

To: Corporate Services Committee

From: Tracy Adams, Commissioner,
Corporate Services Department

Report Number: CORP-19-57

Date of Report: May 22, 2019

Date of Meeting: May 27, 2019

Subject: Modernizing and Harmonizing Vehicle-for-Hire Industry
Standards in the City of Oshawa

File: D-2200

1.0 Purpose

This report presents an overview of the next steps being proposed as part of the finalization of options regarding modernizing and harmonizing, where possible, standards associated with the Vehicle-for-Hire Industry such as Transportation Network Companies (Uber and Lyft), Taxis, Designated Driving Services, and Limousine Services.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That staff be directed to proceed with the proposed next steps to modernizing and harmonizing, where possible, standards associated with the Vehicle for Hire Industry as detailed in Section 5.3 of Report CORP-19-57 “Modernizing and Harmonizing Vehicle-for-Hire Industry Standards in the City of Oshawa”.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

Not applicable.

5.0 Analysis

5.1 Background

At its March 25, 2019 meeting, the Corporate Services Committee (“Committee”) considered a presentation (**Attachment 1**) on the issue of Transportation Network Companies (T.N.C.s) and the approach to bringing forward proposed regulatory options. The approach at the time included a special meeting of the Corporate Services Committee to consider proposed options. The special meeting of the Corporate Services Committee originally scheduled for May 13, 2019 was cancelled as staff required additional time to update and to continue the comprehensive review of standards for the Taxi Industry, Designated Driving (D.D.) Services, and T.N.C.s (collectively referred hereafter to as the “Vehicle-for-Hire Industry¹”) and to develop proposed regulatory option(s).

The current licensing system for the Taxi Industry, established in Taxicab Licensing By-law 50-2003 (appended as **Attachment 2**), was approved on May 13, 2003. The current licensing system for D.D. Services was approved by City Council and standards came into effect on January 2, 2017 and background information on D.D. Services is provided in report CORP-16-65² (appended as **Attachment 3**) for reference purposes.

Given the passage of time since the start of this review, staff are also of the opinion that it is appropriate to re-engage the Vehicle-for-Hire Industry to ensure that in addition to addressing the City’s regulatory objectives (ex. health and safety, consumer protection, nuisance control, etc.), the Industry’s feedback is appropriately addressed given that the proposed regulatory policy options that need to be developed are based on stakeholder feedback received between June 2017 and August 2017. The feedback received in the 2017 T.N.C. Public and Industry Stakeholder Consultation Process is appended as **Attachment 4**.

Finally, as part of the initial research, it became apparent that a gap still existed in the Vehicle-for-Hire analysis in that Limousines remained as a service that was not regulated. Accordingly, in order to be as inclusive as possible, it is also recommended that further research be conducted into the creation of a regulatory framework for limousines at this time.

5.2 Licensing System for Limousines and Similar Vehicles-for-Hire

The City previously regulated limousines, but the licensing system was repealed in November 1995 with the passing of By-law 90-95. Notwithstanding this, as part of the T.N.C. review and a broader review of Vehicle-for-Hire standards, staff have identified a

¹ Includes the Limousine Industry

² It is important to note that in addition to updating the insurance requirements for D.D.s in CORP-16-65, standards for D.D.s were further amended to, amongst other things, permit D.D.s to transport their client and their passengers in the client’s vehicle from any place within the City to another place. Previously, D.D.s were limited to transporting their clients and their passengers in the client’s vehicle from a licensed establishment or social engagement within the City to one or more residences.

potential need to establish regulations to address the City's regulatory objectives to ensure that regulatory standards are harmonized in an Industry-appropriate manner. Limousines are defined in the Taxicab Licensing By-law 50-2003 as:

“a Motor Vehicle which is kept for use for hire for the conveyance of passengers solely on an hourly, daily or weekly basis, which does not contain a Taximeter or two-way radio (or similar device) and which has a wheelbase of not less than 2900 millimetres”.

The distinguishing characteristics between a taxi and a limousine has traditionally been the method of compensation; lack of a taxicab meter in the vehicle; and the length (wheelbase) of the vehicle. It is proposed that staff examine the regulation of limousines and other similar Vehicles-for-Hire as part of this initiative.

5.3 Regulatory Options for Consultation and Next Steps in Finalizing, Modernizing and Harmonizing Vehicle-for-Hire Industry Standards in the City of Oshawa

The principal issue, articulated in CORP-17-24 (**Attachment 5**), is that the City's highly regulated Taxi Industry is facing competition from new entrants who operate in contravention of the City's Taxicab Licensing By-law 50-2003. To address this issue, proposed regulatory options must attempt to harmonize Vehicle-for-Hire standards in a manner that achieves the City's regulatory objectives and in a manner that recognizes the inherent differences in each industry. Specific areas and examples of regulations that are common for the Vehicle-for-Hire Industry are as follows:

- **Driver Screening:** ensuring that the driver is appropriately screened for criminal and driving-related offences.
- **Driver Training:** ensuring that the driver is provided adequate training (ex. accessible driver training for accessible taxicabs).
- **Vehicle Standards:** such regulations address the maintenance of vehicles and vehicle safety.
- **Fares for Trips:** standards ensure that consumer protection with respect to fares are addressed. This relates to the regulation of fares or requiring fares to be disclosed and agreed upon (i.e. negotiated) prior to the provision of service.
- **Operating Standards:** refers to a comprehensive range of standards relating to the company and driver to address health and safety, consumer protection, nuisance control, etc. Examples of such standards include but are not limited to: ensuring appropriate insurance; limiting the number of passengers to number of seat belts in the vehicle; and obtaining the client's permission prior to operating their vehicle (applicable only for D.D.s)
- **Licensing Fees:** refers to fees associated with attaining a licence to assist with cost recovery.

- **Penalties:** refers to enforcement tools such as Provincial Offence Act (P.O.A.) fines and Administrative Monetary Penalties (A.M.P.s) used by the City to achieve compliance with applicable by-laws.

Staff updated the municipal benchmarking completed for CORP-17-24 as it relates to T.N.C. regulations in March 2019. The updated municipal scan is appended as **Attachment 6** and identifies approaches that have been taken by other Ontario municipalities.

