Agenda – Council – October 28, 2021

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – October 12, 2021

Item No. 3 Private Parking By-law Vehicle Removal and Storage Fees

STANDING COMMITTEE RECOMMENDATION:

On October 20, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submitted the following to Council:

1. That the draft amending by-law attached as Appendix A be enacted, which includes changes to the types and maximum amounts of fees that may be charged for towing and storage of vehicles under the Private Parking By-law 6549/95, and that these amendments come into effect 30 days after enactment.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the forgoing.

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – October 12, 2021

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 20, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submitted the matter to Council.

Rob Campbell, President, Tartan Towing, submitted a communication dated October 18, 2021, in support of the matter.

STANDING COMMITTEE RECOMMENDATION:

On October 12, 2021, the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

Nick Roscoe, President, Dr. Hook Towing, submitted a communication dated October 7, 2021, with respect to the matter.

ADMINISTRATIVE REPORT

Title: Private Parking By-law Vehicle Removal and Storage Fees

Critical Path: Standing Policy Committee on Infrastructure Renewal and Public Works - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Topolniski	J. Berezowsky	N/A	M. Jack

EXECUTIVE SUMMARY

The Private Parking By-law No. 6549/95 empowers private property owners to order that unauthorized vehicles be towed from their lots by a registered vehicle poundkeeper with a valid permit from the City. The by-law was previously administered by the Winnipeg Police Service but this responsibility has recently been reassigned to the Winnipeg Parking Authority (WPA), as it deals exclusively with parking matters.

The maximum fees a registered poundkeeper may charge to the owner of an offending vehicle owner for towing and storage are regulated under the Private Parking By-law. These fees were last updated in 2008. Discussions with industry stakeholders and research on rates for similar services suggest the current fees are below a competitive market price and that, as a result, some tow companies are having difficulty finding enough independent tow truck operators to accommodate all requests for removal of vehicles from private lots.

In order to address industry concerns and to better align the City's prescribed maximum fees for towing and storage from private lots with those allowed by the Province of Manitoba for comparable services, the Public Service is recommending that the fees laid out in section 11 of the Private Parking By-law be updated. Pending Council's approval, the existing fees under the By-law will be amended to align with the vehicle weight classifications in the Provincial regulation, and adjusted for inflation using the Consumer Price Index for transportation-related expenses in Manitoba for the period from 2008 to 2021. The Public Service also recommends allowing additional fees for the use of dollies, flatbeds, and winches, all of which require extra time and expense on the part of tow companies. The proposed maximum fees for these extra services are based on the amounts last set by the Province of Manitoba in 2016, adjusted for inflation using the same Manitoba Transportation Consumer Price Index. With the adjustment for inflation from 2016 to 2021, the fees for these services in the Private Parking By-law will be slightly higher than those in the Provincial regulation.

On-street parking in the city is governed by several pieces of legislation including the Winnipeg Parking By-law No. 86/2016, the Fire Prevention By-law No. 35/2017, and the Winter Parking Ban By-law No. 76/2011. Responsibility for the oversight of tows from private property varies between Canadian municipalities but, in Winnipeg, many of the parking restrictions contained in these by-laws are enforced by the City in off-street privately-owned parking facilities as well. Given the fact that numerous other provisions related to the parking of vehicles on residential property are already contained in the Winnipeg Parking By-law, it may be advisable in the future

to explore the possibility of amalgamating the Private Parking By-law, or elements thereof, with the Winnipeg Parking By-law.

RECOMMENDATIONS

1. That the draft amending by-law attached as Appendix A be enacted, which includes changes to the types and maximum amounts of fees that may be charged for towing and storage of vehicles under the Private Parking By-law 6549/95, and that these amendments come into effect 30 days after enactment.

2. That the proper officers of the City be authorized to do all things necessary to implement the forgoing.

REASON FOR THE REPORT

Only Council has the authority to update the fees that a vehicle poundkeeper is permitted to charge under the Private Parking By-law.

IMPLICATIONS OF THE RECOMMENDATIONS

The recommendations do not have any financial implications to the City as the fees listed in section 11 of the Private Parking By-law are charged by a vehicle poundkeeper directly to the registered vehicle owner. The City does not collect any funds or serve as an intermediary in the transaction.

As the towing and storage fees are charged directly to registered vehicle owners, the WPA will work with Corporate Communications to provide a public information plan prior to the implementation of the proposed fee changes.

