

City of Mississauga

# Corporate Report



Date: 2017/09/06

To: Chair and Members of Public Vehicle Advisory Committee

From: Geoff Wright, P. Eng, MBA, Commissioner of Transportation and Works

Originator's files:

Meeting date:  
2017/09/19

## Subject

**A Line by Line Review of the Public Vehicle Licensing By-law 420-04, as amended**

## Recommendation

1. That the Public Vehicle Advisory Committee receive the report entitled "A Line by Line Review of the Public Vehicle Licensing By-law 420-04, as amended", and provide comment.
2. The clauses identified within the body of this report for possible amendment or repeal were identified as those being less critical to the regulation of the taxi industry and those that may have the most immediate impact on the operation of taxicabs in the City, to allow them to compete more effectively with TNCs. It was noted that each of the clauses identified for repeal or amendment represent various degrees of value from a public safety or consumer protection standpoint.
3. That a full review of the Public Vehicle Licensing By-law be undertaken for the purpose of rationalizing the requirements for all vehicles for hire to address deficiencies and disparities identified during the line by line review and to provide more consistent regulations across the spectrum of vehicles regulated through this By-law.

## Report Highlights

- Staff conducted a full line by line review of the sections of the Public Vehicle Licensing By-law 420-04, as amended, pertaining to taxicabs and limousines.
- More than 60 possible amendments to the By-law were identified.
- The review of these By-law sections indicated that a review of the By-law in its entirety may be appropriate due to changes in the industry.

## Background

On April 12, 2017 Council adopted Resolution 0054-2017 (Appendix 1), which required, in part:

That a complete review of by-laws governing our taxi industry be immediately conducted with an eye to eliminating or modifying all and every by-law or regulation to parallel those in the regulations for the Pilot Project governing Transportation Network Companies (TNCs) starting July 1, 2017; and

The results of that review be presented in a report to PVAC on September 19, 2017 and from there to Council in sufficient time;

## Comments

Staff have completed a line by line review of the Public Vehicle Licensing By-law 420-04, as amended, and identified a number of proposed amendments which, if adopted would further “parallel” the taxi and limousine industry with the regulations in place for TNCs. The complete line by line review of the By-law as it affects taxicabs and limousines can be found in Appendix 2.

The proposed amendments are as follows:

### Vehicle Inactivity

***“16. The Owner’s Licence and Plate shall be deemed to be inactive from the date the Owner’s Licence and Plate are submitted to the Licence Manager or from the date that the inactivity comes to the attention of the Licence Manager, whichever first occurs.***

***(1) A Licence issued to a Taxicab Owner under this by-law may be cancelled by the Licence Manager at any time if the Owner fails to actively operate a Vehicle for which the Owner has been issued an Owner’s Licence and accompanying plate, for a period not exceeding ninety(90) days, unless the Taxicab Owner; (200-08)***

***(a) applies to the Licence Manager for an additional period of up to ninety (90) days by: (200-08)***

***(i) making any request thirty (30) days prior to the expiry of such existing ninety (90) day inactivity period,***

***(ii) paying the non-refundable administration fee is paid as provided by Schedule 1 herein, and***

***(iii) providing in writing sufficient reasons to support such a request, or***

***(b) can show to the satisfaction of the Licence Manager just cause for such failure. (200-08)”***

Amend. This section seeks to limit the amount of time that an Owner's plate may remain inactive. There is little that would support the initiative from a regulatory perspective. The shelving of Owners Plates on a temporary basis may be reflective of the ebb and flow in demand for taxi service. There is a significant financial incentive for Plate Owners to identify a lessee willing to operate the plate in circumstances where the Owner does not wish to operate the plate through their own resources.

The requirement to repeatedly seek the authorization of the Licence Manager is excessive. Staff identify that the inactivity of an owner's plate may provide important data for considerations related to plate issuance and tariff review. In this vein, staff would recommend that inactive plates be placed with Mobile Licensing Enforcement at the discretion of the Plate Owner with no requirement to supply additional notification. An amendment of this type would have no significant impact on public safety or consumer protection.

***"16. (2) A Licence issued to an Owner under this by-law may be cancelled by the Licence Manager at any time if the Owner fails to actively operate the Vehicle for which the owner's plate has been issued for a continuous period of thirty (30) days or greater unless the Owner can show to the satisfaction of the Licence Manager just cause for such failure. (200-08)"***

Repeal. There is no similar requirement in the TNC Licensing By-law. The clause appears to be overly regulatory as it limits the ability of the licence holder to withdraw from active participation in the industry.