The following next steps are being proposed to ensure that the feedback from the Vehicle-for-Hire Industry is appropriately addressed in the proposed regulatory policy options and in the final report to be considered by Committee and Council:

- a) Schedule Industry-specific Stakeholder Consultation Sessions with staff to discuss regulatory policy options used in other municipalities and obtain preliminary input on potential options identified by the Industry which includes:
 - Taxicab Industry
 - Designated Driving Services Industry
 - Transportation Network Companies (Uber and Lyft)
 - Limousines (see Section 5.2 for more details)
- b) Present proposed regulatory policy options including an overview of feedback and benchmarking prepared by staff to the Corporate Services Committee and obtain authority to hold Industry-specific Stakeholder Consultation Sessions and a public open house to obtain comments on the options.
- c) Schedule Industry-specific Stakeholder Consultation Sessions and a public open house with staff to obtain comments on the options.
- d) Report back on a recommended regulatory policy option at a special meeting of the Corporate Services Committee.

6.0 Financial Implications

Anticipated costs to the City are included in the appropriate 2019 Departmental budgets and relate primarily to newspaper advertising costs to inform stakeholders of the Industry-specific Stakeholder Consultation Sessions and a public open house.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report directly responds to the Oshawa Strategic Plan Goal:
4.2 Accountable Leadership: Deliberate Community Engagement.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



Tracy Adams, Commissioner,
Corporate Services Department

Attachments



**Transportation Network Companies (T.N.C.s):
CORP Committee Briefing**

Corporate Services Committee | March 25, 2019.

M.L.E.L.S. Policy and Research



What we do:

- Staff Reports
- Regulatory Research
- Program Development and Implementation
- Program Evaluation
- Policy and Procedure Development

Policy and Research Administers 24 Regulatory By-laws

"A"  "Z"

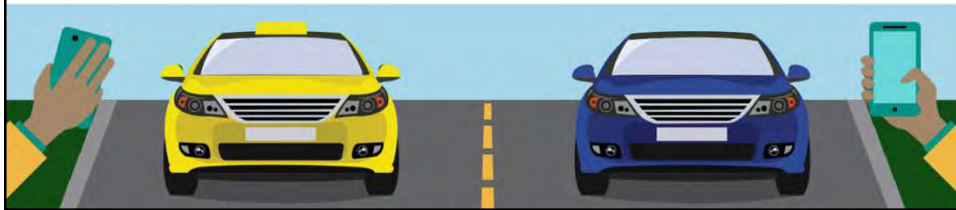
<ul style="list-style-type: none"> • Adequate Heat By-law • Adult Magazine and Video Display By-law • Bicycle Skateboard By-law • Election Sign By-law • Fence and Sight Triangle By-law • Fortification By-law • Group Home Registration By-law • Imitation Firearm By-law 	<ul style="list-style-type: none"> • Inspection By-law • Licensing By-law • Lodging House By-law • Lot Maintenance By-law • Lottery Licensing By-law • No Smoking By-law (City Hall) • Noise By-law • Nuisance By-law 	<ul style="list-style-type: none"> • Pool Enclosure By-law • Property Standards By-law • Responsible Pet Owners By-law • Taxicab Licensing By-law • Trespass By-law • Tow Truck By-law • Two Unit House Registration By-law • Unauthorized Parking By-law
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Meeting Overview

Purpose: to provide an overview of Transportation Network Companies (T.N.C.) and detail the approach for presenting feedback from the consultation process and proposed regulatory options.

Agenda:

- Background: T.N.C.s, Current Regulatory Framework, and Issues
- Municipal Responses to T.N.C.s
- Oshawa's approach



What is a T.N.C.

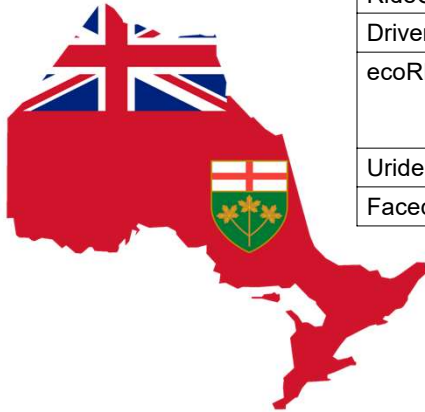
T.N.C. - "an organization whether a corporation, partnership, sole proprietor or other form...that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using their personal vehicles."
(California Public Utilities Commission, 2012)

Also called:

- Private Transportation Companies (P.T.C.)
- Personal Transportation Providers (P.T.P.)
- Commercial Private Transportation Provider (Commercial P.T.P.)



T.N.C.s in Ontario



T.N.C.	Area of Operation
Uber	Most urban municipalities
Lyft	Greater Toronto Area
RideCo	Waterloo Region
DriverHER	Toronto
ecoRIDES	Greater Toronto Area, Hamilton, Ottawa, and Niagara and Waterloo Regions
Uride	Thunder Bay and Chatham-Kent
Facedrive	Toronto

Current as of March 2019

T.N.C.s: General Business Model



1 Request



2 Ride













3 Rate

T.N.C.s: General Business Model Cont.




Common elements in T.N.C. business model:

1. **Technology** – request for ride arranged through T.N.C. “app”, driver and customer info (ex. name, vehicle information, picture, etc.) is exchanged
2. **Driver Screening** – T.N.C.s generally screen for criminal and driving offenses
3. **Reputational Rankings** – both driver and customer rate each other
4. **Payment** – payment is entirely cashless and handled through T.N.C. “app”
5. **Fares** - dynamic pricing (ex. discounted and surge pricing)

Private Transportation Services: T.N.C. Taxis D.D.s

	 T.N.C.	 TAXI	 DESIGNATED DRIVER
Conveyance of Passenger(s)	Personal Vehicle	Taxicab (Commercial Vehicle)	Customer’s Personal Vehicle
Arranging Rides		  	  

Private Transportation Services: T.N.C. Taxis D.D.s

	 T.N.C.	 TAXI	 DESIGNATED DRIVER
Fares	Dynamic	Fixed	Negotiated
Cap on Vehicles	No Cap	Capped 1:1500 pop Taxicabs: 95 Accessible: 13 Total: 108	No Cap
Operation	Regional	Local	Local/Regional

