

Authority: Item , General Issues Committee
Report PED16099(a)
CM: Date

Bill No.

CITY OF HAMILTON
BY-LAW NO. _____

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS Council enacted a by-law to license and regulate various businesses being city of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the addition of Schedule 24 to licence Personal Transportation Providers;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. By-law No. 07-170 is amended by adding the new Schedule 24, entitled "Personal Transportation Providers", attached as Appendix A to this Bylaw.
2. This By-law comes into force on the date it is passed.

PASSED this day of , 2017.

Fred Eisenberger
Mayor

Rose Caterini
City Clerk

SCHEDULE 24

PERSONAL TRANSPORTATION PROVIDERS

DEFINITIONS

1. In this Schedule:

"business day" means a day on which the City's administrative offices are open for business;

"Class A" means a PTP consisting of a fleet of 100 or more vehicles;

"Class B" means a PTP consisting of a fleet of 25-99 vehicles;

"Class C" means a PTP consisting of a fleet of 1-24 vehicles;

"facilitating" in all its forms includes but is not limited to offering, operating or providing;

"personal transportation provider" means any person facilitating prearranged transportation services for compensation using any platform to connect passengers with PTP driver and may also be referred to as a "PTP";

"personal transportation provider driver" means any person affiliated with a PTP who transports passengers for compensation using a PTP platform and may also be referred to as a "PTP driver";

"personal transportation provider identifier" means a sign, including a decal, displaying the logo or name of the PTP through which a PTP driver is providing transportation service to passengers, and such other information as required by the Director of Licensing, in a form approved by the Director of Licensing and may also be referred to as a "PTP identifier";

"personal transportation provider licence" means a licence issued under this Schedule and may also be referred to as a "PTP licence";

"personal transportation provider vehicle" means a vehicle used by a PTP driver to provide transportation to a passenger using a PTP platform and may also be referred to as a "PTP vehicle";

"platform" means any software, technology, or service, including a smartphone application, intended to connect passengers with transportation service;

"solicit" means any appeal for customers or passengers by sound, words, signs, or gestures directed at any person;

"street hail" means any appeal for a ride by any person using sounds, words, signs, or gestures directed at a PTP driver, but does not include communication over a PTP platform; and

"transportation service" means each prearranged trip in a PTP vehicle commencing when a passenger enters the vehicle, continuing for the period that the vehicle is continuously occupied, and ending when all passengers or goods exit the vehicle.

APPLICATION OF SCHEDULE

2. This Schedule does not apply to:
 - (a) taxicab services dispatched by a licensed taxicab broker and taxicab services provided by a licensed taxi plate holder or a licensed taxicab driver under the authority of Schedule 25: Taxicabs of By-law 07-170;
 - (b) limousine services provided by a limousine service provider under the authority of Schedule 8: Limousines of By-law 07-170;
 - (c) a motor vehicle used as part of a transit system provided by the City of Hamilton such as the public transit service known as the Hamilton Street Railway;
 - (d) a person who facilitates "carpooling" as defined by the *Public Vehicles Act*; or
 - (e) an emergency motor vehicle including but not limited to ambulance, fire department vehicle, or police vehicle.

GENERAL PROHIBITIONS AND OBLIGATIONS

3. No person shall hold themselves out to be a PTP or shall engage in the business of a PTP unless they hold a current and valid PTP licence.
4. No person shall facilitate or make any representations as a PTP or a PTP driver unless authorized to do so by a PTP licensed by the City.
5. No PTP shall permit or condone the acceptance of street hails or the solicitation of passengers by PTP drivers, whether on the street or at a taxi stand or in any other manner at any other location.
6. No PTP shall facilitate a transportation service for compensation using any platform to connect any passenger with a driver or with a vehicle that does not comply with this Schedule.
7. No PTP shall permit an affiliated PTP driver to provide transportation services if the PTP driver does not have the insurance required under this Schedule.
8. No PTP shall permit and no PTP driver shall accept payment by cash for a transportation service facilitated by the PTP.
9. No PTP and no PTP driver shall permit any person to smoke in the PTP vehicle while it is providing transportation services.
10. Every PTP and PTP driver shall ensure that the identification card required under subsection 22.(1):
 - (a) in the PTP vehicle at all times when transportation services affiliated with the PTP are offered or provided; and

(b) is produced immediately upon demand of a Municipal Officer;

11. On demand of the Director of Licensing or a Municipal Officer, the PTP driver shall:
 - (a) produce any of the following:
 - (i) the PTP driver's identification card;
 - (ii) valid insurance that meets the requirements of this Schedule; and
 - (iii) any other information pertaining to the PTP driver or the operation of the PTP vehicle as requested by the Municipal Officer.
 - (b) submit the PTP vehicle operated by the PTP driver for inspection at a time and location specified by the Director of Licensing or Municipal Officer.
12. Every person, PTP or PTP driver who contravenes this Schedule is guilty of an offence.

PTP LICENSING

13. Every person who owns or operates a PTP shall obtain a PTP licence.
14. An issued PTP licence is not transferable and remains at all times the property of the City.
15. An application for a new PTP licence shall be made to the Licensing Section using the forms approved by the Director of Licensing.
16. In addition to complying with the General Provisions of this By-law, an application for a new PTP licence shall be accompanied by:
 - (a) if the applicant is a corporation, proof that it is legally entitled to operate in Ontario, including but not limited to:
 - (i) a copy of the incorporating documents;
 - (ii) a copy of the last initial notice/notice of change which has been filed with the appropriate government department;
 - (iii) a Certificate of Status issued by the Ministry of Government and Consumer Services; and
 - (iv) a certified copy of an annual return and a list of all shareholders of the corporation.
 - (b) if the applicant is a partnership, the names and addresses of each member of the partnership as well as the name under which the partnership intends to carry on business and proof of the business name registration;
 - (c) adequate demonstration that there are data security measures in place to protect the personal data collected by the PTP relating to passengers and drivers, to the satisfaction of the Director of Licensing;
 - (d) proof of the insurance required under this Schedule to the satisfaction of the Director of Licensing;

- (e) documentation demonstrating the number of vehicles in the PTP fleet on the date of application, so as to determine if the PTP is a Class A, Class B, or Class C; and
- (f) any other information as required by the Director of Licensing.

17. Every PTP shall:

- (a) provide the Licensing Section with notice when the number of vehicles in the PTP's fleet increases to more than 24 or to more than 99 vehicles immediately; and
- (b) pay the full difference between the fee paid when the licence was issued within 2 business days of providing notice.

18. If a PTP's fleet decreases during the term of the Licence, the City will not provide a refund or pro-rated amount to the PTP.

Licence Renewal

19. In addition to complying with the General Provisions of this By-law an application for a renewal PTP licence shall be accompanied by:
- (a) a completed renewal application;
 - (b) proof of the insurance required under this Schedule to the satisfaction of the Director of Licensing;
 - (c) adequate demonstration that there are data security measures in place to protect the personal data collected by the PTP relating to passengers and drivers, to the satisfaction of the Director of Licensing;
 - (d) documentation demonstrating the number of vehicles in the PTP fleet on the date of renewal so as to determine if the PTP is a Class A, Class B, or Class C; and
 - (e) any other information required by the Director of Licensing.

PTP REQUIREMENTS

Information to Passengers

20. Every PTP shall ensure the platform used:
- (a) at the time the transportation service is arranged, can provide to the passenger requesting the transportation service:
 - (i) the PTP name and contact information;
 - (ii) the first name and photograph of the PTP driver;
 - (iii) a description of the make, model and licence plate of the PTP vehicle;
 - (v) the surcharge, if any;
 - (vi) an estimate of the total cost; and

- (vii) the current location of the PTP vehicle.
 - (b) provides a link to rate or provide comment of the PTP driver and PTP vehicle.
 - (c) provides a process allowing the passenger to accept or refuse the transportation service prior to it commencing and to keep a record of such acceptance or refusal;
 - (d) provides a secure payment mechanism;
 - (e) provides a printed or electronic receipt to the passenger at the end of the transportation service that includes information confirming:
 - (i) the fare rate and/or surcharges;
 - (ii) total amount paid;
 - (iii) date and time of pickup;
 - (iv) locations where the passenger was picked up and dropped off; and
 - (vii) the first name of the PTP driver.
21. Every PTP shall make available to the public on its platform, and by any other means of its choice, the following information:
- (a) the **automobile liability** insurance coverage required to be maintained by the PTP and by the PTP drivers;
 - (b) the transportation services offered by PTP drivers;
 - (c) the applicable screening process for PTP drivers and PTP vehicles;
 - (d) that PTP drivers can only provide transportation services that are prearranged using the platform of the PTP and cannot accept street hails or pick up fares at taxi stands; and
 - (e) that PTP drivers cannot accept cash payment for transportation services.

Identification

- 22.(1) Every PTP shall issue to every affiliated PTP driver a current and up-to-date identification card in written or electronic form providing the following information:
- (a) the first and last name and photograph of the PTP driver;
 - (b) the make, model and licence plate number of the PTP vehicle used by the PTP driver affiliated with the PTP; and
 - (c) the name and contact information of the PTP with which the PTP driver is affiliated.
- (2) Every PTP shall issue to every affiliated PTP driver a PTP identifier, to be located in the front windshield of the PTP vehicle and visible from the exterior at all times while offering or providing transportation services.

Data Collection Records

- 23.(1) Every PTP shall create and maintain records of the following information:
- (a) the total number of transportation services provided by the PTP, annually;
 - (b) the total number of PTP drivers providing a transportation service, annually;
 - (c) the total number of PTP vehicles providing a transportation service, annually;
 - (d) the PTP driver and PTP vehicle information corresponding with each requested transportation service, including:
 - (i) the full name of the PTP driver;
 - (ii) the licence plate number of the PTP vehicle;
 - (iii) the date, time and duration of the transportation service;
 - (iv) the location where the passenger was picked up and dropped off; and
 - (v) the hours and minutes spent by the PTP vehicle transporting the passenger(s), including time spent enroute to pick up the passenger(s).
- (2) All information under subsection 23(1) is required to be kept by the PTP for 3 years from the date the information is created.
24. Every PTP shall make the records in subsection 23(1) available electronically to the Director of Licensing within 2 business days following a demand in writing by the Director of Licensing.

Access to Software or Platform

25. A PTP shall be required, if requested by the Director of Licensing, to create anonymous passenger and driver accounts to be used by Municipal Officers for inspection purposes to ensure compliance with this Schedule.

Insurance

- 26.(1) Every PTP shall obtain and maintain while licensed under this Schedule the following minimum insurance requirements:
- (a) Commercial General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death and damage to property including loss of use, that includes:
 - (i) blanket contractual liability; premises, property and operations liability;
 - (ii) products and completed operations liability;
 - (iii) contingent employers liability; personal injury, owners and contractors protective coverage;
 - (iv) broad form property damage; occurrence property damage; and
 - (v) employees as additional insured, and cross liability and severability of interest provision.

- (b) such Commercial General Liability policy shall be in the name of the PTP and the City of Hamilton shall be named as an additional insured;
 - (c) the PTP shall also obtain Non-Owned Automobile Insurance with limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence; and
 - (d) the insurance required under subsections (a) and (c) shall contain an endorsement to provide the City of Hamilton no less than 30 days prior written notice, from the insurer, of any cancellation.
- (2) (a) It is a condition of a PTP licence that the PTP comply with subsection 26.(1) at all times.
- (b) The PTP licence shall be suspended if the PTP fails to comply with subsection 26(1) until such time as the PTP satisfies the Director of Licensing that there is full compliance.
 - (c) The PTP shall provide the Director of Licensing with such information as the Director of Licensing shall require to demonstrate that subsection 26.(1) is being complied with.

Requirements related to PTP Driver

27. Every PTP shall keep an up-to-date list of every affiliated PTP driver and PTP vehicle in a readily accessible format that includes:
- (a) the full name and address of every PTP driver; and
 - (b) the make, model and licence plate of every PTP vehicle.
28. Every PTP shall ensure that an affiliated PTP driver meets the following requirements prior to commencing as a PTP driver and at all times when providing transportation services:
- (a) is at least 18 years of age;
 - (b) has a valid G licence;
 - (c) is able to communicate in English; and
 - (d) has been advised and consents to the personal information being submitted to the Director of Licensing for the purpose of auditing compliance with this Schedule.
- 29.(1) The PTP shall receive a criminal record check and a driving record abstract for each driver.
- (2) The PTP shall review the criminal record check and the driving record abstract and, acting as a reasonable PTP, determine if the driver is suitable for providing transportation services.

- (3) The criminal record check, no older than 90 days, and the driving record abstract, no older than 30 days, shall be submitted to and reviewed by the PTP before the driver begins as a PTP driver and at the end of every subsequent 12-month period while the driver continues as a PTP driver.
30. Every PTP shall keep copies of the documents and information required under sections 27, 28 and 29 for 3 years after the PTP driver ceases to be affiliated with the PTP.
31. Every PTP shall make available to the Director of Licensing the records or information required in sections 27, 28, 29 within 2 business days following a written demand by the Director of Licensing.
- 32.(1) Every PTP shall ensure that every PTP driver obtains and maintains, at all times during the provision of transportation services, Automobile Liability Insurance for owned or leased PTP vehicles, with limits of not less than **Two** Million Dollars (\$**2,000,000.00**) inclusive per occurrence for bodily injury, death, and damage to property. The Automobile Liability Insurance shall include the **IPCF** 6TN *Permission to Carry Paying Passengers for a Transportation Network* endorsement or an equivalent endorsement acceptable to the Director of Licensing.
 - (2) The insurance coverage required under subsection 32.(1) shall include a provision whereby the City of Hamilton will be provided with no less than 15 days prior notice of any cancellation or variation to the policy.
 - (3) Every PTP shall obtain proof of insurance from every PTP driver evidencing compliance with the requirements of subsections 32.(1) and (2) prior to affiliation with the PTP driver, and on an annual basis thereafter and shall keep such records for a period of 3 years after the PTP driver ceases to be affiliated with the PTP and produce it to the Director of Licensing on demand.
- 33.(1) It is a condition of a PTP licence to ensure the denial of a PTP driver's access to the PTP platform immediately upon being notified by the Director Licensing that the driver has acted in a manner that is adverse to the public interest, public safety or upon discovering that a driver is not insured under section 32 and to continue to do so for so long as required by the Director of Licensing.
 - (2) The PTP shall provide the Director of Licensing with such information as he or she shall require to demonstrate that subsection 33.(1) is being complied with.

Requirements related to PTP vehicle

- 34.(1) Every PTP shall ensure that a PTP vehicle meets the following requirements at all times when providing a transportation service:
 - (a) the PTP vehicle has a valid and current Ontario Ministry of Transportation Safety Standards Certificate, prior to commencement of use as a PTP vehicle, and then annually thereafter; and
 - (b) the PTP vehicle is no more than 10 years old, excluding the manufactured year.

- (2) Every PTP shall obtain and maintain the records required under subsection 34.(1) for a period of 3 years after the PTP vehicle is no longer used to provide the transportation service.
 - (3) Every PTP shall make available to the Director of Licensing the records required to be kept under subsection 34.(1) within 2 business days following a demand in writing from the Director of Licensing.
- 35.(1) It is a condition of a PTP licence to ensure the denial of a PTP driver's access to the PTP platform immediately upon being notified by the Director of Licensing that the driver's vehicle is being operated in a manner that is adverse to the public interest or to public safety and to continue to do so for so long as required by the Director of Licensing.
- (2) The PTP shall produce the Director of Licensing with such information as he or she shall require demonstrating that subsection 35.(1) is being complied within 2 business days following a demand in writing from the Director of Licensing.