#### **Schedule 8- Owners and Drivers of Taxicabs.**

***"3. Every licensed Driver shall:***

***3. (1) each day before commencing the operation of the vehicle, examine the vehicle for Mechanical Defects or interior or exterior damage to the vehicle including all exit doors and shall report forthwith any defects found to the Plate Owner of the vehicle;"***

Repeal. This is not a requirement for TNC drivers. While generally accepted as good practice prior to operating a motor vehicle, there is no practical way to enforce as a by-law requirement. Staff identify that this requirement would more appropriately be viewed as the responsibility of the driver. Repeal would have minimal impact on public safety or consumer protection.

***"3. (2) each day upon completion of the operation of the vehicle return the vehicle to his employer and shall examine the vehicle as provided in subsection (1) and shall report all defects in the vehicle and all accidents to the Plate Owner;"***

Repeal. This is not a requirement of TNCs, is difficult to enforce by regulatory staff and again would be more appropriately viewed as the responsibility of the driver as defined by the vehicle owner or brokerage. Repeal would have minimal impact on public safety or consumer protection.

***“3. (5) be well-groomed, neat and clean in personal appearance, and dressed in pants (no jeans or sweat pants) or skirt, shirt or blouse with a collar and shoes, all free from obvious wear or damage;”***

Repeal. Not a requirement of TNC drivers. This section is viewed as more appropriate to an internal policy for brokerages or taxicab owners as opposed to an issue to be enforced through a by-law due to the subjective nature of the requirement. There would be no impact on public safety or consumer protection.

***“3. (6) be civil and behave courteously;”***

Repeal. TNCs provide access for consumers to rate the driver’s performance immediately upon completion of a trip. Taxicab passengers have a similar venue through which to file a complaint with a brokerage directly. Issues with customer service and the behaviour shown by drivers are more appropriately dealt with at this level where compensation can be provided if the complaint is believed to be valid. There is no definition provided as to what would constitute being “civil” and courteous. The requirement that a regulatory body investigate subjective complaints of this type presents significant challenges and is an issue that more properly lies with the business itself.

***“3. (8)(f) is in the opinion of the Driver unable or unwilling to pay the Fare and has been unable or unwilling to satisfy the Driver that he has the funds to pay the Fare, or,”***

Repeal. This clause was found to be entirely subjective and inconsistent with the TNC By-law. There is no criteria upon which a taxicab driver could be reasonably expected to evaluate the ability or willingness of a potential passenger to pay a proposed fare prior to a trip commencing.

***“3. (9) punctually keep all his appointments, and shall not make any appointments if a previous engagement would prevent him from fulfilling it;”***

Repeal. There is no standard for punctuality identified in the Public Vehicle By-law. As such, there is limited ability to enforce. TNCs provide real time data as to the location of the booked ride and the decision is customer based as to whether the time frame is acceptable. Taxi brokerages that have not done so should explore adopting a similar strategy. Repeal would have minimal impact on public safety or consumer protection.

***“3. (12) when a dispute arises between a Passenger and a Driver of a Vehicle about the Fare, the Driver may refer the dispute to the nearest police officer for arbitration;”***

Amend. The dispute over the price of a fare should, whenever possible, be resolved by the brokerage or taxicab owner. This is not a matter that should be addressed through the use of limited police resources. Disputes that involve the overcharging of a customer based on a faulty or malfunctioning taxicab meter should be referred to Mobile Licensing Enforcement for investigation. Disputes with a TNC over an amount paid, the appropriateness of the fare charged and the amount are dealt with internally by the brokerage or owner.

Because the issue of calibration of the meter directly relates to the By-law, there is a consumer protection issue and, as such, the By-law should be amended to replace “the nearest police officer” with “Mobile Licensing Enforcement.”

***“3. (13) keep a daily Trip Sheet showing:***

***(a) the name of the Driver, the date and the Taxicab owner's plate number;***

***(b) the location and time of the beginning and end of every Trip made;***

***(c) the amount of the Fare collected for each Trip;”***

(see below)

***“3 (14) retain all Trip Sheets for at least twelve (12) months and make them available for inspection at the request of an inspector or the Licence Manager;”***

Repeal. The production and retention of trip sheets was intended, primarily, to verify the level of a driver's involvement in the taxi industry, to establish their compliance with requirements associated with the Priority List. These Priority List requirements were repealed in 2016 and in doing so the driver managed trip sheets have become obsolete. Most brokerages track dispatched trip data electronically in a manner comparable to TNCs. It is recommended that these clauses be repealed.

Repeal would have minimal impact on public safety or consumer protection.

***“3. (18) keep in his Taxicab a current street guide for the City and the surrounding vicinity which is of a type approved by the Licence Manager;”***

Repeal. The ubiquity of smart phones and applications providing map and routing information make this requirement obsolete. TNCs are not required to obtain a street guide under the current regulations. Repeal would have minimal impact on public safety or consumer protection.