HISTORY/DISCUSSION

Legislation Governing Parking Prohibitions and Other Restrictions

On-street parking in the city is governed by several pieces of legislation including the Winnipeg Parking By-law No. 86/2016, the Fire Prevention By-law No. 35/2017, and the Winter Parking Ban By-law No. 76/2011. Many of the parking restrictions contained in these by-laws are enforced by the City in off-street privately-owned parking facilities as well. In addition to these municipally-enforced parking restrictions, the Private Parking By-law No. 6549/95 also empowers property owners to order that unauthorized vehicles be towed from their lots by a registered vehicle poundkeeper with a valid permit from the City.

In order to exercise this power, property owners must ensure signs reading “NO PARKING” or “UNAUTHORIZED PARKING PROHIBITED” are displayed in accordance with section 3 of the by-law. When vehicles are towed in accordance with the Private Parking By-law, the registered owner is liable to pay the towing and storage fees before the poundkeeper is obligated to return the vehicle.

Current Fees and Rationale for Update

The maximum fees a registered poundkeeper may charge to the owner of an offending vehicle owner for towing and storage are regulated under section 11 of the Private Parking By-law. These fees were set in 1995. They were updated in 2000 and 2008 but have not been amended since.

The Province of Manitoba sets maximum tow fees for similar enforcement services through the *Impoundment of Vehicles Fees Regulation*, many of which are notably higher than those currently allowed under the Private Parking By-law. The Provincial regulation also allows operators to charge additional fees in instances where specialized equipment such as dollies, flatbeds, and winches are required, while the City by-law does not.

An investigation of fees charged by local providers for on-demand service requested by vehicle owners (in response to roadside breakdowns, for example) and consultations with industry stakeholders suggest the current maximum fees are below a competitive market price and that, as a result, some tow companies are having difficulty finding enough independent tow truck operators to accommodate all requests for removal of vehicles from private lots. Left unchecked, this could impact the ability of local businesses and residential property owners to have the provisions of the Private Parking By-law enforced in their lots and to exercise the full and free use of their parking spaces to accommodate customers, residents, deliveries, etc.

Proposed Fee Amendments

Responding to industry concerns, and in an effort to better align the City's prescribed maximum fees for towing and storage from private lots with those allowed by the Province of Manitoba for comparable services, the Public Service is recommending that the fees laid out in section 11 of the Private Parking By-law be updated in accordance with Tables 1 and 2.

Currently, the by-law includes distinct towing fees for vehicles with a gross registered weight up to 4,500 kg, those with a weight greater than 4,500 kg but not more than 6,500 kg, and those in excess of 6,500 kg. In order to align with the weight classifications in the Province's *Impoundment of Vehicles Fees Regulation*, vehicle tow fees will instead be divided into two categories: those with a registered gross weight of no more than 4,540 kg and those with a registered gross weight in excess of 4,540 kg. The proposed towing and storage fees for the new consolidated class of heavier vehicles use the current 6,500+ kg fees as a base, as this amount is more closely aligned with the Provincial regulation. The by-law currently has only two categories for vehicle storage costs, so amending the weight categories to match will further simplify its administration.

The proposed towing and storage fees in Table 1 are based on the current amounts allowed under the by-law, adjusted for inflation using the Consumer Price Index for transportation-related expenses in Manitoba for the period from 2008 (when the fees were last updated) to 2021. Table 1 also includes the current maximum towing and storage fees prescribed under the Private Parking By-law and the *Impoundment of Vehicles Fees Regulation.*

Table 2 lists additional fees for the use of dollies, flatbeds, and winches, all of which require extra time and expense on the part of tow companies. The proposed maximum fees for these extra services are based on the amounts last set by the Province of Manitoba in 2016, adjusted to 2021 using the same Manitoba Transportation Consumer Price Index figures. The Province

has used a similar methodology for the *Impoundment of Vehicle Fees Regulation*, which was updated in 2001, 2008, 2013, and 2016.

