

TO:	CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE MEETING ON July 16, 2018
FROM:	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	VEHICLE FOR HIRE BY-LAW - INDUSTRY CONSULTATION

RECOMMENDATION

That, on the recommendation of the Managing Director, Development & Compliance Services and Chief Building Official, the following actions be taken with respect to the Vehicle for Hire By-law:

- (a) the report on the vehicle for hire industry consultation **BE RECEIVED**; and
- (b) Civic Administration **BE DIRECTED** to hold public participation meetings to receive public comments on amendments to the Vehicle for Hire By-law based on the municipal purposes of health and safety and consumer protection.

PREVIOUS REPORTS

Vehicle for Hire By-law - Six Month Statistics – CPSC January 23, 2018
 Vehicle for Hire By-law – One Year Review – CPSC May 1, 2018

BACKGROUND

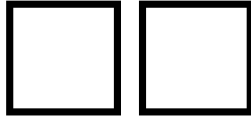
On May 8, 2018, Municipal Council resolved that Civic Administration consult with the vehicle for hire industry in an effort to draft amendments to the Vehicle for Hire By-law with a goal of meeting consumer demands and streamlined by-law administration with an underlying focus on health and safety and consumer protection.

Civic Administration met with stakeholders involved in the vehicle for hire industry including general brokers, transportation network companies, drivers and plate owners. Recognizing the difficulty some drivers have in attending City Hall for meetings, staff initiated “block talks” where staff attended various taxi stands to discuss issues impacting drivers. This report summarizes the key topics discussed and provides direction for consideration for possible amendments to the By-law.

Enforcement

Various drivers and general brokers noted the need for more enforcement, specifically in the evening. The transportation network company (Uber) noted that it is difficult to ensure continuous full compliance such as posting the identification sign in the window of the vehicle as it is ultimately the driver’s responsibility. Uber has advised the City that the app has enhanced passenger safety features that would assist passengers in the event of an active passenger safety occurrence. Staff recently discussed safety features of the Uber app with safety and security staff based in the San Francisco office.

Direction: Civic Administration will continue to re-assign MLEO resources to monitor evening vehicle for hire activities to address By-law violations.



Administration and Licensing Fees

Drivers, brokers and owners all had comments on the administration process and current licensing fee structure. There are some fees, such as the vehicle-broker affiliation fee, which is viewed as unnecessary. This process could be streamlined by placing the onus on the brokers to manage their fleet and allowing the regulator to perform audits. Uber expressed concerns about the driver licensing fee given the business model of having the vast majority of their drivers driving part time. The same licensing revenue can be collected by increasing the per trip fee of 11 cents by pennies. Similar to above, this process can also be reviewed and an audit format of administration be adopted.

Some drivers suggested better communications, specifically with the drivers as most communications from the Licensing Office go directly to the brokers. A list-serve email or text communications service was suggested.

Direction: Civic Administration will give consideration to removing redundant fees making minor changes to licensing fees where appropriate and streamlining administration and communication processes.

Number of Owner Licences

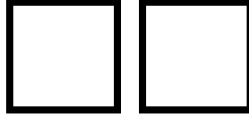
1) Cabs

Prior to the arrival of private vehicles for hire offering transportation services ordered via an app, taxi regulations remained essentially unchanged for decades in most larger North American municipalities. Most cities regulated the number of licensed taxis which created a system where licences were considered a form of commodity transferred between willing buyers and sellers. Vehicle owner licensees who entered the industry early gained the greatest benefit from the private and secondary market of license plate values. These early entrants did not have to pay large sums to attain a plate on the secondary market but still benefited from controlled competition. Many municipalities (including London) created priority or waiting lists where applicants were issued new licences based on population increases. Many existing licensed drivers maintained positions on the priority lists for many years without ever obtaining an owners licence.

The introduction and eventual regulation of private vehicles for hire has disrupted the long-standing supply management practice and secondary market of plate values. Civic Administration takes the position that as the regulator of the vehicle for hire market, based on the municipal purposes of public safety and consumer protection, it cannot be held responsible for the state of private secondary plate values nor the costs of operating a taxi. However, in its role as the regulator, the City can certainly review emerging technologies and business models and determine if existing regulations continue to be necessary and relevant given the municipal purpose of the By-law.

It is not surprising that different stakeholders have divergent viewpoints on capping taxi plate licences. Several drivers have suggested removing the cap as the drivers see this as an unnecessary monthly expense of leasing a plate. Obviously, plate owners do not want the cap amended or removed as their revenue will be reduced.

In the report presented to CPSC in May 2018, Civic Administration outlined several options to address the number of licensed taxis:



1. maintain existing population based ratio
2. amend population based ratio
3. release additional owner licences to those on priority list
4. release a specified number of one-time cab owner licences
5. release a specified number of cab owner licences to currently licensed drivers, or
6. remove the cap in its entirety

Private vehicles for hire have dramatically changed the transportation landscape; it is no longer reasonable to maintain the status quo. Civic Administration has listened to the industry on both sides of the debate on caps and recognizes that some By-law amendments are necessary to allow the industry to innovate and thrive.

2) Accessible Cabs

The current regulations place a limit on the number of accessible taxi licences based on the number of licensed taxis (one licence for every 18 taxi licences). There are 19 existing accessible cab licences issued. As noted in the May 2018 report, of the 4.2M total rides provided, there were 33K rides provided by accessible cabs. As Civic Administration reported in July 2016, there is some interest in the industry to remove or amend the cap for accessible taxis.