***“3. (19) turn off any radio, tape player or any other sound-producing mechanical device in his Taxicab and shall turn down the volume on the two-way radio upon being requested so to do by any Passenger, and having done so shall leave such devices in the off position or if two-way radio turned down until termination of the Trip with that Passenger.”***

Repeal. There is no similar requirement in place for TNCs and the activity is primarily a customer service issue as opposed to a consumer protection or public safety concern. Complaints regarding this issue should be directed to the brokerage or owner to take measures they feel appropriate as opposed to a by-law enforcement investigation.

***“5. (1) No Taxicab Driver shall: (1) carry in any vehicle a greater number of Passengers than is set out in the manufacturer's rating of seating capacity for such vehicle;”***

Repeal. The use of seatbelts is mandated through the *Highway Traffic Act* and, as such, this clause has limited value from a by-law perspective. Convictions for violations related to issue are captured in the Drivers Abstract reviewed yearly. There is no similar restriction found in the TNC By-law. The repeal of this clause would have minimal impact on public safety or consumer protection.

***“5. (2) drive a vehicle with luggage or any object placed in, hung on or attached to the vehicle or in such a manner as will obstruct the Driver's view of the highway;”***

Repeal. The obstruction of the drivers view from the vehicle is regulated through the *Highway Traffic Act* and, as such, this clause has limited value from a by-law perspective. Convictions for violations related to issue are captured in the Drivers abstract reviewed yearly. There is no similar restriction found in the TNC By-law. The repeal of this clause would have minimal impact on public safety or consumer protection.

***“5. (3) take, consume or have in his possession any alcohol, Drugs or intoxicants while he is in charge of his vehicle for which he is a Driver;”***

Repeal. The possession of alcohol, drugs or other intoxicants is regulated through the *Highway Traffic Act* and, as such, this clause has limited value from a by-law perspective. Convictions for violations related to issue are captured in the Drivers abstract and/or the Criminal Record Search, reviewed yearly. There is no similar restriction found in the TNC By-law. The repeal of this clause would have minimal impact on public safety or consumer protection.

***“5. (8) recommend hotels or restaurants or other like facilities unless requested to do so by the Passengers;”***

Repeal. It is unclear as to what purpose the clause serves except as part of the prohibition against entering into an exclusive concession agreement, which is also recommended for repeal. There is little evidence that this issue has been identified as problematic by the public. This issue is also challenging to enforce given the nature of the evidence that would be required to pursue the matter through a court action. Members of the public who identify that they have been “pestered” by a driver to use particular services would be able to provide a complaint to the taxi brokerage to deal with the issue. Repeal would have minimal impact on public safety or consumer

***“5. (9) be required to provide change for any note larger than twenty dollars (\$20.00) unless the Fare is at least one-half (½) of the value of said note;”***

Amend. One of the most problematic clauses contained in the current By-law as it is unclear as to what specifically the driver must do to respond in this situation; waive the fare entirely, keep the money being proffered by the passenger even though it substantially exceeds the fare amount? Most taxicabs now provide multiple means through which to provide payment. The driver also has the option to stop at any number of locations so that the passenger may obtain smaller denominations. There is no similar requirement contained in the TNC By-law due to

their payment systems that do not require cash transactions. The repeal of the clause may encourage taxicab drivers to carry larger amounts of cash with which to provide change, which could increase the risk of robbery. Staff recommend that consultation be undertaken with industry representatives to develop a viable requirement.

***“8. (1) When a Driver picks up a Passenger within the City for a Trip with the destination outside the City, the Driver and the Passenger may agree before the commencement of the Trip to a flat rate.”***

Amend. This clause provides the benefit of a fixed fare only to those leaving the jurisdiction. The option of a pre-negotiated fixed price should be made available to taxicab drivers for all passengers. This would provide a flexible tool with which to attract new ridership during off peak hours and would be similar to the pricing strategy of TNCs.

***“9. (1)(a) Every Driver shall not charge a Fare which is not in accordance with appropriate Fare set out in Schedule 9 to this bylaw except where the trip is requested using an App as approved by the Licence Manager; (134-16, 94-17)”***

Amend. The clause limits the ability of taxicabs to compete based on price and arbitrarily sets the value of a trip regardless of the immediate supply of taxicabs available or the current demand for their services. It is recommended that the section of the By-law be amended to set the meter rate as the maximum allowable under the By-law. Individual taxicabs and taxicab brokerages would then be able to offer “off peak” rates based on a posted discount to the meter rate as an inducement to potential customers.

***“12. No Driver or Plate Owner shall;***

***(1) enter into or become a party to an Exclusive Concession Agreement;***

***(2) agree to pay, accept a fee or consideration or do any other act or thing pursuant to an Exclusive Concession Agreement;”***

Repeal. There is no similar restriction contained within the TNC By-law. Exclusive concession agreements may provide a viable avenue through which to enhance the business opportunities of a taxi brokerage or owner. The repeal of this clause would have minimal effect on public safety or consumer protection.