Enabling Legislation: Part 4 of Municipal Act, 2001

	Section in Municipal Act	Applicable By law
Taxicab Regulations	156	Taxicab Licensing By-law 50-2003
Designated Driver Regulations	151	Business Licensing By-law 120-2005 Schedule "N"

Purpose of Regulation: Taxicabs & D.D.s

1. Health and Safety

- Driver screening
- Vehicle mechanical safety checks

2. Consumer Protection

- Regulating fares and inspecting meters
- Requiring taxicab drivers to maintain trip sheets
- Insurance requirements

3. Equity within Industry (Nuisance Control)

- Establishing driver “code of conduct”



T.N.C.s and City By-laws

- Taxicab Licensing By-law 50-2003 and Licensing By-law 120-2005 regulate vehicles-for-hire
- General T.N.C. business model **does not** comply with Taxicab Licensing By-law



① Request



② Ride



③ Rate

City of Oshawa and T.N.C.s

- T.N.C.s general business model does not comply with Taxicab Licensing By-law 50-2003
- Municipal Law Enforcement (M.L.E.) has initiated Taxicab Licensing By-law enforcement projects
 - **Stage 1:** Education-based enforcement
 - **Stage 2:** Issuance of Provincial Offences Act Tickets



Issue Definition: T.N.C.s

Principal Issue: City's highly regulated Taxi industry is facing competition from new entrants who operate in contravention of the City's Taxicab Licensing By-law, a by-law in need of modernization.



By-Law 50-2003
Taxicab Licensing By-Law

Consolidation of By-Law 60-2012
Amended by By-Law 46-2005, 50-2005, 55-2005, 57-2005, 59-2005, 61-2005, 63-2005, 65-2005, 67-2005, 69-2005, 71-2005, 73-2005, 75-2005, 77-2005, 79-2005, 81-2005, 83-2005, 85-2005, 87-2005, 89-2005, 91-2005, 93-2005, 95-2005, 97-2005, 99-2005, 101-2005, 103-2005, 105-2005, 107-2005, 109-2005, 111-2005, 113-2005, 115-2005, 117-2005, 119-2005, 121-2005, 123-2005, 125-2005, 127-2005, 129-2005, 131-2005, 133-2005, 135-2005, 137-2005, 139-2005, 141-2005, 143-2005, 145-2005, 147-2005, 149-2005, 151-2005, 153-2005, 155-2005, 157-2005, 159-2005, 161-2005, 163-2005, 165-2005, 167-2005, 169-2005, 171-2005, 173-2005, 175-2005, 177-2005, 179-2005, 181-2005, 183-2005, 185-2005, 187-2005, 189-2005, 191-2005, 193-2005, 195-2005, 197-2005, 199-2005, 201-2005, 203-2005, 205-2005, 207-2005, 209-2005, 211-2005, 213-2005, 215-2005, 217-2005, 219-2005, 221-2005, 223-2005, 225-2005, 227-2005, 229-2005, 231-2005, 233-2005, 235-2005, 237-2005, 239-2005, 241-2005, 243-2005, 245-2005, 247-2005, 249-2005, 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Issue Definition: T.N.C.s Cont.

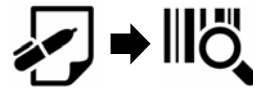
Other Issues:

- Addressing consumer protection concerns (ex. driver screening, vehicle safety, fares, etc.)
- Accessibility issues
- The need to modernize taxicab standards
- Private transportation options responsive to public's needs
- Potential delegation of licensing authority to third party
- Changing role of staff from administration to audit
- Recovery of costs for City services associated with entrance of new private transportation services

Opportunities: City, Taxis, D.D.s & T.N.C.s

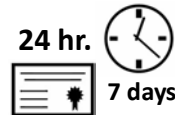
a) Delegating licensing administration to third party

- Reduce licensing administrative burden on City staff
- Ensure compliance through auditing data



b) More accessible licensing process for industry participants

- Licensing process accessible 24/7



c) Explore more transportation options for public



d) Access to data for Municipal decision making



Municipal Response: T.N.C. Regulations

Municipalities with T.N.C. Regulations:

- Toronto
- Ottawa
- Waterloo Region
- Niagara Region
- Oakville
- Barrie
- Hamilton
- London
- Mississauga
- and more.



Durham Lakeshore Municipalities

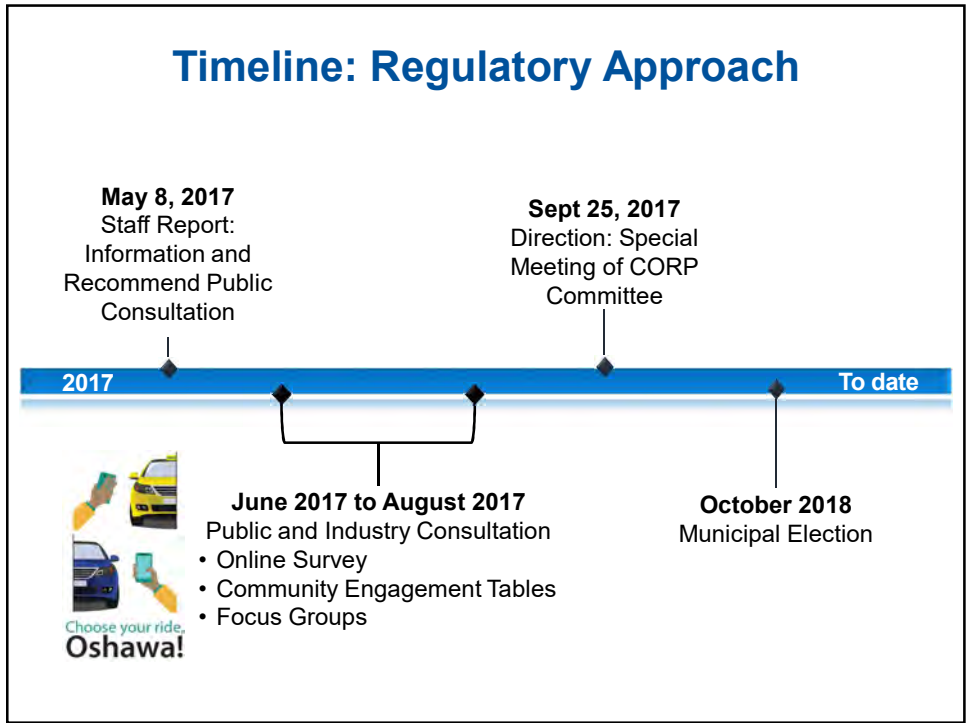
- Whitby approved by-law (2018)
- Pickering, Ajax, and Clarington – various stages of bringing regs. forward