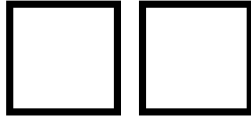
In discussions with the industry, Civic Administration raised the concern about the lack of availability of accessible transportation. There was interest in releasing plates to brokers. The industry recognizes this fact and has expressed concerns about drivers going “off-shift” when they receive accessible calls as standard fares are more profitable. This does not meet the intent of the By-law. Civic Administration has previously consulted with the Accessible Advisory Committee on this matter and previously recommended removal of the cap. Civic Administration also suggested a program of financially assisting the operators of the vehicles due to the high costs of converting vehicles and operating accessible vehicles. City Council at the time did not support any changes to the cap on accessible taxis. Initial discussions with Uber indicated that they are open to collecting a voluntary per trip fee (7 cents in other municipalities) towards a fund to subsidize the accessible vehicle for hire market. Further, there have been a number of inquiries about operating accessible fleets which are currently not possible due to the cap.

Direction: Civic Administration will give consideration to removing the cap on cab licences subject to certain restrictions including that applicants be licensed and active drivers for a specific number of years and that the licences apply to only accessible vehicles, and implementing a plan to reduce the expenses of operating accessible vehicles. Consideration will also be given to releasing plates to brokers.

Cameras

Cameras are required in cabs and limousines. Cameras are not required in private vehicles for hire. The rationale for the distinction in the regulation is that cabs/limousines perform street hails while this form of service request is prohibited for private vehicles for hire.

In discussions with the cab and limousine industry, there are divergent positions on the requirement for cameras. Those who support the mandatory requirement are concerned with the high price of the cameras as well as the time required for photo downloads (i.e. the car is out of service during this time). Those who support cameras, but do not agree with a mandatory regulation, would prefer the cameras be a voluntary requirement based on the business plans of the broker. Currently, the regulation only permits rear facing (within the vehicle) downloads by enforcement personnel (MLEO,



LPS) for investigation purposes. Brokers would also like to undertake downloads to investigate customer service issues. As with many technologies, the cost of off-the-shelf dash cams has greatly diminished and are very affordable. It is not surprising that many licensed private vehicles for hire have dash cams even though there is no regulatory requirement.

A recent decision of the Court of Appeal for Ontario (*J. (T.) v. Lakovic 2017 ONCA 446*) regarding vicarious liability of a taxi broker for sexual assault allegedly committed by one of its drivers mentioned the use of cameras in the decision. Specifically, Counsel for the taxi broker provided the opinion that a camera would not deter a driver determined to assault a passenger as they could disconnect the camera, cover its lens or commit the assault after the passenger exited the vehicle. There are arguments on both sides of the debate to require cameras in cabs for safety purposes. Civic Administration maintains that cameras in cabs do serve as a deterrent to crime and provide valuable evidence in protecting drivers in situations where drivers are wrongfully accused of an alleged crime.

Direction: Civic Administration sees no need to amend any of the requirements for cameras in cabs and limousines.

Age of Vehicles

There are divergent positions on the maximum age limits of vehicles. The current By-law regulation is 8 years. Some brokers would like the limit lowered to ensure newer vehicles are servicing the community. Other brokers concur with the maximum age limit. Uber is requesting the limit be increased to 10 years for private vehicles for hire only as the vast majority of their drivers operate part time. Within Ontario, there are a variety of vehicle age limits for vehicles for hire. There is an inherent difference between the business models of general brokers and transportation network companies which could justify the differential regulations of these two sectors of the vehicle for hire industry. Older vehicles could be subject to additional safety checks by way of an administrative regulation.

Direction: Civic Administration give consideration to amending the age of vehicles regulation for private vehicles for hire.

Fares

The discussion about fares focused on the issue of competition. While some brokers are of the opinion that fare regulations are necessary for consistency within the fleet (each driver within the fleet charges the same), others stated that if a broker or driver wishes to offer a discount or charge by a zone rate, they should have that option. From a consumer protection perspective, as long as the passenger accepts a ride based on the actual or estimated fare, there really is no role for the regulator. However, for hailed rides offered by cabs, some brokers would prefer a zone model of fares. Clients note their displeasure when drivers stop on amber lights (due to red light cameras) and the meter continues to tabulate the fare. Some brokers have suggested distance fares only (no related time calculation). Uber did not have an issue with the fare structure as their app takes into account supply and demand variables and surge pricing which is transparent to the customer.

Direction: Civic Administration give consideration to amending the Fare Schedule to allow for greater competition and greater flexibility in setting fares.

--	--

CONCLUSION

The Vehicle for Hire By-law is a fluid document open to amendments which maintain the municipal purposes of health and safety and consumer protection, yet recognizing technology and modernization of the on-demand transportation marketplace. Civic Administration has met with industry stakeholders to discuss key topics such as enforcement, administration, fees, cap on cabs, accessible cabs, cameras, age of vehicles and fares. Although the By-law was recently adopted, the vehicle for hire industry is rapidly evolving and regulations must continue to be modernized to allow the industry to thrive. Similarly, administration processes must continue to be monitored and streamlined. Civic Administration is proposing a phased public participation meeting be held to consider amendments to the By-law. The first phase will address administrative regulations including fees, fares, application processes and vehicle requirements. Given the complexity of the issue of vehicle caps, the second phase will focus on this issue to allow for further industry consultation.

PREPARED BY:	RECOMMENDED BY:
OREST KATOLYK, MLEO (C) CHIEF MUNICIPAL LAW ENFORCEMENT OFFICER	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL