



To: City of Buffalo Common Council

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Re: Eliminate 2018 Traffic Fees and Address Unequal Traffic Enforcement in Buffalo

Summary

The Buffalo Common Council should repeal its July 2018 amendment to Chapter 175 of the City of Buffalo Code that added 13 new fees related to traffic violations. The thirteen fees:

- Are dramatically higher than those charged by other cities in New York;
- Do not promote public safety and are not reliable revenue sources;
- Exacerbate Buffalo's already severe problems with poverty, racial disparity, and community-police relations.

Background

As the call for racial justice grows louder in Buffalo and around the country, the City of Buffalo must dramatically reduce its reliance on fines and fees. Since March 2020, the COVID-19 pandemic is disproportionately impacting Buffalo's neighborhoods of color—the same zip codes and city blocks that have long faced health disparities *and* faced the burden of disproportionate fines and fees together with overpolicing. While the COVID-19 pandemic has created a severe deficit for Buffalo and many municipalities, local governments must resist the urge to fill budget gaps with monetary sanctions that harm primarily residents of low income and residents of color.

The impacts of relying on fines and fees for city revenue fall most heavily on those with low incomes, for many reasons. Low income neighborhoods are more heavily policed, leading to more ticketing in those neighborhoods. People with low incomes often cannot afford vehicle maintenance, which leads to more stops for issues such as broken tail-lights and loud mufflers. And when they do receive tickets, people with low incomes often cannot afford them. This can lead to paying the fines and fees but, as a result, not paying rent, not buying enough food or medicine, or otherwise compromising a family's health and safety. Or it can lead to not paying a fine and then facing still more fees and possibly a driver's license suspension.

Where cities rely on fines and fees to balance their budgets, law enforcement officers stop low-income individuals and people of color frequently for low-level incidents or for no just cause at all, in pursuit of additional citations and fines. In short, these unnecessary interactions with police—and the longterm impact of the fines and fees that result—criminalize poverty and reinforce biased police enforcement.

Buffalo Introduced 13 New Traffic Violation Fees in 2018

In 2018, Buffalo’s Common Council introduced 13 new traffic fees. Two of them can be imposed on nearly all traffic fines: a \$55 public safety fee and a \$45 driver responsibility fee.

Other new fees include:

- Late fees: \$15 initial fee, plus \$10 fee for an additional two-week extension. After 30 days, additional late fees are introduced, beginning at \$50 and adding \$20 for each additional 30 days if payment is not received.
- After 90 days, the Traffic Agency will file a civil judgement, which adds a \$100 administrative fee.
- \$75 fee for failing to appear for a scheduled hearing relating to a traffic ticket.
- Failing to appear in court for a traffic ticket in Buffalo results in a default conviction and, if the defendant wishes to overturn this conviction and set a new court date, the cost of this new court date is another \$75.
- \$250 distracted driver diversion program application fee. This program can be necessary in order to avoid accumulating too many points on their driver’s license.
- \$25 collections fee for unpaid tickets that are subsequently referred to a collections agency.
- \$50 scofflaw fee for drivers who have accumulated many unpaid tickets.
- Boot and tow fee for impounded vehicles. The fee is \$110 for each impounded vehicle and \$30 for every 24 hours thereafter.

Chapter 6-24, Buffalo Traffic Violations Agency	
Public Safety Fee	\$55.00
Driver Responsibility Fee	\$45.00
Initial Deferred Payment Fee- Per Ticket	\$15.00
Subsequent Deferred Payment Fee- Per Deferral, Per Ticket	\$10.00
Scofflaw/Default Judgment Administrative Processing Fee	\$50.00
Default Conviction Administrative Processing Fee	\$75.00
Motion to Vacate Disposition Application Fee	\$75.00
Administrative Fee for Filing Judgments	\$100.00
Late Fee 30 day	\$50.00
Late Fee 60 day (additional \$20.00)	\$70.00
Late Fee 90 day (additional \$20.00)	\$90.00
Collections Fee	\$25.00
Distracted Driver Diversion Program Application Fee	\$250.00
Boot and Tow Fee	See §307-8

Buffalo’s 13 New Fees
Source: ecode360, City of Buffalo Chapter 175 Fees

The number of residents affected by these fees is very large. For example, the City expected to file civil judgements against over 4,000 drivers in 2019.ⁱ The costs go well beyond the fees themselves, because unpaid fees often lead to suspended licenses, rendering people immobile or forcing them to risk further charges for driving with a suspended license.