Municipal Response: T.N.C. Regulations

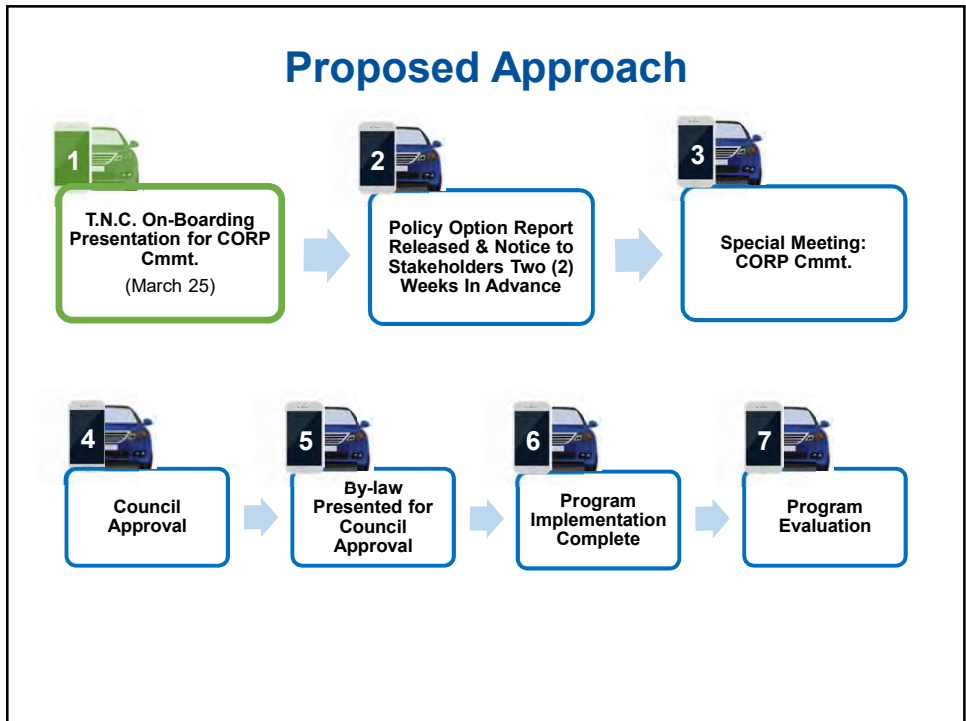
Common Elements of T.N.C. Regulations:

- **Driver Screening** – Municipalities establish standards; 3rd Party Screening: C.I.R. and Driver's Abstract
- **Vehicle Standards** – Age limit, decal/signage, and safety certificate
- **Licensing fee structure** – Flat fee, per driver fee, and/or per trip fee
- **Insurance** – Appropriate insurance required
- **Street Hailing** – pick ups prohibited
- **Auditing** - Municipality audits T.N.C. records for compliance
- **Security Technology (ex. in-car cameras)** – not required
- **Limit on number of T.N.C. drivers/vehicles** – no limit

Timeline: Regulatory Approach



Proposed Approach





Thank You

Corporate Services Committee | March 25, 2019.



By-Law 50-2003

Taxicab Licensing By-Law

Consolidation of By-Law 50-2003

Amended by By-Laws 58-2003, 106-2003, 118-2003, 15-2004, 110-2004, 149-2004, 89-2005, 96-2005, 24-2006, 1-2007, 103-2008, 116-2008, 78-2010, 147-2011, 33-2014 and 111-2015.

Note: This consolidation is prepared for convenience only.

For accurate reference, the original by-laws should be reviewed.

D-2330 – 2014 03 17

Table of Contents

Section 1: Short Title	1
Section 2: Interpretation and Enforcement	1
2.1 Scope	1
2.2 Severability	1
2.3 Compliance with Other By-Laws and Regulations	2
2.4 Gender and Number	2
2.5 Headings	2
2.6 Numbering System	2
2.7 And/Or	2
2.8 References to Legislation	2
2.9 Defined Terms	3
2.10 Effective Date	3
2.11 Repeal of Existing By-Law	3
2.12 Schedules	3
Section 3: Definitions	3
Section 4: Administration	8
4.1 Role of The City Clerk	8
4.2 Submission of Licence Application	8
4.3 Licence Renewal Applications	9
4.4 Issuance of Licences	9
4.5 Term of Licences	9
4.6 Plate Replacement	10
4.7 Disqualifications	10
4.8 Taxicab Tarrif	11
Section 5: General Licensing Requirments	11
5.1 General	11

Section 6: Taxicab Driver Licence Requirements.....	11
6.2 Obtaining a Licence	11
6.3 Testing/Training	12
6.4 Driver Duties	12
6.5 Driver Restrictions.....	16
6.6 Miscellaneous	19
Section 7: Taxicab Owner Licence Requirements.....	19
7.1 Obtaining A Licence.....	19
7.2 Plate Issuance Eligibility List.....	22
7.3 Owner Duties	23
7.4 Vehicle Registration	26
7.5 Model Year Restrictions	27
7.5 Vehicle Standards	28
7.7 Taxicab Owner Restrictions	29
7.8 Transfer of Owner Plates	32
7.9 Operation/Transfer of Owner Plates by an Estate.....	33
Section 8: Taxicab Broker Licence Requirements.....	34
8.1 Taxicab Broker Duties.....	34
8.2 Taxicab Broker Restrictions	35
8.3 Obtaining a Licence	35
Section 9: Refusal / Revocation / Suspension / Appeals.....	35
Section 10: General Procedures	38
10.1 Right of Inspection of Licenced Premises.....	38
10.2 Notification of Change of Information.....	40
10.3 Limitation of Number of Taxicab Owner Licences Issued	40
Section 11: Offences / Penalties	41

