

<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE PUBLIC PARTICIPATION MEETING ON SEPTEMBER 11, 2018</b>
<b>FROM:</b>	<b>G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>VEHICLE FOR HIRE BY-LAW</b>

**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) That the report on the vehicle for hire by-law **BE RECEIVED**, and
- (b) That Civic Administration **BE DIRECTED** to report back with an amended by-law subject to the comments received at the Public Participation Meeting.

**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  
 Vehicle for Hire By-law - Industry Consultation - CPSC July 16, 2018

**BACKGROUND**

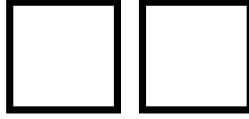
Municipal Council, at its meeting held on July 24, 2018 resolved:

That the following actions be taken with respect to the staff report dated July 16, 2018 with respect to the Vehicle for Hire By-law:

A public participation meeting **BE HELD** at a future meeting of the Community and Protective Services Committee with respect to the Vehicle for Hire By-law in order to receive public comments on proposed administrative changes considered in the above-noted report, including:

- administration and licensing fees;
- application process;
- fares, including the ability for brokers to set fares, posting of fares, etc.;
- vehicle requirements, including age of vehicles; and,
- removal of cap on accessible & regular plates.

Civic Administration previously meet with stakeholders involved in the vehicle for hire industry including general brokers, transportation network companies, drivers and plate owners to discuss these issues. 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. A report summarizing the key topics discussed was presented at the July 16, 2018 CPSC meeting. This report summarizes the previous industry discussions and provides commentary on submitted changes to the by-law for PPM discussion purposes.



### **Administration / Licensing Fees and Application Process**

Drivers, brokers and owners all had comments on the administration process and current licensing fee structure. There are some fees, such as vehicle-broker affiliation fee, which are 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.

Draft Amendment for PPM: A number of fees have been removed from the by-law including: vehicle broker affiliation, owner licence transfer, vehicle substitution, priority list and driver licence fee for private vehicles for hire. A new fee for smaller fleets of private vehicles for hire was introduced. The appeal fee was reduced to align with other licensing appeal fees. The administration fee for short term licences ( less than 24 months) was also deleted since the short term licence renewals program ( every 4 months) is proposed to be discontinued. The per trip fee for private vehicles for hire was increased to offset the deletion of certain fees. The fee structure covers the costs of administration, enforcement and prosecutions. The proposed fee structure will also cover the cost of one additional customer service representative to assist with licensing administration.

The application process is proposed to be streamlined for private vehicles for hire. The transportation network company will keep a registry of approved drivers and will submit the list to the municipality on a weekly basis. Civic Administration will have the authority to audit the registry for compliance purposes. This model is consistent with many municipalities where there is a large number of drivers operating mainly on a part time basis. In London, there are approximately 4,000 private vehicle for hire drivers licensed by the City.

### **Fares**

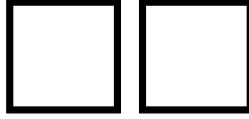
The discussion about fares focused on the issue of competition. While some brokers feel that fare regulations are necessary for consistency within the fleet (each driver within the fleet charges the same), others feel that if a broker or driver wishes to offer a discount or charge by a zone rate, they 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. 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 any issue with the fare structure as their app takes into account supply and demand variables and surge pricing which is transparent to the customer.

Draft Amendment for PPM: in order to allow for competition amongst brokers, fares have been deregulated. Brokers will be required to submit the fare amounts along with any discounts or promotions to the Licence Manager for information purposes only. The enforcement call centre does not receive many complaints about fares from traveling customers; most complaints come from brokers complaining about other brokers offering discounts which currently contravene the by-law.

### **Vehicle Requirements - Cameras**

Under the current regulations, 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.

There are divergent industry 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 to 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 like to also undertake downloads to investigate customer service issues. As with many technologies, the cost of off-the-shelf dash cameras has been greatly



reduced 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.

Draft Amendment for PPM : the requirement for cameras has been removed. Many brokers are concerned with the high price of the cameras and poor maintenance contracts. Brokers are also apprehensive about the length of time vehicles are off duty when camera downloads are requested by enforcement officers. Many of the brokers are also distressed that cameras are not used to investigate petty crimes such as fare fraud. Many private vehicles contain cameras even though they are not required. If vehicles voluntarily have cameras, a notification should be visibly positioned advising the customer of the recording. This can be achieved via administrative regulation.

### **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 that limit lowered to ensure that newer vehicles are servicing the community while other brokers concur with the maximum age limit. Uber is requesting that the limit be increased to 10 years only for private vehicles for hire as the vast majority of their drivers only operate part time.

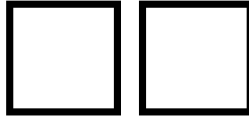
Draft Amendment for PPM : the age limit of private vehicles for hire has been increased to ten years. Older vehicles could be subject to additional safety checks by way of an administrative regulation.

### **Cap on Cab and Accessible Cab Owner Licences**

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 licenced 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 issue of vehicle caps and deregulation has been well documented. A 1993 study of American municipalities which experimented with deregulations ( Price Waterhouse, Analysis of Taxicab Deregulation & Re-Regulation, Washington, November 1993) found that overall, in many cities that deregulated, the supply of taxicabs increased, fares increased, service quality declined and there were more trip refusals, lower vehicle quality, and aggressive solicitation of customers resulting from a higher supply of taxicabs. There were only minor improvements in availability. Consequently, most cities which had fully deregulated taxi services reverted to some form of control over market entry.

In an article published in the Transportation Law Journal Vol. 24, Issue 1, pp. 73-120 (1996),([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2241306](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2241306)) the author notes that the experience with taxicab deregulation was so profoundly unsatisfactory that virtually every city that embraced it has since jettisoned it in favor of resumed economic regulation. The article points out the fact that the main problem consumers face is a lack of good information. Customers looking to purchase a transportation service have little comparative pricing or service information. It is interesting to note that the research on deregulation published in the 1990's occurred well



before smartphone technologies coupled with geographic information systems, allowed for innovations to emerge and for transportation network companies to compete with taxi brokers. In an article published by the Cato Institute (<https://www.cato.org/blog/future-taxi-deregulation-will-not-look-familiar>), the author notes that part of the appeal of ridesharing is that the apps allow users to overcome the knowledge problems highlighted in the earlier studies on deregulation. Customers can see the location of drivers, and transportation network companies can estimate a fare before their ride begins. The author further notes that currently a taxi broker could, unlike a taxi broker in 1996, develop an app that allows for users to be better informed about fares and the availability of taxis.

In 2015, Canada's Competition Bureau recommended a regulatory overhaul of the taxi industry to allow these vehicles and ridesharing services to compete on an even playing field. The whitepaper titled [Modernizing Regulation in the Canadian Taxi Industry](#), addressed issues such as price, availability and wait times, convenience and quality of service. The whitepaper noted that while the taxi industry is regulated at the municipal and provincial levels in Canada, ridesharing services are not, creating an uneven playing field in the industry. To even the playing field, where possible, regulators should relax restrictions on traditional taxis, rather than imposing additional regulations on new entrants in the industry. When new regulations are needed, they should be limited to meeting legitimate policy objectives, like protecting the safety of passengers and drivers.

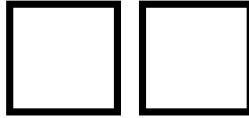
It was also noted that limiting the number of taxis based on concerns about pollution or congestion issues were strongly contested. New technologies which provide real-time data on the vehicle for hire industry may mitigate problems which previously arose in deregulation experiments. Placing an absolute limit on the number of taxis that can operate in an area is the most restrictive approach that regulators can take, with an associated negative impact on competition and its benefits. Regulators should consider alternative "open entry" regulatory options that are less restrictive to competition among taxis and TNCs, that still allow them to achieve policy goals.

Civic Administration has reported on several occasions on the issue of vehicle caps. In a report presented to the Community and Neighbourhood Committee in November 2011, it was noted that taxi plates were being transferred between willing buyers and sellers at a value of \$100,000 to \$120,000. This was anecdotal information provided by some licensed owners. Civic Administration was advised recently (March 2018) that the plate values have dropped to \$20,000. The staff report also noted the following: Taking the lease/transfer fee out of the equation of the operating cost of the taxicab will directly impact the income of the driver and will provide the licence owner greater control on the operating costs of the vehicle. Administration is not aware of any other municipally licensed industry where the licence issued by the City is traded between willing sellers and buyers for a fee. Should Council wish to address the issue of plate leasing and plate transfers with an end goal of implementing a "sunset" clause of transferring all "Class A" Cab licences to "Class B" Cab licences, a consultant with expertise in the vehicle for hire industry should be retained to review best practices, undertake industry consultation sessions and recommend a by-law amendment which would transfer the licence classification. The budget for such a review would be in the area of \$75,000.

At that time, a decision was made to create classes of licences (i.e. non-transferable) to eliminate the artificial costs of plate leasing borne by taxi drivers and subsequently passed onto the traveling customer. No decision was made at that time to hire a consultant to provide independent advice. With the arrival of smart phone apps and private vehicles for hire in Ontario, many municipalities hired consultants to provide advice on this emerging market.

A consultant's report prepared for Ottawa specifically reviewed the issue of caps on plates, amongst other regulatory issues. The report noted that economic impacts are expected with changes in vehicle supply and demand. The report notes that plate values will fall as fleets are expanded to meet demand. The plate holders will experience losses. Many of these will be individuals who bought into the industry at full market price, purchasing plates from other individuals rather than receiving a plate from the City at nominal cost. In particular, there will be taxi drivers who saved for many years to purchase their own plate and commit to the business. These individuals may see their life's savings, and retirement plan, threatened.

[https://documents.ottawa.ca/sites/documents.ottawa.ca/files/documents/otlrslr\\_taxi\\_economics\\_en.pdf](https://documents.ottawa.ca/sites/documents.ottawa.ca/files/documents/otlrslr_taxi_economics_en.pdf)



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 industry 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. It is interesting to note that very recently some American municipalities are proposing or have capped the number of private vehicles for hire licences issued.

It is not surprising that different stakeholders have opposing viewpoints on capping cab owner 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 (especially recent purchasers) do not want the cap amended or removed as their revenue will be reduced.

For accessible cab limits, 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, out of the 4.2 M total rides provided, there were 33 K 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. 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.

Draft Amendment for PPM: for discussion purposes, the draft by-law removes the cap for both cabs and accessible cabs.

<b>CONCLUSION</b>
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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 previously met with industry stakeholders ( reported to CPSC July 16, 2018) to discuss key topics such as enforcement, administration, fees, cap on cabs, accessible cabs, cameras, age of vehicles and fares. The vehicle for hire industry is rapidly evolving; regulations must continue to be modernized to allow the industry to thrive and compete. Similarly, administration processes must continue to be monitored and streamlined.

The attached draft amendment is for discussion purposes. Following the PPM, Civic Administration can report back with a recommended by-law based on the comments received and direction of Council.

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