With the BTVA, Tickets and License Suspensions Drastically Increased

The City’s reliance on fines and fees revenue increased after the creation of the Buffalo Traffic Violations Agency (BTVA) in 2015—when new state legislation allowed the City create the agency and keep more of the revenue collected from traffic fines.ⁱⁱ One year after the changes (even before the new fees), City revenue from non-criminal traffic violations rose to \$2.8 million from \$500,000 the year before.ⁱⁱⁱ These changes incentivized the City to issue more tickets and increase fees:

- In the first year of the BTVA, police issued 52,000 tickets, an increase of 20,000 from the 32,000 tickets the year before.^{iv}
- As noted above, the City introduced 13 new fees, totaling \$890.

When Buffalo Police began writing far more tickets, it created an explosive rise in license suspensions. From November 2016 through December 2017, the City released 13,524 suspensions, compared to 3,501 for the period between July 1, 2015 and October 2016.^v Roughly two-thirds of driver's license suspensions in New York are for failing to pay fines or failing to appear in court.^{vi} Statewide, the driver's license suspension rate was nine times higher in the ten poorest zip codes than the ten wealthiest zip codes.^{vii}

We ask Common Council to act quickly to repeal the thirteen traffic fees, taking into consideration the following reasons to do so:

Relying on Fines and Fees Perpetuates Racial Disparities

- Drivers who live in majority-black neighborhoods in Buffalo were eight times more likely to receive multiple traffic tickets on a single stop than those living in majority-white neighborhoods, and four times more likely to have their license suspended for not paying tickets.^{viii}
- The Buffalo Police Department focuses more patrols in poor Black neighborhoods—the subject of an ongoing lawsuit against the Department's discriminatory use of checkpoints—and as a result, issues more traffic tickets in those neighborhoods. A civil lawsuit filed against the Police Department cites data from 2013 to 2017 indicating that over 85 percent of checkpoints were set up in African-American and Latinx neighborhoods.^{ix}

Relying on Fines and Fees Undermines Public Safety

- When a city relies on ticket revenue, it pushes police into the role of tax collector rather than public safety officer. This undermines public trust—as residents feel less like constituents to be protected and more like potential offenders and sources of revenue.
- Often, municipalities like Buffalo, spend much of their fee and fine revenue on collection and enforcement costs, rather than on efforts to improve public safety, such as traffic calming measures. Municipalities can spend more on collection and enforcement than they actually obtain from fines and fees.
- Police spend many hours pulling people over for minor traffic violations. They spend many hours tracking down people with warrants based on traffic tickets—people who couldn't pay a fee or missed a court appearance. Police receive court time pay when they attend court hearings based on these interactions. All these resources could be dedicated to advancing public safety instead.
- The example of ticketed for tinted windows in Buffalo reveals that the focus is on generating revenue, rather than public safety. Tinted windows was by far the most common type of ticket issued in Buffalo, with a daily average of 23 tickets issued to 13 cars. Police issued nearly seven times as many tickets for tinted windows as for speeding.^x BPD gives its officers discretion to write one ticket for all the tinted windows in a car, or to issue separate tickets.^{xi} It is hard to imagine a non-arbitrary reason for that discretion, or, in fact, forever issuing tickets for separate windows. From 2014 through 2017, the City issued 34,068 tickets for tinted windows, the highest in the State. The second highest city, Syracuse, issued 6,130, whereas Rochester issued only 2,952.^{xii}

Fines and Fees Criminalize Vulnerable Communities and Can Lead to Police Violence

- When policing is motivated by revenue generation, it can lead to frequent and unnecessary interactions between police and community members. Residents can perceive ticketing for low level offenses (loud muffler, tinted windows) as a form of harassment, leading to tense interactions with police that can escalate into situations of police misconduct or violence.
- National examples demonstrate this extreme effect of revenue-focused policing: Samuel DuBose was stopped for a minor traffic infraction when he was killed by police; Philando Castile was pulled over 46 times, almost all for non-moving violations, and was issued \$6,000 in fines, before police killed him the 47th time.
- Repealing fees in Buffalo will help remove the incentive for police to focus on traffic stops and issuing low-level tickets.

Relying on Fines and Fees Harms Low-Income People Unable to Pay

- When low-income people cannot pay their ticket fines and fees, they can lose their license. Yet many low-income people must have a car to get to work, in our region where 58% of jobs cannot be reached by public transportation and require a car.^{xiii}
- One study has found that over 28 percent of people whose licenses are suspended lose their jobs.^{xiv}
- Because the ability to drive is crucial to daily life and the livelihoods of many individuals, about 75% of people with suspended licenses continue to drive, risking arrest and imprisonment.^{xv}
- In hearings at the BTVA or City Court, almost no time is spent determining whether individuals can afford to pay the fines and fees that they owe. Instead, the city issues a large quantity of civil judgements every year. The likelihood that the city will collect these funds by placing liens on people with low incomes is small, because these individuals simply cannot afford to pay.

Criminal Justice Debt and Overpolicing Are Social Determinants of Health

- Social determinants of health impact longevity and wellness in neighborhoods, communities, and families. Along with ease of transportation and access to healthy foods, affordable housing, education, the social determinants of health include income, livelihoods, and sense of safety. These determinants are directly affected by whether a neighborhood is overpoliced and over-ticketed—leaving residents in debt and feeling targeted by biased police enforcement.
- In Buffalo, the highest rates of COVID-19 are in the same zip codes with the highest rates of driver's license suspension—making it difficult for individuals to drive for basic needs of food, hygiene supplies, and medical care throughout the pandemic. (For example, 14215 is one of the five zip codes with the highest COVID case rate and had over 5,000 driver's license suspension in 2016.)
- Additionally, the fear of constantly being pulled over by the police for minor traffic infractions and being pulled deeper into poverty and debt can cause anxiety disorders, depression, and other mental health ailments.

Fines and Fees Are Being Reformed Across the Country

- New York City, Chicago, Durham, Shelby County in Tennessee, and cities and counties across California have implemented county and city-level fines and fees reforms to promote equity and fairness in both the criminal and civil legal systems.^{xvi}
- Less punitive regimes work better not only for residents but also for municipalities. By allowing for low-cost payment plans, a Florida county collected 32 times more revenue and lowered license suspensions by 36 percent.^{xvii}
- Chicago, Illinois recently announced it would end driver's license suspensions for people who cannot pay city resident sticker fines and parking tickets, as well as create more accessible payment plans for people with trouble paying.
- Durham, North Carolina recently implemented a program with the District Attorney and the court to waive old traffic fines and fees and helped restore 35,000 driver's licenses that had been suspended for non-payment.

New York State Legislators Support Fine and Fee Reform

- State legislators are already supporting reforms around fines and fees. The Driver's License Suspension Reform Act (NY State Senate Bill S5348B, NY State Assembly Bill A7463B), which would end the suspension of driver's licenses for nonpayment of traffic debt, was introduced by Senator Tim Kennedy in 2019 and is a priority for adoption in 2020.

Buffalo's Fees Are Dramatically Higher Than Other Cities in New York State

- See the chart on the following pages 6-7 comparing Buffalo's fee structure to other cities in New York State.

The Buffalo Common Council should immediately move to repeal its July 2018 amendment to Chapter 175 of the City of Buffalo Code that added 13 new fees related to traffic violations.

In announcing his first steps on police reform on June 8, 2020, Buffalo Mayor Byron Brown committed to "restructuring fines and fees" so that they are less costly to people of low-income.

We believe repealing the 13 fees added in 2018 is a necessary place to start.