Licence Fees (Schedule 1).....	42
Taxicab Tariff (Schedule 2)	44
Taxicab Passenger Rights and Responsibilities (Schedule 3)	45
Explanation of Reasons for Licensing (Schedule 4).....	47



By-Law 50-2003

of The Corporation of the City of Oshawa

being a by-law to license, regulate and govern the businesses of brokers, owners and drivers of taxicabs in the City of Oshawa

Recitals:

(a) Whereas subsection 150(1) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a local municipality may license, regulate and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

(b) And whereas the Council of the City of Oshawa considers it desirable and necessary to license, regulate and govern owners and drivers of taxicabs and the business of taxicab brokers for the purposes of health and safety, consumer protection and nuisance control and an explanation as to the reason why the municipality is licensing these businesses and how these reasons relate to the stated purposes is contained in Schedule 4 attached to this By-law;

Now therefore the Council of the Corporation of the City of Oshawa enacts as follows:

Section 1: Short Title

1.1 This By-law may be cited as the "Taxicab Licensing By-Law".

Section 2: Interpretation and Enforcement

2.1 Scope

2.1.1 This By-law applies throughout the City of Oshawa.

2.2 Severability

2.2.1 If any provision or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

2.3 Compliance with Other By-Laws and Regulations

2.3.1 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

2.3.2 If there is a conflict between a provision in this By-law and a provision of any other City by-law, the provision that establishes the highest standard to protect the health, safety and welfare of the general public shall apply.

2.4 Gender and Number

2.4.1 In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

2.5 Headings

2.5.1 The headings of sections, subsections and articles in this By-law are inserted for ease of reference only and do not affect the interpretation of this By-law. Language within parentheses do form a part of this By-law.

2.6 Numbering System

2.6.1 The numbering system for sections, articles and sentences for this By-law is explained as follows:

Each “section” is numbered with an Arabic numeral. The second Arabic numeral following the first (separated by a decimal) describes the “subsection”. The third Arabic numeral (where one appears) following the second (separated by a decimal) describes the “article.” Clauses, lists of items, provisions or requirements within subsections or articles are defined by alphabetic characters enclosed by parentheses.

2.7 And/Or

2.7.1 The word “and” is an inclusive conjunction, the use of which indicates that all items or phrases in the subsection, article, or list in which it appears are permitted or required, as the case may be. The word “or” is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word “or” may also be an inclusive conjunction having the same meaning as the word “and”.

2.8 References to Legislation

2.8.1 All references in this By-law to names of Acts of the Legislature are, unless otherwise noted, references to the Revised Statutes of Ontario, 1990 edition. Similarly, all references in this By-law to names of Regulations are, unless otherwise noted, references to the Revised Regulations of Ontario, 1990 edition. All references to Acts

of the Legislature, Regulations and By-laws include applicable amendments, including successor Acts, Regulations and By-laws.

2.9 Defined Terms

2.9.1 Wherever the first letter of a term set out in the text of this By-law is capitalized, save for the first letter of terms which begin a sentence, section, subsection or article (unless that term is defined by this By-law) the term shall have the meaning set out for it in section 3 and shall include the plural, past and future tense, with the necessary modification in interpretation required by the context. Wherever the first letter of a term set out in this By-law appears in lower case, it shall be deemed to have the meaning ordinarily attributed to it in the English language.

2.10 Effective Date

2.10.1 Except as otherwise provided in this subsection, this By-law comes into force on the date of its final passing.

2.10.2 Article 7.6.1, paragraphs (b) and (c) shall come into force prior to December 15, 2003. (118-2003)

2.10.3 Articles 7.7.1 (a), 7.7.3 and 7.7.4 shall come into force on May 1, 2004.

2.10.4 Article 6.5.1, paragraph (w) shall come into force on June 1, 2004.

2.10.5 Subject to the following, Schedule 2 to this By-Law shall come into force on June 1, 2003. Prior to June 1, 2003, where a taxicab has not had its Taxicab Meter adjusted and sealed by the City Clerk to reflect the rates set-out in Schedule 2, the Taxicab Drivers of such Taxicabs shall (subject to article 6.5.1, paragraphs p, q and r) charge a Tariff in accordance with Schedule A to By-Law 102-2000. Where a Taxicab has had its Taxicab Meter adjusted and sealed by the City Clerk to reflect the rates set-out in Schedule 2 prior to June 1, 2003, the Taxicab Drivers of such Taxicabs shall (subject to Article 6.5.1, paragraphs p, q and r) charge Tariffs contained in Schedule 2. (58-2003)

2.11 Repeal of Existing By-Law

2.11.1 By-laws 102-2000 and 17-2001 are hereby repealed.

2.12 Schedules

2.12.1 All Schedules referred to in this By-law and attached to this By-law shall be deemed to be part of the By-law.

Section 3: Definitions

3.1 For the purpose of interpreting the provisions set forth in this By-law, the following definitions shall apply:

“Accessible Driver” means a Driver whose Taxicab Driver Licence has been endorsed by the City Clerk to permit the Driver to drive an Accessible Taxicab in the City of Oshawa; (149-2004)

“Accessible Taxicab” means a Taxicab originally constructed or subsequently modified to permit the loading, transportation and offloading of persons confined to a wheelchair and which motor vehicle complies with Ontario Regulation 629, as amended; (149-2004)

“Accessible Taxicab Owner” means a Taxicab Owner who has been issued an Accessible Plate; (149-2004)

“Accessible Plate” means a metal number plate issued to a Taxicab Owner Licensee designated by a number preceded by the letter “A”. (149-2004)

“Affiliated” means the entering into of an agreement between a Taxicab Owner and a Taxicab Broker for the provision of Dispatch services and Affiliated and Affiliation have corresponding meanings.