***“13. No Driver or Plate Owner shall display or permit the display of any sign, emblem, decal, ornament or advertisement on or in his Taxicab except with a content and in a form and location approved by the Licence Manager.”***

Repeal. There is no similar restriction in the TNC By-law. The use of a taxicab as a platform for advertising should be considered as a viable revenue stream for taxicab owners whose vehicles maintain a high level of public visibility. Repeal would have minimal impact on public safety or consumer protection.

***“14. (1) Every Applicant for a Taxicab owner's Licence shall:******(a) if a natural person, be licensed under this by-law as a Driver, or******(b) if a corporation, the Individual person holding the shares carrying at least fifty-one percent (51%) of the voting rights attached to all shares of the corporation for the time being issued and outstanding, be licensed as a Driver under this by-law;******(c) notwithstanding subsection 14(1)(a) of this section, where an owner's license has been legally transferred to a Spouse from a deceased owner, there will be no Driver requirements for the Spouse of the deceased owner so long as the Spouse successfully completes a Taxicab Owner Responsibilities Course.******(d) meet the requirements of section 38 of this Schedule relating to vehicle approval.”***

Repeal. It is unclear as to the intent of this clause requiring that the owner of a taxicab also be required to be licensed as a driver. It would appear that the rationale may have been to promote a close relationship between the ownership of taxicabs and the operation of the taxicabs. There is, however no requirement that the owners actually operate the taxicab they own or any taxicab for that matter. The By-law currently permits taxicab drivers to maintain a “non-driving” status on their individual licence. Repeal would have minimal impact on public safety or consumer protection.

***“15. (2) The total number of Taxicab Owner Licences issued at any given time shall be established by the Plate Issuance Formula, Schedule 3 of the By-law;”***

Amend. Under the Pilot Project, TNCs are not limited in the number of vehicles that they may operate. It is recommended that this clause be amended to provide a more flexible issuance model for taxicab plates to provide a closer approximation to the regulations regarding other vehicles for hire. Staff recommend that this be done through consultation with the taxicab industry and based on the findings of the Pilot Project scheduled for completion in 2019.

***“15. (3) No Taxicab Owner shall be issued more than twelve (12) Taxicab Owner's Licenses under this By-law.”***

Repeal. There is no similar limitation in the TNC regulations. The repeal of this section would permit individuals in the taxi industry to acquire sufficient licences to create a fleet of vehicles to provide uniformity of service, enhance competition, improve stability, and move away from a model where brokerages are reliant on a fleet of semi-independent owners and drivers. Repeal would have minimal impact on public safety or consumer protection.

***“37. When a Taxicab owner's plate is issued from the Priority List, the Taxicab owner who has been approved for the issuance shall within one month of the date of issuance of the plate by the Licence Manager affix the plate to a vehicle registered in his name which shall be operated as a Taxicab and he shall not transfer that plate for three (3)***



***years after the date of issuance unless the transfer is approved by the Licence Manager for financial, health or other reasons. (200-08)”***

Amend. Given the period of time typically required to move through the Priority Waiting List, it would appear reasonable that a vehicle be placed into service within 30 days of the issuance of a plate. Staff were unable to identify what benefit is gained by the requirement that no plate transfer be permitted within three years of the date of issuance unless supported by the Licence Manager for “financial, health or other reasons.” Due to the vagueness of the language “health or other reason”, it would be a challenge to enforce given the licence holder’s recourse for appeal. There is no similar restriction in place for TNCs. It is recommended that Section 37 be amended to remove the three year restriction on plate transfer. An amendment would have minimal impact on public safety or consumer protection.

***“37.1 When a Taxicab Owner’s Licence is issued from the Priority List, the Taxicab Owner who has been issued the Licence, shall operate as a Driver for a minimum of three (3) years following the date of issuance to the satisfaction of the Licence Manager. (134-16)”***

Repeal. The approval of the above recommendation to amend section 37 would eliminate the necessity for this clause. Repeal would have no impact on public safety or consumer protection. The By-law currently identifies “not driving” as a status consistent with the definition as being licensed as a driver.

***“40. Every licensed Taxicab owner shall:***

***(3) provide the Licensing Section and, where applicable, any licensed Taxicab Broker with whom he may be associated with the name of the licensed Driver operating his vehicle within seventy-two (72) hours of the time when the licensed Driver has commenced To Operate the said vehicle.”***

Repeal. In that this section recognizes that both the driver and the owner are properly licensed, the clause would appear to be overly regulatory and of concern primarily to the brokerage. It is recommended that, as an internal matter between the broker and the taxicab owner, this should be addressed through their internal policies as opposed to a by-law. Repeal would have minimal impact on public safety or consumer protection.

***“41. (1) Every licensed Driver and Plate Owner shall operate or permit to be operated a vehicle that:***

***(f) has Tint Free windows;”***

Repeal. The application of tint to automotive windows presents a number of significant advantages including improved visibility, protection of the interior surfaces of the vehicle from damaging ultraviolet light, reduction of the need for cooling and the associated fuel usage, and a healthier work environment for the driver. Some concern has been expressed previously

regarding the use of tint obscuring the interior of the vehicle but staff identify that this risk is, at most, marginal.

TNC vehicles are not subject to tint restrictions. Limitations regarding the tinting of motor vehicle windows is addressed in the *Highway Traffic Act*. It is recommended that this section be repealed as there would be minimal impact on public safety or consumer protection.

***“41. (1)(j) has identical wheel coverings and or wheel design;”***

Repeal. This is a purely cosmetic consideration that is not a TNC requirement. Repeal would have no impact on public safety or consumer protection.

***“41. (1)(k) has a seat belt cutting tool in a good state of repair which is easily accessible to the Driver;”***

Repeal. This requirement was originally adopted as a safety requirement in the event of a vehicle rollover where the driver is trapped by the vehicle seatbelt and is required to extricate both themselves and passengers similarly trapped. This is not a requirement of TNCs. Staff were unable to identify any circumstance where a driver has been required to deploy the device. Repeal would have minimal impact on public safety and no impact consumer protection.

***“41. (p)(v) has a Taxicab Meter; and each Taxi Meter shall be; used for not longer than one year without re-testing and resealing;”***

Repeal. With the repeal of the mandatory inspections for the duration of the Pilot Project the calibration and accuracy of taxicab meters is problematic. It is recommended that that this clause also be repealed. The requirement that the meter accurately reflect the appropriate fare is contained in Section 41(p)(iii). Meter accuracy will be checked during in-field inspections.

***“41. (1)(q) has on display any owner's plate, decal or sticker issued by any other municipal licensing authority;”***

Repeal. This clause was adopted to restrict taxicab owners from using the same vehicle in multiple jurisdictions. TNC vehicles do not operate in a similar fashion, and may operate in each jurisdiction where they meet the requirements set out by the licensing authority. For taxicabs, this may necessitate the use of multiple meters or a meter that can be easily reprogrammed. This would be a technical issue that could be addressed by the individual taxi owner or brokerage. A repeal would have no impact on public safety and minimal impact on consumer protection.

***“41. (5) Every Licenced Driver and Plate Owner shall keep in the Vehicle and maintain a Maintenance Log for the Vehicle registered under the Owner's Licence.”***

Repeal. The clause requires a maintenance log that serves no enforcement purpose. There is no practical manner for officers to establish the authenticity of the entries in the log. Staff recognize that ongoing maintenance is critical to the performance and longevity of the vehicle,

but note that this should be the priority of the business owner. There is no requirement for TNCs to possess a maintenance log. Repeal of this clause would have no impact on public safety or consumer protection.

***“46. (1) No Driver or Plate Owner shall; put any name, address, or telephone number or other identification other than that of himself or the Taxicab Broker with whom he is Affiliated on his Taxicab or Roof Light;”***

Repeal. The repeal of the section dealing with the use of the taxicab for the purpose of advertising would conflict with this requirement necessitating its repeal.

***“46. (2) use or permit to be used on his Taxicab any emblem, decal, roof sign or other markings which are the same shape and/or colour or similar to any distinctive emblem, decal, roof sign or other marking being used by any Taxicab Broker with whom he is not Affiliated;”***

Repeal. The clause was identified as an attempt to regulate the branding of taxicabs and their associated brokerages. The clause is vague to a degree where staff were unable to identify a scenario where enforcement could take place in any meaningful manner. Permitting taxicabs to be used for advertising purposes, including vehicle wraps, may necessitate that vehicles from different brokerages may be similar in design and colour. There is no similar clause contained in the TNC By-law. Repeal would have no impact on public safety or consumer protection.

***“50. (2) Where a Taxicab Owner or Driver has been issued an Owner's Licence from the Taxicab Priority List pursuant to Section 37 of this Schedule, he shall not be allowed to transfer or otherwise dispose of such owner's Licence for a period of three (3) years from the date of issue of said Licence.”***

Repeal. It was identified that the rationale for a three year waiting period limiting the transfer or sale of a plate issued from the Priority Waiting List may have been to support the value of existing plates when an issuance takes place. The clause would require the continued participation of the recipient of the plate for the defined period. Given that a taxicab owner is not required to physically drive a taxi and may maintain a “Not Driving” status there would appear to be little benefit to public safety or consumer protection contained in the restriction. There is no similar restriction contained in the TNC By-law. Repeal of this clause would have no impact on public safety or consumer protection.

***“50. (5) Notwithstanding the provisions of subsections (1) and (2), the holder of a Taxicab Owner's Licence, who has been issued an original Licence from the City, may petition Council to permit a transfer or other disposition of said Licence within three years from the date of issuance.”***

Repeal. The proposed repeal of 50(2) would eliminate the requirement for Council approval to transfer a plate issued from the Priority Waiting List prior to three years having elapsed. This

clause contradicts section 37, which identifies that the Licence Manager has the authority to approve transfer prior to the three years.

***“50. (6) Where a Taxicab owner has purchased an owner's Licence with his own personal funds, such owner shall be exempted from the three (3) year restriction on transfers provided for in subsection (2).”***

Repeal. The proposed repeal of 50 (2) would eliminate the necessity for this exemption.

***“50. (7) Where a Taxicab Owner has transferred or otherwise disposed of a Licence which he purchased with his own personal funds, and, such transfer or disposal takes place at least three (3) years after the original Licence purchase, such owner shall not be restricted from purchasing another Licence in this same class.”***

Repeal. The proposed repeal of 50 (8) would render this clause unnecessary.

***“50. (8) Where a Taxicab Owner has transferred or otherwise disposed of an owner's Licence which he has purchased with his own personal funds within three (3) years of the original transfer date for said Licence, such owner will be restricted from purchasing another owner's Licence in the same class for a period of four (4) years from the date of said Licence transfer or disposal.”***

Repeal. There is no clearly definable benefit to either public safety or consumer protection contained in this restriction. The restriction does not apply to instances where a taxicab plate is owned by a company or is part of the estate of a deceased owner.

***“50. (9) Notwithstanding the provisions of subsection (3) where a Taxicab Owner transfers an Owner's Licence to or from a limited company in which he controls at least 51% of the voting rights attaching to all shares of that limited company, such a transfer shall be exempt from either the three (3) year restriction in subsections (6) and (7) or the four (4) year restriction referred to in subsection (8).”***

Repeal, The proposed repeal of the preceding clauses in section 50 would render this clause as unnecessary.

***“51. (3) Where the Owner of a Taxicab Licence is a corporation and the individual person holding at least fifty-one percent (51%) of the voting shares of the corporation dies, such voting shares may only be transferred or otherwise disposed of to an Individual who is licensed as a driver under this By-law. (257-09)”***

Repeal. The repeal of clauses requiring that the owner of a taxicab also maintain a taxicab drivers licence would make this clause contradictory and, as such, should be repealed.

***“51. (4) Notwithstanding subsection 1(3) of this section, where the shares have been legally transferred to a Spouse, there will be no Driver requirements for the Spouse of the***

***deceased Individual, provided the Spouse successfully completes a Taxicab Owner Responsibility Course. (200-08, 257-09)”***

Repeal. There is no identifiable public safety or consumer protection concerns that are addressed through this clause.

**Schedule 6 Owners and Drivers of Limousines.**

***“2. (1) Every Applicant for an Owner’s Licence shall:***

***(f) file with the Licensing Section a schedule of all hourly Fare rates to be charged and such rates shall be:***

***(i) a minimum two (2) hour duration at a charge of not less than fifty dollars (\$50.00) for the first hour and thirty dollars (\$30.00) for each additional hour for a Limousine Class A; and***

***(ii) a minimum charge of fifty dollars (\$50.00) for the first hour or any part thereof and thirty dollars (\$30.00) for each additional hour for a Limousine Class B.”***

Repeal. The regulation was created to protect the taxi industry from predatory practices by limousine companies. Given the other restriction contained in the limousine schedule requiring prearranged trips and the different sectors that these vehicles service, it would appear that the By-law clause is overly regulatory and an attempt to fix prices at an arbitrary rate. Limousine services should be free to establish a rate that they identify as sufficient to meet their business requirements and not to protect an industry with which there is little overlap, so long as those fees are communicated to the passenger in advance.

***“6. Every licensed Limousine Owner shall:***

***(3) provide the Licensing Section the name of the licensed Driver operating his Vehicle within seventy-two (72) hours of the time when the licensed Driver has commenced To Operate the said Vehicle.”***

Repeal. In that this section recognizes that both the driver and the owner are properly licensed, the clause would appear to be overly regulatory and of concern primarily to the limousine company. It is recommended that, as an internal matter between the limousine owner and the driver, this should be addressed through their policies as opposed to a by-law. Repeal would have minimal impact on public safety or consumer protection.

***“8. Every Limousine Owner and Driver licensed as such under this Schedule shall cause his, her or its Livery Cab used in the City to conform, at all times, to the following standards:***

***8. (9) is equipped with an extra tire, wheel and jack ready for use for that Vehicle;”***

Repeal. It has been identified that due to weight issues and vehicle modifications, many limousines cannot be jacked using equipment carried in the vehicle. As such, this clause would appear to be excessive. Repeal would have minimal impact on public safety or consumer protection.

***“8. (10) has identical wheel coverings and or wheel design;”***

Repeal. This is a purely cosmetic requirement that is not a TNC requirement. Repeal would have no impact on public safety or consumer protection.

***“8. (11) has a seat belt cutting tool in a good state of repair which is easily accessible to the Driver;”***

Repeal. This requirement was originally adopted as a safety requirement in the event of a vehicle rollover where the driver is trapped by the vehicle seatbelt and is required to extricate himself and passengers similarly trapped. This is not a requirement of TNCs. Staff were unable to identify any circumstance where a driver has been required to deploy the device. Repeal would have minimal impact on public safety and no impact consumer protection.

***“8. (13) keep in the Vehicle and maintain a Maintenance Log for the Vehicle registered under the Owner’s Licence.”***

Repeal. The clause requires a maintenance log that serves no enforcement purpose. There is no way for officers to establish the authenticity of the entries on the log. Staff recognize that ongoing maintenance is critical for the maintenance of the vehicle but that this should be the priority of the business owner. There is no requirement for TNCs to maintain a maintenance log. Repeal of this clause would have no impact on public safety or consumer protection.

***“11. Every licensed Limousine Driver shall:******11. (7) each day before commencing the operation of the Vehicle, examine the Vehicle for Mechanical Defects or interior or exterior damage to the Vehicle including all exit doors and shall report forthwith any defects found to the Plate Owner of the Vehicle;”***

Repeal. This is not a requirement of the TNC vehicles. While generally accepted as good practice prior to operating a motor vehicle, there is no practical way to enforce as a by-law requirement. Staff identify that this requirement would more appropriately be viewed as the responsibility of the driver. Repeal would have minimal impact on public safety or consumer protection.

***“11. (8) each day upon completion of the operation of the Vehicle return the Vehicle to his employer and shall examine the Vehicle as provided in subsection (8) and shall report all defects in the Vehicle and all accidents to the Plate Owner;”***

Repeal. Not a requirement of TNCs. This clause is challenging to enforce by regulatory staff and again would be more appropriately viewed as the responsibility of the driver as defined by the vehicle owner or Limousine Company. Repeal would have minimal impact on public safety or consumer protection.

***“(10) be properly dressed, well groomed, neat and clean in personal appearance;”***

Repeal. Not a requirement of TNCs. This section is viewed as more appropriate to an internal policy for a Limousine company as opposed to an issue to be enforced through a by-law due to subjectivity. There is no discernable impact on public safety or consumer protection.

***“11. (11) be civil and behave courteously;”***

Repeal. TNCs provide access for consumers to rate the driver immediately upon completion of a trip. Limousine passengers have a similar venue through which to file a complaint with the Limousine Company directly. Issues with customer service and the behaviour engaged in by drivers are more appropriately dealt with at this level where compensation can be provided if the complaint is believed to be valid. The requirement that a regulatory body investigate subjective complaints of this type presents significant challenges and is an issue that more properly lies with the business itself.

***“11. (14) punctually keep all his appointments, and shall not make any appointments if a previous engagement would prevent him from fulfilling it;”***

Repeal. There is no standard for punctuality identified in the Public Vehicle By-law. As such, there is limited ability to enforce. TNCs provide real time data as to the location of the booked ride and the decision is customer based as to whether the time frame is acceptable. Limousine operators and companies should look at adopting a similar strategy. Repeal would have minimal impact on public safety or consumer protection.

***“11. (16) when a dispute arises between a Passenger and a Driver of a Vehicle about the Fare, the Driver may refer the dispute to the nearest police officer for arbitration;”***

Amend. The dispute over the price of a fare should be resolved by the Limousine brokerage or owner. This is not a matter that should be addressed through the use of limited police resources. Disputes with a TNC over an amount paid, the appropriateness of the fare charged and the amount are dealt with internally by the Company. This process should be adopted by Limousine operators. Mobile Licensing Enforcement would investigate any complaint related to charges that vary from the Limousine brokerages posted rates filed with the City.

***“11. (17) keep a daily Trip Sheet showing:***

***(a) the name of the Driver, the date and the Limousine Owner's Plate number;***

***(b) the location and time of the beginning and end of every Trip made;***

***(c) the amount of the Fare collected for each Trip;”***

Repeal. Trip sheets were previously used to verify the level of work that was engaged in by a driver as a means to determine qualification to enter onto and remain on the Priority Waiting List. Limousine Drivers are not eligible for inclusion on the Priority Waiting List and, as such, this clause has little value from an enforcement perspective. No impact to consumer protection or public safety.

