



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	January 18, 2017
SUBJECT/REPORT NO:	Licensing Uber or Like Ride-Sharing Applications (PED16099(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Monica Ciriello (905) 546-2424 Ext. 6656 Ken Leendertse (905) 546-2424 Ext. 3059
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the Business Licensing By-law 07-170 be amended to include the draft By-law Personal Transportation Providers (PTP) (Schedule 24) attached as Appendix “A” to Report PED16099(a), which has been prepared in a form satisfactory to the City Solicitor;
- (b) That subject to the approval of Recommendation (a), one full-time equivalent (FTE) be approved for auditing and proactive enforcement of Personal Transportation Providers (Schedule 24), to be fully funded from the revenues generated directly by the licensed PTP;
- (c) That the Licensing Section monitor the operations of the Personal Transportation Providers (Schedule 24) licensing category over the next year to determine if any adjustments are required and report back to the General Issues Committee;
- (d) That the City Wide User Fees and Charges By-law No. 15-158 be amended accordingly;
- (e) That subject to approval of Recommendation (a), the amendments outlined in the draft By-law attached hereto as Appendix “B” to Report PED16099(a), amending Schedule 25 of Licensing By-law No. 07-170 relating to taxicabs, which has been prepared in a form satisfactory to the City Solicitor, be approved, and be effective immediately, as described in this Report;

**SUBJECT: Licensing Uber or Like Ride-Sharing Applications (PED16099(a))
(City Wide) - Page 2 of 11**

- (f) That Parking Services be requested to receive suggestions from the taxi industry as to new taxi stand locations throughout the City and assess options and the feasibility of increasing them throughout the City;
- (g) That the Mayor be requested to petition the Province to approve legislative amendments to:
 - (i) Make amendments to the *Highway Traffic Act* to strengthen enforcement powers and amend penalties in relation to municipal Personal Transportation Provider By-laws, including the ability to:
 1. Tie outstanding violations to plate denial;
 2. Issue higher fines (not less than \$500 and not more than \$30,000);
 3. Apply demerit points for non-compliance; and,
 4. Impose administrative license suspensions.
 - (ii) Provide authority for the City to impose and implement, as part of the Personal Transportation Providers Schedule, an accessibility levy to be applied to those Personal Transportation Providers that do not offer accessible services to the City's standards, where such payment is to be used to promote and foster accessible transportation services;
 - (iii) Amend the *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)* to include a reference to Personal Transportation Providers to establish a linkage to the accessibility levy referenced in Recommendation (g) (ii) to ensure that appropriate accessible transportation requirements are mandated for Personal Transportation Providers. and to foster a more level playing field with taxicabs and accessible taxicabs already captured in the *AODA* and its regulations.
- (h) That subject to approval of Recommendation (a), the good faith negotiations that staff had with Uber representatives to arrive at an annual fee of \$20,000 in lieu of providing accessible services in the City be endorsed; and
- (i) That the draft By-law attached hereto as Appendix "C" to Report PED16099(a) to amend the General Provisions of Business Licensing By-law No. 07-170, which has been prepared in a form satisfactory to the City Solicitor, be approved.

EXECUTIVE SUMMARY

The increased presence of smart phone technology and the rising popularity of new ride service platforms connecting drivers and passengers on-demand, has caused a rapid shift in the traditional transportation industry in the City of Hamilton (City). The ride service platforms provide an alternative to the traditional transportation network of booking through a dispatch or simply hailing a car on the street.

**SUBJECT: Licensing Uber or Like Ride-Sharing Applications (PED16099(a))
(City Wide) - Page 3 of 11**

This Report proposes the creation of a Personal Transportation Provider (PTP) licensing category to be included as Schedule 24 in the Business Licensing By-law No. 07-170 (Licensing By-law) to license ride service companies. The development of the PTP Schedule is founded on the City's regulatory purpose of public safety and consumer protection.

