

<b>TO:</b>	<b>CHAIR &amp; MEMBERS COMMUNITY AND PROTECTIVE SERVICES September 22, 2015</b>
<b>FROM:</b>	<b>G. KOTSIFAS, P. ENG. MANAGING DIRECTOR OF DEVELOPMENT AND COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>VEHICLES-FOR-HIRE – NEW TECHNOLOGIES</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the Civic Administration **BE REQUESTED** to report back on licensing regulations including, but not limited to: minimum and maximum fares, e-hail technologies, licensing fee structures and recent jurisprudence related to vehicle-for-hire technology apps; it being noted that any amendments to the Taxicab and Licensing By-law adhere to the municipal purposes of health and safety, consumer protection and service quality to ensure an efficient vehicle-for-hire service is available to all persons including the travelling public and that such service is provided in a manner that provides a safe environment for both passengers and drivers.

<b>BACKGROUND</b>
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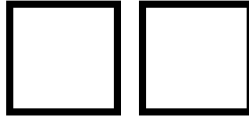
On April 28, 2015 , City Council passed the following resolution: *“That new technologies and approaches regarding vehicles for hire BE REFERRED to staff to review and report back at a future meeting of the Community and Protective Services Committee on what is occurring in other jurisdictions, as well as at the Association of Municipalities of Ontario (AMO) and the Federation of Canadian Municipalities (FCM), and what options might be available to the City of London; it being noted that the City’s primary concerns are health and safety, consumer protection and quality of life, as well as ensuring effective and efficient service delivery.”*

**What is the municipal purpose of taxi/limousine regulation in London?**

The taxi-limousine industry is a vital element of London's public transportation service. For several reasons, its role adds value to the public transportation system. Typically, vehicles-for-hire are the only form of transportation available 24/7. The demand for vehicles-for-hire either by hail service or dispatch service provides a customized 'departure to arrival' service not provided by other forms of public transportation. Vehicles-for-hire are required to serve all the public at reasonable rates and without unjust discrimination. The service is available to the elderly and persons with a disability who often cannot easily access alternate forms of transportation. For tourists and out-of-town business clients, the use of taxis and limousines often forms the initial impressions of the City. The presence of two large educational institutions for higher learning also creates additional demand for this form of transportation from the large number of students who reside in the City. Courteous and qualified drivers, safe vehicles and efficient and involved brokers are laudable goals for all public transportation services. The public interest is the determining factor in making local government decisions involving public transportation services.

The taxi/limousine industry is a vital part of London’s transportation sector and, consistent with other Ontario municipalities, is highly regulated. To be relevant and effective, the regulation of the industry must be aligned with the objectives of:

- **Safety and consumer protection** – to provide adequate regulations to ensure safe and secure transportation services to the traveling public and to promote accountability in transportation fares;
- **Quality service** – to provide sufficient regulations to ensure quality services provided by knowledgeable, experienced drivers and to provide for efficient administration and enforcement procedures; and



- **Availability of service** – to ensure the availability of adequate transportation services to meet customer demands including the needs of students, the elderly and accessible customers alike.

**What regulations are in place to implement the municipal purpose?**

London’s By-law includes a number of provisions and regulations which have regard for the above-noted municipal purposes. These include:

**Driver requirements:**

- English assessment exam
- Training exam – knowledge of the City and by-laws, customer service
- Criminal Information Report – fingerprinting (if required)
- MTO drivers abstract
- Medical certificate

**Vehicle requirements:**

- Minimum age of vehicle
- Interior/forward facing camera system
- Fare meter verification (for cabs)
- \$2M insurance
- Emergency call button
- Accessibility compliance
- MTO safety

**Broker requirements:**

- Vehicle inspections
- 24/7 service to the public
- Dispatching requests for service
- Cashless payment options
- GPS system
- Record of all calls
- Geographic routing of all calls

All of these regulations are administered and enforced by the Municipality based on the municipal purposes listed above.

**What is the current vehicle-for-hire landscape in London?**

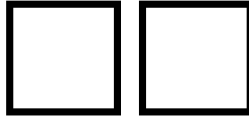
A vehicle-for-hire is a vehicle used for the provision of transportation services to the general public in exchange for compensation. Generally, vehicles-for-hire offer “on demand” transportation services by being dispatched or prearranged at a taxi/limousine stand or by street hail.

The most recent by-law review was initiated in April, 2010. Between that time and the passing of the By-law in June 2012, there were a total of 15 meetings held including committee meetings workshops, consultation meetings and public meetings. There were two court challenges to the By-law in which the City was successful on both counts.