“Applicant” means a Person applying for a Licence, in the first instance or a renewal unless the context otherwise requires, under this By-law;

“By-law Enforcement Officer” means any Person appointed by the City to enforce its by-laws;

“CIR” means a Criminal Information Report containing the results of a search of the Canadian Police Information Centre which includes a list of all criminal convictions for which a pardon has not been received, all outstanding criminal charges, the results of a vulnerable sector search and a statement that the applicant holds a valid Ontario Driver Licence; (149-2004)

“City” means the geographical area under the jurisdiction of the Corporation of the City of Oshawa, or to the municipal corporation, as the context requires;

“City Clerk” means the Person appointed by By-law of the City as the City Clerk, and his or her deputies and designates, and includes the City’s Director, Municipal Law Enforcement and Licensing Services, and the City’s Manager, Licensing and Support Services; (147-2011)

“Committee” means the Committee of Council to which Council has delegated the responsibility of handling licensing matters (110-2004)

“Council” means the municipal council of the City;

“Director” means the City’s Director, Municipal Law Enforcement and Licensing Services; (33-2014)

“Disability” means

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and,

without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,

- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (d) a mental disorder, or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997;

“Disabled Passenger” means a Passenger who is a Disabled Person;

“Disabled Person” means a Person who has a mobility impairment affecting an individual’s ability to walk, climb stairs, sit or stand, which may be caused by age, injury, disease or by characteristics acquired before birth;

“Dispatch” means the communication of an order or information in any manner between a Taxicab Broker (or his, her or its employees, contractors or agents) and a Taxicab Driver;

“Dispatcher” means a Person who is in the employ of (or working under a contract with) a Taxicab Broker and whose duties include accepting orders for Taxicab service and/or dispatching those orders to Taxicab Drivers;

“Driver” means any Person who drives or operates a Taxicab, but does not include a licensed Designated Driver as defined in the Licensing By-law 120-2005;

(111-2015)

“Executive Plate” means a metal number plate issued to a Taxicab Owner Licensee designated by a number of 200 or greater, but not including Accessible Plates;

(149-2004)

“Fare” means the amount charged to a Person for a Trip, together with any additional charges computed in accordance with Schedule 2 to this By-law;

“Global Positioning System” means a device that is linked to a base computer, receives navigational signals from satellites, instantaneously calculates the precise latitude and longitude of each taxicab and is displayed and monitored as a moving point on city street grids on the base computer screen;

(24-2006)

“Grossly Unclean Person” means any Person covered in an amount of dirt and/or other material so excessive that if transported by the Driver the state of the Person could leave the interior of the Taxicab in an unclean state;

“**Hearings Officer**” is as defined in Hearings Officer By-law 26-2008, as amended;
(33-2014)

“**Licence**” means any licence issued by the City Clerk under this By-law;

“**Licensed**” means Licensed under this By-law;

“**Licensee**” means any Person Licensed under this By-law;

“**Limousine**” means a Motor Vehicle which is kept for use for hire for the conveyance of passengers solely on an hourly, daily or weekly basis, which does not contain a Taximeter or two-way radio (or similar device) and which has a wheelbase of not less than 2900 millimetres;

“**Maintenance Log**” means a series of written information relating to the repair of a Taxicab including the Vehicle Information Number of the Taxicab, its Owner Plate number, make, model and year of the Taxicab, the nature of the repair, the date of the repair, the name of the person performing the repair, and confirmation that the owner of the Taxicab was notified of the repair;

“**Mechanical Defect**” means damage to, or failure of a part, component or feature of, a Motor Vehicle.

“**Motor Vehicle**” includes an automobile or any other device for the transportation of Persons or goods propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act*;

“**Operate**” when used in reference to a Taxicab includes to drive the said Vehicle and to make it available to the public in service as a Taxicab and Operated and Operation have corresponding meanings;

“**Order**” means a request for Taxicab service received by a Taxicab Broker;

“**Owner Plate**” means a metal number plate issued to a Taxicab Owner Licensee under this By-law and includes Executive Plates, Standard Plates and Accessible Plates unless otherwise stated; (149-2004)

“**Passenger**” means any Person other than the Driver seated in a Taxicab and includes a Person engaging or attempting to engage the services of a Taxicab;

“**Person**” means an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and the heirs, executors or legal representatives of the Person to whom the context can apply according to law;

“**Plate Issuance Eligibility List**” means a list of Applicants for a Taxicab Owner Licence and Owner Plate maintained by the City Clerk;

“**Registered Owner**” means the Person shown to be the owner of a Motor Vehicle according to the records maintained by the Registrar of Motor Vehicles for the Province

of Ontario and includes a lessee of a Motor Vehicle pursuant to a written lease contract, a copy of which contract is filed with the City Clerk; (149-2004)

“Standard Plate” means a metal number plate originally issued under By-laws 102-2000, 90-95 or their predecessors and outstanding on the date of the passage of this By-law, including the Special Wheelchair Accessible Owner Licences issued under section 13 of By-law 102-2000 and outstanding on the date of the passage of this By-law, which plates are designated by the numbers 1 through 199, but not including Accessible Plates; (149-2004)

“Tariff Card” means a card issued by the City Clerk for display in a Taxicab which contains the tariffs then in force, and such other information as the City Clerk may from time to time direct; (147-2011)

“Taxicab” includes any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area, but does not include a bus operated by Oshawa Transit Commission or under licence under The Public Vehicles Act, an ambulance, a funeral hearse, a Motor Vehicle operated by Handi Transit Incorporated, a Motor Vehicle operated by a licensed Designated Driver pursuant to the Licensing By-law 120-2005, as amended, or a Limousine or a Motor Vehicle used for hire in the conveyance of Persons from within the City to an airport owned and operated by the Crown in right of Canada situate outside that area if the Motor Vehicle bears a valid and subsisting plate issued in respect of such airport under The Government Airport Concession Operations Regulations made under the Department of Transport Act (Canada); (111-2005)

“Taxicab Broker” means any Person who carries on the business of accepting orders for Taxicabs and dispatching Taxicabs in any manner, but does not include a licensed Designated Driving Broker as defined in the Licensing By-law 120-2005; (111-2015)

“Taxicab Meter” means a measuring device approved by the City Clerk and used in a Taxicab to calculate the rate payable for a Trip;

“Taxicab Owner” means the Person to whom the plate portion of the permit issued under the *Highway Traffic Act* for any Taxicab is issued;

“Taxicab Stand” means the area set aside and designated by the City to be used by a Taxicab while it is waiting for or picking up goods or Passengers;

“Trip” means the distance and time traveled or the distance and time to be traveled, measured from the time and point at which the Passenger first enters the Taxicab or when the Taxicab Meter is first engaged, whichever comes first, to the time and point at which the Passenger finally leaves the Taxicab or the Taxicab Meter is disengaged whichever comes last;

“Trip Sheet” means the written record of the details of each Trip, but not including the distance traveled, in a form as prescribed by the City Clerk from time to time; and

“**Vehicle**” means a Motor Vehicle.