The proposed PTP Schedule also responds to the public's request for choice in regulated transportation options as evident from the results of the on-line survey (attached as Appendix "D" to Report PED16099(a)), and provides an opportunity for the Licensing Section to shift its role to one of accountability, auditing and proactive enforcement. It is anticipated that the proposed PTP Schedule will enable flexibility and provide industry participants with an equal opportunity to provide service in a competitive market, while simultaneously maintaining the City's regulatory purpose. Finally, in conjunction with extensive internal, external and public consultations, the objective in the creation of Schedule 24 is to ensure that regulations are no more intrusive than necessary, so competition can influence how the transportation industry evolves and innovates.

As the traditional transportation network has evolved, the taxi industry has shared concern that the current regulatory framework – Schedule 25 in the Licensing By-law is making it difficult to compete with the new market participant. The taxi industry plays an essential role in the community, providing 24/7 service in a regulated environment. This Report proposes recommendations that reduce the regulatory burden on the taxi industry to increase independence and flexibility to respond to competition, while maintaining the core requirements for public safety and consumer protection.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Schedule 24 will establish 3 Class categories as outlined in Appendix "E" to Report PED16099(a) attached hereto. As of now, Uber is the only PTP that has expressed direct interest in being licensed by the City. In order to obtain a license with the City, Uber will be required to pay the fees outlined in Class A (fleet with over 100 vehicles). A \$50,000 annual license fee plus a per trip fee of \$0.06 per trip, will generate approximately \$110,000, based on the assumption that one million trips are provided in 2017. Reducing the taxi drivers' fee under Schedule 25 from \$194 to \$100 will result in an annual loss of \$60,000.

Staffing: One FTE will be required for auditing and proactive enforcement of Schedule 24. The funding for the FTE will be derived through cost recovery from the licensing fees generated directly by the licensed PTP.

Legal: The recommendation has no legal implications.

HISTORICAL BACKGROUND

Personal Transportation Providers

On July 23, 2015, Uber began operating in Hamilton. Uber launched UberX, a smart phone platform that connects passengers with unlicensed vehicles within the City. This technology allows for a cashless transaction as payments are made via credit card through the passenger's account. Prior to confirming a trip, a passenger knows both the price and the wait time in advance, has the ability to see the driver and vehicle ratings, and can track the location of the vehicle prior to and during the route to their final drop off location.

In February 2016, in response to Uber's unregulated operation in Hamilton, City Council approved a motion directing staff to develop and bring forward a license category that addresses ride-sharing.

In April 2016, the General Issues Committee received a report regarding a draft license category and directed the Licensing Section to consult with stakeholders, and prepare a new licensing schedule to fit within the Licensing By-law.

During the Summer of 2016, internal and external stakeholders were consulted to provide input on the proposed PTP Schedule. In addition, an online survey was developed and available to the public on the City's website from July 5 to August 5, 2016 with 809 individuals completing the survey, and the results of which are outlined in Appendix "D" to Report PED16099(a) attached hereto.

Taxi Industry

The taxicab industry in Hamilton currently employs or supports approximately 1,800 individuals and families. They are taxicab drivers, taxicab plate owners and brokerages.

The taxi industry is traditionally regulated to provide a professional, safe, accessible and reliable service to residents and visitors to Hamilton. The City passed its first harmonized Taxicab By-law following amalgamation in May 2003. Since 2003, the taxicab schedule has been reviewed and updated to address changes in the industry and meet new regulations. Taxicabs are currently regulated under Schedule 25 of the Licensing By-law which outlines the requirements for the taxi drivers, plate owners and brokers in order to obtain a City license.

During the Spring, Summer and Fall of 2016, external stakeholder consultations were held with the taxi industry to solicit their input on the future of the industry.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Internal consultations were consulted in the preparation of this Report include:

- Planning and Economic Development – Parking and By-law Services Division, Tourism and Culture Division, and the Small Business Enterprise Centre;
- City Manager’s Office – Legal Services;
- Public Works – Transportation;
- Community and Emergency Services - Community Initiatives; and
- Corporate Services – Financial Services and Risk Management. \

External consultations were consulted in preparation of this Report include: the general public, Hamilton Chamber of Commerce, Taxi Industry and Taxi Union, Uber, RideCo., BlancRide, and Lyft.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The City’s ride service platform users, both riders and drivers, have been operating within an unregulated, unlicensed forum. The City, as the regulator, is faced with the challenge of recognizing that new technologies are here to stay, while at the same time, continuing to acknowledge that taxicabs are a critical part of the public transportation network. City of Hamilton residents want both options. They want choice and they want adequate consumer protection and public safety standards to be established and enforced.