The following list provides the number of licences issued by the City:

- 343 cabs
- 19 accessible cabs
- 90 executive limousines
- 980 drivers
- 5 brokers

The City regulates the number of cab owner licences issued. The By-law includes a cab owners’ licence ratio of 1:1,100 to resident population. In 2014, 13 new cab owner licences were issued. Additional licences will be issued in 2015. These licences are not transferable. Cab owner licences issued under the previous By-law were grandfathered to continue to be transferable.



There is no cap on the number of executive limousines. Although most executive limousines are associated with a broker, there are some executive limousines operating as individual vehicles not in association with a licensed broker.

There are 5 licensed brokers. Four deal specifically with cabs and one deals only with executive limousines. All brokers must operate 24/7. The brokers employ a variety of technologies (hardware and software) to undertake dispatch services, GPS systems and fleet management.

### **How is enforcement of the By-law undertaken?**

Enforcement of the By-law is undertaken by City Municipal Law Enforcement Officers and London Police Services. At the request of an officer, every licensee must produce the following: relevant licences, appointment books, trip sheets (if applicable), maintenance logs or any like documents. An officer may require a driver to submit his/her vehicle for a random inspection by a designated mechanic to ensure provisions of the By-law are complied with. Further, the officer may request the fare meter be verified by a designated technician. Periodically, the City, in partnership with London Police Services, undertakes a vehicle inspection blitz titled "Project Trips" - Transportation Random Inspections for Public Safety. Vehicles are checked for mechanical safety issues.

The Licence Manager has the powers to refuse to issue or renew a licence, to cancel, revoke or suspend a licence, and to impose terms and conditions on a licence. Thresholds are listed in the By-law for which the Licence Manager has regard to when making these decisions. Grounds for making these decisions include Criminal Code convictions, Controlled Drug and Substances Act convictions and MTO demerit points.

Municipal Law Enforcement Services take a zero tolerance approach to unlicensed vehicles-for-hire. As previously reported to Council, several blitzes were undertaken by Licensing Enforcement Officers in late 2009 when numerous advertisements were placed on internet sites offering rides for a fee during the London Transit Commission work stoppage. In one case, a 17-year-old vehicle was used to provide transportation services. In another case, an individual who had recently been convicted of impaired driving was offering rides for a fee.

### **What are the fines for unlicensed vehicles-for-hire?**

The Taxi Limousine Licensing By-law includes several prohibitions addressing unlicensed vehicles-for-hire including operating and/or owning vehicles-for-hire and advertising for transportation services. The fines total \$2,400 plus victim surcharges.

The *Highway Traffic Act* prohibits picking up passengers for compensation without a valid licence. The fine is \$300 plus a victim surcharge.

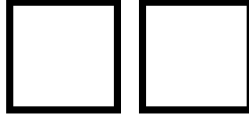
The consequences of giving false information or failing to disclose a material fact to an insurer in connection with a contract of insurance is an offence of the Insurance Act. Fines range from \$250,000 for a first offence and up to \$500,000 for subsequent offences. The Financial Services Commission of Ontario has issued a warning with respect to apps linking passengers with unlicensed vehicle-for-hire drivers.

### **What is a vehicle-for-hire app?**

A vehicle-for-hire app is a method to connect passengers with drivers through electronic means using an internet enabled application (app) or digital platform to provide an on-demand transportation service. In the vehicle-for-hire industry, these apps are commonly referred to as e-hailing. Some technology companies have developed these apps specifically for vehicle-for-hire services, while other technology companies have developed these apps for a myriad of services including dry cleaning, food delivery and personal services.

### **How do vehicle-for-hire apps operate?**

There are a number of technology companies that have developed vehicle-for-hire apps. These technology companies allow prospective passengers to download an app to their smartphone. Many apps require personal credit card information. Passengers can then e-hail a ride whereby their GPS location is electronically sent to a number of available drivers. Passengers can then



request a ride of their choice based on a number of variables including the location of the vehicle and driver reviews. The e-hail apps allow passengers to pay via their credit cards. Some apps allow both drivers and passengers to post reviews of both drivers and passengers. Some apps use surge or premium pricing during periods of high demand. The driver is paid once the credit card is processed. The passenger is billed via the credit card company.

### **Are the vehicle for hire apps currently available in London?**

There are several vehicle-for-hire apps currently available and operating in London. The main difference is where the “rubber hits the road” - those that connect passengers with licensed drivers/vehicles and those that connect passengers with non-licensed drivers using their private vehicles. The fact that drivers are connecting with passengers using an app is irrelevant; the app is just another method of hailing a vehicle-for-hire.

All of the licensed brokers in London have implemented technology based dispatch/fleet management services. Many licensed brokers have implemented vehicle-for-hire apps. Several of the contracted technology companies have developed apps for brokers along with a number of other related technology services as a vehicle-for-hire technology bundle. These include secure and convenient payment transactions through electronic point of sale (POS) transactions; streamlined dispatch systems with a focus on fleet management and monitoring; GPS based security systems; and enhanced analytics and reporting to regulatory agencies.

Some technology companies working with unlicensed drivers/vehicles commonly market their business model as “ridesharing”. The City’s Taxi and Limousine Licensing By-law regulates drivers, owners and brokers of vehicles-for-hire that convey passengers for a fee or other consideration regardless of how passengers connect with drivers be it a street hail or prearranged service through an app or other electronic means. These regulations apply to all vehicles-for-hire where the service provided is not ridesharing or carpooling governed by provincial regulations.

### **What is the concern with apps linking passengers with unlicensed drivers/vehicles?**

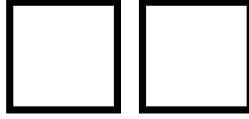
Technology companies connecting passengers with unlicensed drivers/vehicles raise concerns with the City’s municipal purposes: safety and consumer protection; quality service; and availability of service. These apps enable unlicensed drivers to offer transportation services with very little or no municipal oversight. Unlicensed drivers/vehicles raise a number of legitimate public policy issues irrespective of using an app, social media, phone, or business card to market their service:

- Who is the driver?
- Have they passed a criminal background check?
- Are they fit to drive?
- Do they have a safe driving record?
- Is the vehicle safe?
- Is the passenger protected in the vehicle?
- Are they properly insured?
- Is there accountability in the fares being charged?
- Is the service available 24/7?

The role of the Municipality is to screen for all of these issues. London has a streamlined licensing approval system which implements Council’s principles on the vehicle-for-hire service. Irrespective of how a ride is ordered (app, phone, street hail), the focus must be on public safety and consumer protection.

### **How are local governments addressing vehicle-for-hire apps?**

Local governments are taking a variety of approaches to addressing vehicle-for-hire apps. Some municipalities have taken the position that unlicensed drivers using their personal vehicles for commercial transportation services are in contravention of local by-laws and enforcement actions are resulting in charges and convictions. For example, Ottawa, Toronto and Mississauga have issued numerous charges against drivers and vehicle owners for operating vehicles-for-hire without proper licences. London has also issued charges against drivers and vehicle owners.



Many Canadian municipalities are preparing reports (similar to this report) on vehicle-for-hire technologies. Waterloo Region has released a draft by-law consolidating several vehicle-for-hire by-laws and has introduced a new category of vehicle-for-hire titled “auxiliary taxi”. The key points of the Waterloo draft by-law are as follows:

- All “vehicles for hire” are to be regulated regardless of how they receive their calls including those that contract with technology companies to use their app to be connected with passengers.
- Vehicles will fall into one of two categories – Taxi or Auxiliary Taxi. Taxis are vehicles with meters. Auxiliary Taxis have no meters.
- There is a licence cap on Taxi Owner Licences (384 licences). New licences will be issued via lottery. Licences will be issued to individuals.
- Licences will be required for brokers, owners and drivers. The requirements are generally the same for the 2 categories.
- All drivers will require a vulnerable sector screen, driver’s abstract review, Ontario driver’s licence, English language requirement, sponsorship by an owner.
- All owners will need to install a GPS and a Close Circuit Recording System (CCVS). Drivers will need to ensure they are operating when they are driving.
- All vehicles will need \$2 million in commercial liability insurance.
- The Region has the right to inspect vehicles and drivers.

Parts of Waterloo’s draft by-law are very similar to London’s by-law which underwent a major review which culminated in Council approval in 2012. London also has two categories of vehicles-for-hire: vehicles with meters (cabs) and vehicles without meters (executive limousine/group transportation – fares based on a zone system). There is a cap on the number of cabs permitted based on a population ratio and there is no limit on the number of vehicles without meters.