Table 1- Comparison of Maximum Towing and Storage Fees

Service	Fees		
	Private Parking By-law (current, updated in 2008)	**Province of Manitoba Impoundment of Vehicles Fees Regulation (updated in 2016)**	**Private Parking By-law (Proposed)**
Removal costs for vehicles with a gross vehicle weight not exceeding 4,540 kg[1]	$59.00	$59.90	$71.20
Removal costs for vehicles with a gross vehicle weight greater than 4,540 kg[1]	$132.00[2]	$128.50	$159.20
Each 24-hour period or portion thereof that a vehicle with a gross vehicle weight not exceeding 4,540 kg[1] has been stored at a place of impoundment	$12.00	$15.00	$14.50
Each 24-hour period or portion thereof that a vehicle with a gross vehicle weight greater than 4,540 kg[1] but not exceeding 6,500kg has been stored at a place of impoundment		$15.00[3]	$32.60
Each 24-hour period or portion thereof that a vehicle with a gross vehicle weight exceeding 6,500 kg has been stored at a place of impoundment	$27.00		

1-The Private Parking By-law currently distinguishes between vehicles up to 4,500 kg and those above 4,500 kg. The Impoundment of Vehicles Fees Regulation sets the threshold at 4,540 kg.
2-The Private Parking By-law currently sets a removal fee of $74.00 for vehicles with a gross weight in excess of 4,500 kg but not exceeding 6,500 kg.
3-The Private Parking By-law currently sets a storage fee of $27.00 per day for vehicles with a gross weight in excess of 6,500 kg. There is no separate fee for vehicles greater than 4,500 kg but less than 6,500 kg. The Impoundment of Vehicles Fees Regulation distinguishes only at the 4,540 kg threshold but the fee is $15.00 per day for all vehicles, regardless of gross weight.

Table 2- Comparison of Ancillary Service Fees

Service	Fees	
	Province of Manitoba Impoundment of Vehicles Fees Regulation (updated in 2016)	**Private Parking By-law (Proposed)**
Flatbed or dolly charge if a flatbed or dolly is required for an impounded vehicle of any weight	$25.80	$29.50
Winching charge if an impounded vehicle of any weight is located where the tow vehicle cannot tow or transport it without winching it to a more accessible location	$25.80	$29.50

Note: The Private Parking By-law does not currently allow poundkeepers to charge for the use of dollies, flatbeds, or winches.

Adopting the fee updates as recommended will offer a more reasonable incentive for independent tow truck operators providing these services, thereby helping to guarantee that local property owners have a timely and effective way to address unauthorized vehicles parked on their lots. As noted above, these figures represent the maximum amounts that a registered poundkeeper may charge the owner of a vehicle that has been parked in contravention of the Private Parking By-law. None of these fees are collected by or shared with the City of Winnipeg.

Future Considerations

Responsibility for the oversight of tows from private property varies between Canadian municipalities. In Winnipeg, the property owner or their designate contacts the tow company directly; the WPA does not need to approve the tow. The cities of Toronto, Calgary, Hamilton, and Montreal, for example, take a more active role. Property owners contact either the local police or the municipal parking authority, who attend the site, issue a ticket when applicable, and order a tow. This is more closely aligned with Winnipeg's process for on-street tows conducted under the Winnipeg Parking By-law.

Given that the majority of provisions related to the parking of vehicles on private residential property are already contained in the Winnipeg Parking By-law, it may be advisable to investigate a future amalgamation of the Private Parking By-law, or elements thereof, with the Winnipeg Parking By-law. This will likely require assistance from an external consultant and would be best considered once the implementation of the forthcoming Winnipeg Parking Strategy is underway and any other amendments to the Winnipeg Parking By-law required to support recommended policy changes have been identified.

FINANCIAL IMPACT

Financial Impact Statement **Date:** September 2, 2021

Project Name:

Private Parking By-law Vehicle Removal and Storage Fees

COMMENTS:

The recommendations do not have any financial implications to the City as the fees listed in section 11 of the Private Parking By-law are charged by a vehicle poundkeeper directly to the registered vehicle owner.

original signed
Lioubov Gavrilova-Crozier, CPA, CA
Manager of Finance, WPA

CONSULTATION

This Report has been prepared in consultation with:
Legal Services (as to legal issues)
Winnipeg Police Service (as to fee amounts and administrative processes)

OURWINNIPEG POLICY ALIGNMENT

The recommendations in this report will support Direction 2 (“Provide a predictable and cost-effective business environment that promotes investment and growth”) under Section 01-3 (Prosperity) of the OurWinnipeg municipal development plan by ensuring that private tow operators are able to collect a competitive fee for their services. This, in turn, will improve the ability of local businesses to enforce the proper usage of their off-street parking assets.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Public Works Department
Division: Winnipeg Parking Authority
Prepared by: D. Locke/L. Vermette
Date: September 10, 2021
File No: WPA-011-2021

Attachments:

Appendix A - Private Parking By-law Draft Amending By-law