In early 2016, the City of Edmonton was the first city in Canada to pass ride service regulations. Since then the cities of Toronto, Calgary and Ottawa, and the Regions of Waterloo and Niagara, have passed by-laws to address ride services in their communities. In the United States, most cities have regulated ride services at either the local or state level under Transportation Network Companies.

The proposed PTP Schedule, if approved, will see the City establish a licensing and regulatory framework that is consistent with best practices of regulating ride services across Canada (attached hereto as Appendix “F” to Report PED16099(a)) while meeting the needs specific to Hamilton. It will also provide an opportunity for the Licensing Section to shift its role in the transportation industry to one of accountability, auditing and proactive enforcement.

The proposed PTP Schedule also responds to the public’s request for choice in regulated transportation options. Since the report to the General Issues Committee in April 2016, the number of Uber riders and drivers has almost doubled within the City¹;

¹ January 1-April 1 there were 513 active drivers and 12,066 riders.

from July 14 to October 14, 2016, there were 954 active driver-partners² and 23,258 active riders. If Uber is licensed, these numbers will only continue to increase.

The proposed PTP Schedule will allow pre-arranged ride services using a licensed platform, to operate legally in the City, subject to specific licensing requirements and conditions. Enacting the PTP Schedule will enable the City to enforce effective regulations and ensure the PTP operates in a manner that protects the safety of the public while simultaneously allowing continued innovation in a competitive environment.

Key Aspects of Proposed PTP Schedule

A PTP Company Classification

A new licensing category is proposed within the Licensing By-law to reflect the unique aspects of pre-arranged ride service technology. The new category licenses the PTP Company, and puts the onus and responsibility on the PTP to collect and review information of the PTP driver applicants, and ultimately license the driver. The PTP is required to submit or make available, as requested, electronic records pertaining to the PTP drivers and PTP driver's trips. Therefore, the City has the authority to audit the PTP to ensure compliance with Schedule 24.

Driver Screening

In order to ensure public safety, every PTP will administer the driver screening process prior to permitting the PTP driver access to the platform. The PTP will collect and review a PTP driver's criminal record check dated less than 90 days prior to the commencement of the PTP driver accessing the platform. In addition, every PTP will collect and review the PTP driver's statement of driving dated less than 30 days prior to the commencement as a PTP driver. The Schedule has empowered and shifted the administrative responsibilities to the PTP directly to collect and review this information. The City has the authority to audit this information collected by the PTP to ensure compliance with Schedule 24.

Vehicle Inspection

In order to ensure public safety, every PTP vehicle shall be inspected before it operates with an affiliated PTP. The PTP will collect an annual Ontario Ministry of Transportation Safety Standards Certificate from the PTP driver prior to permitting the vehicle to operate on the PTP platform. The City maintains the authority to audit this information. This certificate shall be produced by the PTP at the request of a Municipal Officer following random spot checks.

² Active drivers are drivers who took at least one trip during the time period.

**SUBJECT: Licensing Uber or Like Ride-Sharing Applications (PED16099(a))
(City Wide) - Page 7 of 11**

Insurance Risk Management

Every PTP vehicle is required to have adequate insurance. Each PTP is required to obtain minimum insurance levels of \$5 Million in Commercial Liability and \$5 Million in Non-Owned Automobile Insurance.

Licensing Fees

The City is authorized to impose fees for business licensing at the cost of administering and enforcing the regulatory regime. It is recommended that the City establish a license fee that includes a per trip charge of \$0.06, and an annual license fee that reflects the size of the company as outlined in Appendix "E" to Report PED16099(a) attached hereto. A PTP with 1 to 24 affiliated vehicles will pay \$5,000 annually; a PTP with 25 to 99 affiliated vehicles will pay \$20,000 annually; and a PTP with 100 or more affiliated vehicles will pay \$50,000 annually.

Pricing Model

In order to ensure consumer protection, the PTP drivers are only permitted to provide trips that are pre-arranged over the licensed PTP platform. This ensures passengers requesting trips are made aware of the estimated total cost prior to booking, as well as the surcharge, if any. In addition, PTP drivers are not permitted to use taxi stands, accept street hails or accept cash payment for PTP fares.