Other municipalities (mainly in the United States) are adopting ordinances licensing technology companies. There is a significant amount of variation between U.S jurisdictions in the type and amount of permit and licensing fees required. Some jurisdictions impose fees on licences, drivers and companies while others mix and match such options. Some jurisdictions charge a per ride fee (ie. \$0.10 to \$0.35 per ride) while others charge a percentage of annual gross receipts. Most jurisdictions require background checks, vehicle inspections and insurance requirements.

#### **Has FCM or AMO taken any official positions on vehicles-for-hire transportation apps?**

Neither agency has taken any official position. FCM does not view this as a federal issue and AMO has stated it is monitoring the issue.

#### **Are there any Provincial legislative actions with respect to vehicles-for-hire?**

Bill 53, the *Protecting Passenger Safety Act*, 2014 was introduced and given Second Reading on April 16, 2015. The Bill amends the *Highway Traffic Act* with respect to the offences related to picking up a passenger for the purpose of transporting him or her for compensation without a required licence, permit or authorization. The fine for these offences is increased. A person who picks up a passenger for the purpose of transporting him or her for compensation without a required licence, permit or authorization also receives three demerit points. If an officer believes on reasonable and probable grounds that a person has committed this offence after having been convicted of the same offence within the preceding five years, the officer shall suspend the driver’s licence and impound his or her motor vehicle for 30 days.

Bill 55, the *Bandit Taxi Cab Safety and Enforcement Act*, 2014 was introduced and given first reading in December 2014. The Bill amends the *Highway Traffic Act* with respect to offences related to picking up a passenger for the purpose of transporting him or her for compensation without a licence, permit or authorization. The Bill gives municipal law enforcement officers the power to stop motor vehicles, request the surrender of a licence, permit or authorization and request identification to enforce these offences. The fines for the offences are increased. In addition, the Bill provides for administrative impoundments of motor vehicles if an officer believes that a person has picked up a passenger for the purpose of transporting him or her for compensation without a licence, permit or authorization.

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<b>CONCLUSION</b>
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The City's Taxi and Limousine Licensing By-law regulates drivers, owners and brokers of vehicles-for-hire that convey passengers for a fee or other consideration regardless of how passengers connect with drivers be it a street hail or prearranged service through an app or other electronic means. These regulations apply to all vehicles-for-hire where the service provided is not ridesharing or carpooling governed by provincial regulations.

Technology companies have altered the way the public is requesting on-demand transportation services. There are two main differences between e-hailing apps: those that connect you with licensed drivers and vehicles and those that connect you with non-licensed drivers using their personal private vehicles. Unlicensed drivers who use their personal vehicles to offer commercial transportation services for a fee are in violation of a number of municipal and provincial regulations. The City will continue to enforce Council's by-laws which were enacted on the principles of safety and consumer protection, quality of service and availability of service.

Transportation technology companies have two options available today to grow their business model in London:

- They can offer their services to licensed brokers as a technology tool focusing on e-hailing and the dispatching of vehicles-for-hire; or
- They can apply for a broker's licence and employ their technologies to offer dispatch services for vehicles-for-hire.

None of the above two options would involve any by-law amendments or public consultation meetings. Several technology companies have initiated and implemented the first option.

City Administration continues to monitor administrative processes and by-laws in different jurisdictions in an effort to better serve the public in implementing Council's vehicle-for-hire principles. Options available to the City to provide for enhanced public health and safety and consumer protection related to services that convey passengers for a fee or other consideration could include:

- Minimum and maximum fares - some jurisdictions allow for maximum fares thus creating opportunities for discounting fares for loyal customers, specific demographic sectors (i.e. students) or during special occasions. London's by-law allows for discounts for seniors only.
- E-hail apps – consideration can be given to regulating e-hail apps used in relation to the conveyance of passengers for a fee or other consideration as a requirement of operating a vehicle-for-hire brokerage. Issues related to data collection, privacy, security safeguards and payment systems could be considered from a regulatory perspective.
- Fee structures – consideration can also be given to reviewing licensing fee structures, including per ride fees to allow for greater financial flexibility in implementing programs to serve the travelling public.
- The City could also consider amendments to its by-law to address issues raised in the recent jurisprudence. There are several decisions which apply to technology apps which may result in recommended by-law changes.

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Proposing by-law amendments regulating only technology companies in the absence regulating drivers and vehicles is not recommended. The municipal principles of safety and consumer protection, quality of service and availability of service all lead to providing safe and enhanced customer service adding value to the public transportation system. Regardless of whether a ride is booked through e-hail or street hail, driver/vehicle regulations which promote public safety must also ensure a level playing field for all vehicles-for-hire.

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