal is to amend both By-Law 5157-19 (Heavy Motor Vehicle Prohibitions) and By-Law 4744-14 (Administrative Penalties) to permit Town enforcement officers to write \$120 tickets on buses standing, stopping, or parking on weight-restricted residential streets.

3. PURPOSE

The purpose of this report is to advise Council of ongoing challenges in preventing heavy motor vehicles (primarily tour buses) from parking in the residential areas of Historic Old Town, and to seek Council's endorsement for by-law changes which would permit the Town's Municipal Law Enforcement Officers to ticket buses with fines of \$120 for parking on weight-restricted streets.

4. BACKGROUND

Prior to 1991, the Town was having difficulty with the incursion of tour buses in the Historic Old Town, dropping off and picking up passengers at random on Queen and King Streets and parking/idling on residential streets while waiting for their passengers. In 1991 the Town provided an approved bus route through the Old Town including a bus stop/parking area on King St. fronting Simcoe Park and bus stops fronting the Oban Inn, the former Gate House restaurant, the Royal George Theatre, and the Court House.

To encourage buses to remain on the approved route, a provision was added to the Parking and Traffic By-law to restrict certain streets in the Historic Old Town to vehicles under 3,000 kg Gross Vehicle Weight (GVW), enforceable by MTO officers or the Niagara Regional Police. Weight restricted roadways were posted accordingly.

By 2001 the volume of buses circulating within Town were having a problematic impact on Simcoe Park, on Queen and King Streets and on residential streets north of Queen-Picton including the Dock Area. In a co-operative project between Parks Canada, the Chamber of Commerce and the Town, a bus parking lot and combined Visitor Centre/bus driver respite lounge was constructed at Fort George. Tour buses were redirected to this dedicated lot and their passengers transported on the seasonal "Heritage Shuttle" to and from the Court House parking lot. Bus stops fronting the Gate House, Oban Inn and the Court House were removed. The bus stop fronting the Royal George Theatre remains, limited to buses dropping off Theatre patrons subject to a permit system managed by the Shaw Festival.

The Fort George bus parking lot and supporting Heritage Shuttle are open from Easter to approximately Thanksgiving when tour bus volumes are high, and a parking fee is charged when the Shuttle is running. The lot is open free of charge during the off-season when bus volumes are low and bus passengers access the Town via a short 6-minute walk. The cost for staffing and maintaining the lot, Visitor Centre and Heritage Shuttle were designed to be offset by the parking fee levied at the Fort George lot. With an average of 8,000 buses using the Fort George lot annually, bus parking fees generally return a surplus with no burden on taxpayers. Until recently this strategy has worked very well.

Council has steadily directed increases in the price of entry to the Fort George bus lot from \$10.00 in 2001 to \$55.00 in 2023. Town Municipal Law Enforcement Officers (MLEO's) cannot ticket heavy vehicle infractions which are currently considered moving violations outside the scope of their authority. The only tool available to control tour buses are conventional parking tickets with fines ranging \$25.00 to \$300.00, with \$25.00 (Parked where prohibited) being most common. Because of the low cost of the current penalty, an increasing number of bus drivers are opting to accept a \$25.00 "Parked Where Prohibited" fine on a residential street or near the river in the Dock Area rather than paying the \$55.00 fee at the sanctioned bus parking lot.

Resident complaints have been steadily increasing because of tour buses parked and frequently idling in residential neighbourhoods. This severely impacts the quality of life for residents living there, and the degradation of air quality and increased noise pollution are readily observed.