Signage

In order to ensure public safety, a PTP is required to provide every PTP driver with a distinct PTP identifier. The PTP driver must place the identifier in the front windshield of the PTP vehicle and ensure that it is visible from the exterior at all times while operating as a PTP driver.

Cameras

Schedule 24 does not require PTP vehicles to have cameras in the PTP vehicle. On the PTP platform, pre-arranged trips provide identifiable information to be exchanged between the PTP driver and passenger prior to the commencement of a trip, thus adding a level of security that does not exist otherwise. In addition, the PTP also knows the identity of the driver and the passenger and the specifics of the trip. The specific trip is GPS tracked and the real time GPS location can be shared by the passenger with anyone in their smartphone. In addition, PTP drivers do not accept payment by cash. The PTP driver will maintain the authority to decide if he or she would like to install a camera in their PTP vehicle. This recommendation also follows the best practices from the Canadian municipalities that have passed ride service regulations (as per Appendix "C" to Report PED16099(a) attached hereto).

Training

Schedule 24 does not require that PTP drivers attend City approved training. It would be the responsibility of the PTP to determine what training is appropriate for the PTP drivers and provide such training to maintain customer satisfaction. This recommendation also follows the best practices from the Canadian municipalities that have passed ride service regulations (as per Appendix “F” to Report PED16099(a) attached hereto).

Accessible Services

The City does not have the legislated authority to tax ride service companies that do not provide accessible service and, as a result, cannot impose a mandatory surcharge for accessibility; although the City will petition the Province for this authority. In the interim, staff has had good faith negotiations with Uber representatives to pay an annual fee of \$20,000 in lieu of providing accessible services. Staff will engage in good negotiations with any PTP that seeks a license from the City without providing accessible services. The annual fees collected will be used towards lowering the cost for accessible training.

Key Aspects of Recommendations for Taxicab Schedule 25

If the proposed Schedule 24 is approved, the regulatory burden on the taxi industry will need to be simultaneously modernized if the industry is to be given the opportunity to innovate and thrive. The recommendations to Schedule 25 are expected to provide the taxi industry with as much flexibility as possible to innovate and compete without unnecessary restrictions, while still ensuring that public safety and consumer protection goals established by Council are adhered to. The recommendations were drafted under the notion that taxicabs, because they are available by street hail or at taxi stands, require a higher level of regulation. The transactions that occur by street hail or at taxi stands are anonymous, the passenger and driver do not exchange information in advance with respect to pricing and driver and passenger identity and this presents risks for both the taxicab driver and the passenger.

If the proposed amendments are approved, Appendix “G” to Report PED16099(a) attached to this Report, provides a Table comparing the taxi and PTP industry. The major amendments being recommended are summarized below:

Fee Reduction

The City is authorized to impose fees for business licensing at the cost of administering the regulatory regime. Currently, all taxicab drivers in the City pay an annual license fee of \$194. This fee has been reassessed following the shift in the traditional public transportation network to reflect a direct relationship toward the current costs associated with enforcement, administration and inspections of Schedule 25. It is proposed that the taxicab license fee be reduced to \$100. This represents a reduction rate of approximately 48%. In addition, the decrease in annual license fees for taxicab drivers

**SUBJECT: Licensing Uber or Like Ride-Sharing Applications (PED16099(a))
(City Wide) - Page 9 of 11**

will provide a measure of regulatory relief, aiding the taxi industry with their ability to compete with a PTP.

Training Reduction: Introduction of Probationary License

In an effort to reduce the barriers on individuals to becoming licensed taxicab drivers, a 90-day Probationary License for new taxicab drivers is being proposed (attached hereto as Appendix "H" to Report PED16099(a)). This Program will permit a new taxicab driver to come to the Licensing Office with a letter from a licensed broker which indicates they will be hiring the new taxicab driver, following which the new taxicab driver will have 90 days to complete a one-day customer service training class, an online eight-hour training course, and pay the reduced annual taxicab driver fee. This training recommendation is a reduction and modification from the current service and skills training program. It is expected that this approach will reduce the upfront barriers to entry and costs for taxicab drivers which will in turn promote the City's goals of ensuring availability of taxicab services.

It is not recommended that changes be made to the accessible training course. As a matter of safety and consumer protection, all accessible drivers must have the knowledge and physical ability to assist passengers with mobility devices and / or other disabilities. Therefore, it is imperative that all accessible drivers undergo specialized training for assisting these passengers.

Increase Vehicle Age

Currently, taxicab vehicles under three years old are required to have an annual safety inspection, and over three years old, are required to have a semi-annual safety inspection. At this time, there is no recommendation to change this approach. However, it is being proposed that the age of taxicab vehicles increase by one year to a maximum of seven years old, and hybrid vehicles increase by one year to a maximum of eight years old. This recommendation will allow taxi vehicle owners to save costs, while simultaneously the current inspection regulations will continue to serve to protect public safety by ensuring that only taxicab vehicles deemed fit by a Municipal Officer are permitted to serve passengers in the City. Allowing for slightly older vehicles to be used as taxicab vehicles would provide increased flexibility for the taxi industry.

Discounted Fares / Promotional Schemes

To ensure consumer protection, it is recommended that the City continue to have a taxi fare specified in Schedule 25 to be used when drivers do street-hails or operate at taxi stands. Recognizing that permitting fare flexibility for taxicabs would foster competition with a PTP, it is recommended that prearranged taxicab rides (through an app or a taxicab broker) would permit the broker to set a discounted fare that will be charged, including flat rates, capped at 20% and as long as they do not exceed the regulated fare set by the City. The taximeter / electronic metered device or smartphone app must be able to display the discounted fare or flat rate for the passenger in the taxicab to accept

prior to commencing the trip. This will permit brokers to set dispatched trips at the City regulated fare, or a discounted fare during off-peak periods to attract ridership. In addition, it is also recommended to eliminate the requirements around promotional schemes, and allow the taxicab industry with the flexibility to offer promotions to its passengers. It is expected that this flexibility will provide the taxi industry with a direct ability to compete with a PTP.

Interior Advertising

It is recommended that the taxi industry be permitted to advertise within the interior of the taxicab, so long as it does not interfere with or reduce visibility of the driver, or obstruct or hamper the driver's operation of the taxicab, or obstruct the view from all passenger seats of the driver's photo identity card, the taximeter / electronic metered device, the driver's taxi cab license, the fare, the Passengers' Bill of Rights card and the Driver's Bill of Rights Card. This will allow the taxi industry the authority to decide what interior advertising is appropriate. It is also anticipated to be an added financial benefit to the industry.

Minor Administrative and Technical Amendments

In addition to the substantive recommendations to Schedule 25 to provide increased flexibility to the taxi industry, it is also recommended that Schedule 25 be reviewed for administrative and technical amendments. These amendments will not change the substantive portions of the Schedule, but rather, it will be reviewed to eliminate duplication and reorganized for clarity and ease of reference.

Conclusion

The City, as the regulator, is solely charged with establishing regulations that meet the public's reasonable expectations of consumer protection and public safety. The objective of Schedule 24 is to create a category that meets the public's expectations while simultaneously being user friendly, and easy to follow for those who need to comply with it, and easy to enforce for those who need to ensure it is followed. The recommendations for Schedule 25 are intended to provide increased independence and flexibility to the taxi industry to ensure it has the opportunity to innovate, thrive and compete with the new market participant.

ALTERNATIVES FOR CONSIDERATION

An alternative for consideration is to not create a PTP licensing category to be included as Schedule 24 in the Business Licensing By-law. This would permit ride service companies to remain unregulated within the City, and create an uneven playing field for the taxi industry.

ALIGNMENT TO THE 2016-2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Draft Amending By-law (Schedule 24)
- Appendix "B": Draft Amending By-law (Schedule 25)
- Appendix "C": Draft Amending By-law (General Provisions)
- Appendix "D": On-Line Survey Results
- Appendix "E": Best Practices – Canadian Municipalities
- Appendix "F": PTP Categories and Associated Fees
- Appendix "G": Taxi Industry and PTP Comparison
- Appendix "H": Probationary 90-Day Taxi Cab Driver's License Information Package

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