Locations: Buffalo Mount Schenectady Yonkers Albany Suffolk Rochester Bing- Utica Syracuse Nassau
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Public Safety/Driver responsibility/Admin. Fees	\$100		\$25	\$15	\$25	\$55				\$5	\$100
Deferred Payment	\$15 + \$10 each day										\$15 + \$10 each day
Scofflaw	\$50										
Default conviction	\$75					\$50					\$75
Reverse default conviction	\$75					\$100					\$50
Late fees	30day=\$50 60day=\$20 90day=\$20			Doubles after 30 days		\$50	30days= doubled +\$10 75days=\$20		72hours= \$50	21days= doubled 31days=\$20 75days=\$20	
Filing Judgement	\$100										
Collections Fee	\$25										

<i>Boot and Tow</i>	\$110 + \$30 each day	\$65	Unspecified fee	\$40 admin.							
<i>Misc.</i>	Distr. Driver Program= \$250		\$40 fee on conviction								
<i>Total¹</i>	\$890	\$65	\$65+ unspecified towing fee	\$55+ doubled fee	\$25	\$255	Doubled fee +\$30	N/A	\$50	Doubled fee + \$40	\$240

¹ Excludes per-day fees, assumes maximum late fees.

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- ⁱ Marsha McLeod, “City Hall Cashing in on Traffic Tickets,” Investigative Post, February 27, 2019, <https://www.investigativepost.org/2019/02/27/city-hall-cashing-in-on-traffic-tickets/>.
- ⁱⁱ <https://buffalonews.com/2019/05/13/tinted-windows-buffalo-police-tickets/>. The BTVA is authorized by New York State General Municipal Law Article 14-B, Section 370ⁱⁱ, and by Buffalo City Charter Section C-6-24
- ⁱⁱⁱ Marsha McLeod, “City Hall Cashing in on Traffic Tickets,” Investigative Post, February 27, 2019, <https://www.investigativepost.org/2019/02/27/city-hall-cashing-in-on-traffic-tickets/>.
- ^{iv} Ibid.
- ^v City of Buffalo, “Traffic Violations Agency Annual Report 2017,” (City of Buffalo, 2017), 8 https://www.buffalony.gov/DocumentCenter/View/4792/BTVA_Annual_Report_2017.
- ^{vi} <https://comptroller.nyc.gov/reports/fees-fines-and-fairness/>
- ^{vii} <https://comptroller.nyc.gov/reports/fees-fines-and-fairness/>
- ^{viii} <https://ccrjustice.org/sites/default/files/attach/2018/06/BLRR-v-Buffero-Complaint-June-28-2018.pdf>
- ^{ix} <https://ccrjustice.org/sites/default/files/attach/2018/06/BLRR-v-Buffero-Complaint-June-28-2018.pdf>
- ^x Marsha McLeod, “City Hall Cashing in on Traffic Tickets,” Investigative Post, February 27, 2019, <https://www.investigativepost.org/2019/02/27/city-hall-cashing-in-on-traffic-tickets/>.
- ^{xi} <https://buffalonews.com/2019/05/13/tinted-windows-buffalo-police-tickets/>
- ^{xii} <https://buffalonews.com/2019/05/13/tinted-windows-buffalo-police-tickets/>
- ^{xiii} Working Toward Equality, <https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1267&context=buffalocommons>
- ^{xiv} McLeod, citing <https://finesandfeesjusticecenter.org/content/uploads/2018/11/Phoenix-license-restoration-pilot-THE-CITY-OF-PHOENIX-MUNICIPAL-COURT%E2%80%99S-COMPLIANCE-ASSISTANCE-PROGRAM.pdf>.
- ^{xv} <https://comptroller.nyc.gov/reports/fees-fines-and-fairness/>
- ^{xvi} <https://finesandfeesjusticecenter.org/campaigns/counties-and-cities-for-fine-and-fee-justice/>
- ^{xvii} McLeod, citing <https://www.propublica.org/article/chicago-ticketing-task-force-fines-fees-access-collaborative>.