5. DISCUSSION / ANALYSIS

Staff currently have no effective tools to compel buses to use the Fort George bus lot and must rely on persuasion to move buses to a more acceptable waiting area. The challenge in regulating tour bus movement is threefold:

The Town has authority under the Municipal Act, the Highway Traffic Act and to pass by-laws regulating heavy vehicles. Under the principles set out in these Acts:

- i. All vehicles have an equal right to use public roadways, so by-laws must apply to all vehicle classes – the Town cannot impose restrictions on buses as a class which do not apply to all vehicles using that roadway.
 - a. The Town cannot restrict buses from using a street, but it can impose a weight limit applicable to all vehicles using that street.
 - b. Differential fines cannot be imposed for the same infraction. For example, a passenger vehicle cannot be fined \$25.00 for parking where prohibited while fining buses \$120.00 for the same behaviour.
- ii. Several types of weight restrictions may be imposed:
 - a. Roadways are most commonly restricted by Gross Vehicle Weight (GVW) and used for such issues as spring half-load season to protect the integrity of roadways when the road base is saturated by water. To enforce this type of violation a heavy motor vehicle must be stopped and weighed on portable scales or stopped and required to proceed to a certified weigh station. This weight restriction is most appropriate for vehicles which carry variable loads (such as a dump truck) with the possibility of

carrying a weight above their Registered Gross Weight.

- b. Roadways may also be restricted by Gross Registered Weight (GRW) which is the maximum overall weight of a vehicle including load. A vehicle's GRW is listed on the vehicle's registration and must by law be posted on the exterior of all commercial vehicles. Under this restriction, vehicles are not required to be weighed for a fine to be issued. This restriction is most appropriate for vehicles whose operating weight won't change, such as construction equipment (mobile cranes) and buses (where passenger weight is included in the GRW).

- iii. Municipal Law Enforcement Officers are not authorized to stop vehicles and therefore cannot enforce moving violations.

In 2019 the Town passed by-law 5157-19 which removed the 3,000 kg weight restriction based on Gross Vehicle Weight (GVW) from our Parking and Traffic by-law and created stand-alone legislation basing the same weight restriction on Gross Registered Weight (GRW). While this removed the necessity of requiring a vehicle to be weighed (which would be impractical with passengers on a bus) this infraction remained a moving violation only applicable to vehicles "driving, moving or operating" on a restricted street.

Enforcement of this by-law continued to rely on Ministry of Transportation Officers or the Niagara Regional Police to enforce. Due to prioritization of resources in both these agencies, no enforcement of the 3,000 kg weight restriction has been undertaken in Town by these officials.

Staff are proposing two amendments to Heavy Vehicle By-Law 5157-19 which would enable our Municipal Law Enforcement Officers to enforce it as well:

1. Adding "parking, standing and stopping" to the behaviours restricted on streets with a 3,000 kg weight restriction. These are standing violations enforceable by our MLEO's.
2. Adding a clause enabling the "parking, standing and stopping" prohibition on 3,000 kg GRW restricted streets to be enforced under the Town's Administrative Penalties By-Law 4744-14.

Staff are also proposing an amendment to the Administrative Penalties by-law 4744-14 to include enforcement of parked, stopped or standing heavy vehicles on weight restricted streets under the auspices of that by-law.

It should be noted that the weight restriction in By-Law 5157-19 provides exemptions to vehicles using a restricted street. Exemptions to the weight restriction include:

- Ambulances, fire department vehicles and emergency response vehicles.
- Public utility vehicles.
- School buses.
- Vehicles operated on or on behalf of the Town or any other authority having jurisdiction on the highway.
- Farm vehicles.
- Recreation vehicles.
- Heavy motor vehicles in excess of 3,000 kg that require access to any premise or

premises or lands located on that section of highway as prohibited and set out in Schedule A to the By-law which:

- are making bona fide delivery to or collection from or are providing service or maintenance or construction works or carrying passengers to or from the said premise; or;
- The vehicle is owned by the owner of the said premise and is to be legally parked within the land containing said premise.

The proposed changes make the parking, stopping or standing of heavy vehicles on restricted streets a weight-related infraction enforceable by Municipal Law Enforcement Officers with a fine of \$120.00. Because this is a restriction applied equally to all vehicles on the basis of weight, it permits us to levy a higher fine under Administrative Penalties distinct from a behaviour related parking infraction with much lower fines. The Town is confident that enforcement of this infraction, the expanded area of restriction and the associated fine will incentivize bus drivers to resume parking at the Fort George Tour Bus Parking Lot.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

3. Enrich Community Assets, Environment, & Infrastructure

Priority

3.2 Environment

Action

3.2 a) Sustainable Natural Environment

Pillar

2. Good Governance

Priority

2.1 Financially Sustainable Future

Action

2.1 b) Revenue Generation

7. OPTIONS

7.1 **Option 1:** Council approve the expansion of 3,000 kg Gross Registered Weight (GRW) restrictions to include all streets in the area bounded by Queen-Picton Streets, Simcoe Street and the Niagara River and the required amendment updates to the by-laws. **(Recommended)**

7.2 **Option 2:** Council does not approve the requested amendments *(Not Recommended)*

8. FINANCIAL IMPLICATIONS

- 8.1 The cost to sign new 3,000 kg GRW restrictions on infill streets north of Queen-Picton and bounded by Simcoe Street and the Niagara River is estimated to be \$2,000. Adding this signage to existing sign posts is used whenever possible to keep costs low.
- 8.2 Revenues lost by tour buses parking on Town streets instead of using the Fort George Lot are difficult to estimate as the exact number of buses who avoided the parking in lot in 2023 cannot be confirmed. Bus traffic has also been impacted by the current economic downturn and continued recovery from COVID. However, implementing a \$120 fine enforceable by Town Municipal Law Enforcement Officers will make the Fort George Bus Lot a viable alternative to parking on Town streets and prevent future revenue losses at the Fort George Lot.

9. ENVIRONMENTAL IMPLICATIONS

Relocating buses from residential streets to the Fort George Tour Bus Lot would substantially reduce the noise and pollution caused by buses driving through or idling near our parks or in residential neighbourhoods.

10. COMMUNICATIONS

Upon approval of the by-law amendments by Council, the supporting signage to advise vehicles of new and revised heavy vehicle restrictions will be posted immediately, subject to production of the necessary custom signage. Bus companies using the Fort George Tour Bus Parking Lot will be notified by letters of pending enforcement activity and provided with an enforcement start date, copy of the by-law and a map of weight-restricted streets in the Historic Old Town.

The Chamber of Commerce will also distribute similar information to their tour company contact list, through handouts at the Fort George bus kiosk and via a notice posted on the door once the kiosk closes for the season and a parking fee is no longer charged for use of the lot.

Staff will also work with the Communications Team to ensure notice is provided through education on our social media platforms and website.

11. CONCLUSION

Adoption of the proposed by-law amendments permitting the Town's MLEO's to enforce Heavy Vehicle prohibitions based on a vehicle's Gross Registered Weight (GRW) and implemented through the Administrative Penalties system provides the Town with a responsive and efficient enforcement tool utilizing our own staff.

It is anticipated that the \$120.00 fine will be sufficient incentive for buses to resume using the Fort George Tour Bus Parking lot in preference to parking on streets in the Heritage District, thereby reducing or eliminating the burden of parked/idling buses on our residents and the environment, and returning the Fort George Tour Bus Parking Lot revenues (which are used to help finance the Heritage Shuttle) to near pre-COVID levels.

12. PREVIOUS REPORTS

CDS-14-037 – Administrative Penalties System (APS)

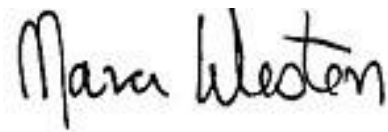
OPS-19-007 – Amendments to Heavy Vehicle Prohibitions in the Heritage District

13. APPENDICES

- **Appendix I** – Proposed By-Law 5157B-19 - Heavy Motor Vehicle Prohibition Amendments
- **Appendix II** – Proposed By-Law 4744D-14 - Administrative Penalties Amendments

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