Section 4: Administration

4.1 Role of The City Clerk

- (a) The City Clerk shall:
- (b) receive and process all applications for Licences and for renewal of Licences to be issued under this By-law;
- (c) issue Licences to and renew Licences for Persons who meet the requirements of this By-law; (33-2014)
- (d) enforce the provisions of this By-law;
- (e) generally perform all the administrative functions conferred upon him or her by this By-law.

4.1.2 An application for a Licence or renewal of a Licence shall be completed on the forms provided by the City Clerk.

4.2 Submission of Licence Application

4.2.1 A completed application for a Licence or for renewal of a Licence shall be delivered to the City Clerk and shall be accompanied by:

- (a) the fee in the appropriate amount as set out in Schedule 1 to this By-law;
- (b) an original CIR supplied directly from any police force in Ontario to the City Clerk dated within 30 days of submission of the CIR to the City Clerk; (149-2004)
- (c) three passport size photographs of the Applicant taken not more than six (6) months prior to the date of Licence application; and
- (d) if the Applicant is a corporation, a copy of the incorporating document, a Certificate of Status showing that the corporation is validly in existence at the time of the application and a list of all of the shareholders certified as true, correct and complete by a Notary Public for the Province of Ontario who has examined the corporate records. Where corporations are listed as shareholders, all natural persons owning shares in one or more corporations who have or will have an interest directly or indirectly in a Licence, must also be listed.

4.2.1.1 Where an applicant for any licence issued under this By-law has, earlier in the same calendar year, submitted a valid CIR in accordance with Article 4.2.1 (b) for any other licence, the applicant shall be excused from having to file an additional CIR in support of one or more subsequent licence applications made in that same calendar year. (1-2007)

4.2.2 Where a change occurs to the list of shareholders, directors or officers of a corporate Licensee, including those of its corporate shareholders, from that previously supplied to the City Clerk, the Licensee shall file the current information within five business days of the change, together with copies of the appropriate extracts of the corporate records evidencing same, certified as true copies by a Notary Public for the Province of Ontario.

4.2.3 All Licence applications, including those for renewals of a Licence, made by an Applicant who is:

- (a) a natural person, shall be signed in the presence of the City Clerk with proof of identity, otherwise the signature of the Applicant must be notarized;
- (b) a corporation, shall be signed in the presence of the City Clerk by an officer or director of the corporation with proof of identity, otherwise the signature of the officer or director must be notarized.

4.3 Licence Renewal Applications

4.3.1 Every application for renewal of a Licence shall be delivered in accordance with the requirements of subsection 4.2 before the expiry date of the Licence as set out in subsection 4.5.

4.4 Issuance of Licences

4.4.1 When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law the City Clerk may:

- (a) for a Taxicab Owner, issue a Taxicab Owner Licence and an Owner Plate;
- (b) for a Taxicab Broker issue a Taxicab Broker Licence; and
- (c) for a Driver, issue a Taxicab Driver Licence

all of which shall set out the expiry date of the Licence in accordance with subsection 4.5 and the Applicant shall thereby be Licensed. (33-2014)

4.4.2 In addition to every requirement imposed by this By-law, every Licence issued under this By-law is issued subject to the condition that all Federal and Provincial laws and City by-laws, including this By-law, are complied with in the operation of the business so Licensed.

4.5 Term of Licences

4.5.1 Every Taxicab Owner Licence issued or renewed under this By-law shall be valid for a period of not longer than one (1) year, effective up to and including the thirty-first (31st) day of March next occurring after issuance or renewal. (149-2004)

4.5.2 Taxicab Broker Licence issued or renewed under this By-law shall be valid for a period of one (1) year effective from the date of issuance. (1-2007)

4.5.2.1 Every Driver Licence issued or renewed under this By-law shall be valid for a period of two (2) years effective from the date of issuance. (1-2007)

4.5.3 Every Accessible Taxicab Owner Licence and Accessible Plate issued or renewed under this By-law shall be held by the licensees at the pleasure of Council and may be revoked by the City, without cause, following a period of 7 years from the date of issuance, and upon their revocation, shall revert to the City without compensation therefore. Nothing in this paragraph shall prevent Council from revoking any Accessible Taxicab Owner Licence and Accessible Plates, at any time, for cause. (149-2004)

4.6 Plate Replacement

4.6.1 When an Owner Plate is defaced, destroyed or lost, the Owner Plate holder shall apply to the City Clerk for a replacement and shall pay the appropriate fee under Schedule 1 and, where the Owner Plate is lost or destroyed, shall file a police report detailing the circumstances of the loss or destruction and, subject to the terms of this By-law, the City Clerk shall issue a replacement.

4.7 Disqualifications

4.7.1 The City Clerk shall refuse to issue a Licence under this By-law to any Person if:

- (a) that Person has been convicted of an offence, for which a pardon has not been granted, pursuant to any one or more of Parts V (Sexual Offences), VIII (Offences Against Persons) or IX (Offences Against Property) of the Criminal Code of Canada, R.S.C. 1985 c. C-46, as amended. (89-2005)
- (b) that Person has submitted false information filed in support of a Licence or Licence renewal Application;
- (c) the issuance of the Licence or renewal of the Licence would contravene any of the provisions of this By-law;
- (d) the Applicant is carrying on activities that are, or will be, if the Applicant is Licensed, in contravention of this By-law;
- (e) the application is for a Taxicab Owner Licence and the Licence and Owner Plates, if issued, would exceed the maximum number of Licences and Owner Plates permitted by Council; and
- (f) the Applicant fails to successfully complete any testing, training, educational or awareness program required by the City Clerk.

4.7.2 The City Clerk may exercise his or her discretion to refuse an Application for a Licence, where the applicant has been convicted of a criminal offence other than those set out in article 4.7.1 (a) or an offence under the *Controlled Drugs and Substances Act* (Canada).