***“11. (18) retain all Trip Sheets for at least twelve (12) months and make them available for inspection at the request of an Inspector or the Licence Manager;”***

Repeal. If subsection (17) is repealed, this section would become unnecessary.

***“11. (19) keep in his Limousine a current street guide for the City and the surrounding vicinity which is of a type approved by the Licence Manager;”***

Repeal. The ubiquity of smart phones and applications providing map and routing information make this requirement obsolete. TNCs are not required to obtain a street guide under the current regulations. Repeal would have minimal impact on public safety or consumer protection.

***“11. (20) turn off any radio, tape player or any other sound-producing mechanical device in his Limousine and shall turn down the volume on the two-way radio upon being requested so to do by any Passenger, and having done so shall leave such devices in the off position or if two-way radio turned down until termination of the Trip with that Passenger;”***

Repeal. There is no similar requirement in place for TNCs and the activity is primarily a customer service issue as opposed to a consumer protection or public safety concern. Complaints regarding this issue should be directed to the brokerage or owner to take measures they feel appropriate as opposed to a by-law enforcement investigation.

***“12. (1) No licensed Limousine Driver shall: carry in any Vehicle a greater number of Passengers than is set out in the manufacturer's rating of seating capacity for such Vehicle;”***

Repeal. The use of seatbelts is mandated through the *Highway Traffic Act* and, as such, this clause has limited value from a by-law perspective. Convictions for violations related to issue are captured in the Drivers Abstract reviewed yearly. There is no similar restriction found in the TNC By-law. The repeal of this clause would have minimal impact on public safety or consumer protection.

***“12. (2) drive a Vehicle with luggage or any object placed in, hung on or attached to the Vehicle or in such a manner as will obstruct the Driver's view of the highway;”***

Repeal. The obstruction of the drivers view from the vehicle is regulated through the *Highway Traffic Act* and, as such, this clause has limited value from a by-law perspective. Convictions for violations related to issue are captured in the Drivers Abstract reviewed yearly. There is no



similar restriction found in the TNC By-law. The repeal of this clause would have minimal impact on public safety or consumer protection.

***“12. (3) take, consume or have in his possession any alcohol, Drugs or intoxicants while he is in charge of his Vehicle for which he is a Driver;”***

Repeal. The possession of alcohol, drugs or other intoxicants is regulated through the *Highway Traffic Act* and, as such, this clause has limited value from a by-law perspective. Convictions for violations related to issue are captured in the Drivers Abstract and/or the Criminal Record Search, reviewed yearly. There is no similar restriction found in the TNC By-law. The repeal of this clause would have minimal impact on public safety or consumer protection.

***“12. (8) recommend hotels or restaurants or other like facilities unless requested to do so by the Passengers;”***

Repeal. It is unclear as to what purpose the clause serves except as part of the prohibition against entering into an exclusive concession agreement, which is also recommended for repeal. There is little evidence that this issue has been identified as problematic by the public. This issue is also difficult to enforce given the nature of the evidence that would be required to pursue the matter through a court action. Members of the public who identify that they have been “pestered” by a driver to use particular services would be able to provide a complaint to the Taxi brokerage to deal with the issue. Repeal would have minimal impact on public safety or consumer

***“14. No licensed Limousine Driver or Owner shall display or permit the display of any sign, emblem, decal, ornament or advertisement on or in his Limousine except with a content and in a form and location approved by the Licence Manager.”***

Repeal. The use of a limousine as a platform for advertising should be considered as a viable revenue stream for limousine owners whose vehicles maintain a high level of public visibility. Repeal would have minimal impact on public safety or consumer protection.

## Financial Impact

It is difficult to gauge what financial impact the amendments would have given the number proposed and the variety. There will likely be some impact due to removal of requirements for non-driving owners to maintain a Taxicab Drivers licence. There may be some increase in revenue created through the opening of the secondary market place for the transfer of plates through fees recovered for this service.

## Conclusion

It is the conclusion of the staff that the amendments identified in the Comments section would, if enacted, further serve to parallel the regulatory requirements between TNC vehicles, taxicabs and limousines.

It was further concluded that a further effort be undertaken during the Pilot Project to review the Public Vehicle By-law in its entirety to more closely align the different schedules and rationalize the regulatory requirements. Given the number of amendments and the changes in practices within the various industries regulated through the By-law, some sections would appear to be outdated and or redundant.

## **Attachments**

Appendix 1: Council Adopted Resolution 0054-2017

Appendix 2: Line by Line Review of the By-law



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