4.8 Taxicab Tarrif

4.8.1 The Tariffs established by Schedule 2 shall automatically be increased prior to October 1st of each year by the consumer price index (annual change) for All Items for the immediately preceding calendar year over the year prior for the City of Toronto, as calculated by Statistics Canada, rounded to the nearest five (5) cent increment.

(106-2003)

Section 5: General Licensing Requirments

5.1 General

5.1.1 No Person shall Operate a Taxicab unless they are Licensed as a Driver under this By-law.

5.1.1.1 No Person shall Operate a Taxicab for which an Accessible Plate has been issued unless they are an Accessible Driver (149-2004)

5.1.2 No Person shall act as or be a Taxicab Owner unless they are Licensed as a Taxicab Owner for that Taxicab and have been issued an Owner Plate for that Taxicab under this By-law.

5.1.3 No Person shall act as or be a Taxicab Broker unless they are Licensed as a Taxicab Broker under this By-law.

5.1.4 No Person shall publish or cause to be published any representation that they are Licensed under this By-law, or hold themselves out as being Licensed under this By-law if they are not.

5.1.5 Persons who operate Vehicles owned or leased by Handi Transit Incorporated are hereby exempt from the requirements of this By-law, but only in connection with the operation of the said Vehicles.

5.1.6 Where an Applicant or Licensee receives a service as listed in Schedule 1, they shall pay the fee provided therein for that service.

Section 6: Taxicab Driver Licence Requirements

6.2 Obtaining a Licence

6.2.1 Every Applicant for a Taxicab Driver Licence shall:

- (1) In addition to the requirements of section 4, submit to the City Clerk,
 - (a) a certificate prepared by a duly qualified medical practitioner which states that the Applicant is physically and mentally capable of performing the duties of a Taxicab Driver and is free from communicable diseases;

(b) a current valid Class 'G' (minimum) drivers licence issued by the Province of Ontario which is in good standing according to the records of the Ministry of Transportation and Communications; and

(c) an Ontario Driver's record from the Ministry of Transportation (Driver's Abstract) dated not prior to 30 days before the date of Licence application;

and

(2) speak, read and write the English language.

6.3 Testing/Training

6.3.1 Every Applicant for a Driver Licence shall successfully complete a Taxicab Driver Training and Testing Program approved by the City Clerk, at the Driver's own expense, within a timeframe as required by the City Clerk. The City Clerk may, in his or her discretion, waive this requirement where the Applicant has successfully completed such a Program within five (5) years immediately preceding the date of the Licence application or successfully completes a written test in English set by the City Clerk and receives a mark of at least seventy-five percent (75%) and the City Clerk has received no complaints regarding the Applicant's conduct or performance.

6.3.2 Every Applicant or Licensee requested by the City Clerk to attend any additional testing, training, educational or awareness program shall attend such testing or program at the appointed date, time and place, at his or her own expense.

6.3.3 Where a complaint has been received by the City Clerk relating to a Licensed Driver's conduct or performance, the City Clerk may require the Licensee to successfully complete a further written test approved and set by the City Clerk as well as attend an interview and successfully complete a Taxicab Driver Training and Testing Program approved by him or her.

6.3.4 Every Applicant for an Accessible Driver endorsement may be required by the City Clerk to successfully complete an Accessible Taxicab Driver Training and Testing Program approved by the City Clerk, at the Driver's own expense, within a timeframe as required by the City Clerk, prior to receiving an Accessible Driver endorsement on his/her Taxicab Driver Licence. (149-2004)

6.4 Driver Duties

6.4.1 Every Driver shall:

(a) before commencing the Operation of a Taxicab, examine the Taxicab for Mechanical Defects or interior or exterior damage to the Taxicab and shall report forthwith any defects or damage found to the Taxicab Owner;

- (b) upon completion of the Operation of the Taxicab, examine the Taxicab as provided in paragraph (a) and shall report all defects in the Taxicab and all accidents to the Taxicab Owner;
- (c) carry the Driver Licence issued under this By-law and his/her Ontario drivers' licence with them at all times when operating a Taxicab;
- (d) at all times while operating the Taxicab, display the current Tariff Card and Driver Licence, each in a form, location and manner as the City Clerk may from time to time direct; (147-2011)
- (d.1) provide to a Passenger forthwith upon the Passenger's request the original Tariff Card for the Passenger's inspection including inspection by means of reading by touch the Tariff's Card's Braille print;(147-2011)
- (e) be civil, courteous, and refrain from using profanity, and offer to assist a Passenger when it is evident that the Passenger is a Disabled Person, is elderly, or is in need of assistance;
- (f) give a Passenger a receipt on a form approved by the City Clerk showing the Driver's name, the Owner Plate number for the Taxicab, the date and time of the trip, place of pick up, place of discharge and the Fare charged when requested or whenever there is a dispute over the Fare;
- (g) subject to article 6.4.1.1, paragraph (m) of article 6.4.1, paragraph (f) of article 6.5.1, and paragraph (i) of article 8.1.1, and except when there is a previous Order or engagement, serve the first Person requiring the service of the Taxicab at any place within the City, at any time by day or night, except when the Person:
 - i) refuses to give their destination, or
 - ii) is in the possession of an animal other than a medical aid animal, or
 - iii) has not paid a previous Fare or cancellation fee, or
 - iv) 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
 - v) is a Grossly Unclean Person (149-2004)
- (h) punctually keep all appointments, and shall not make any appointments if a previous engagement would prevent them from fulfilling it;
- (i) take due care of all property delivered or entrusted to them for conveyance or safekeeping, and immediately upon the termination of any hiring engagement shall examine the interior of the Taxicab for any

property lost or left therein, and all property or money left in the Taxicab shall be forthwith delivered over to the Person owning the property or money and if the owner of the property or money cannot at once be found, the Driver shall deliver the property or money to the nearest police station with all the information in their possession regarding the property or money;

- (j) when a Passenger enters a Taxicab and gives the Driver the desired destination, take the most direct available route to the destination desired unless the Passenger designates otherwise;
- (k) make a Trip Sheet of all Trips made by the Taxicab during each period of continuous operation (shift) and shall submit a copy of it to the City Clerk, upon request. The Trip Sheet shall be updated after each Trip and shall contain the following minimum information:
 - i) the name of the Driver, the date and the Owner Plate number,
 - ii) the time, location and destination of every Trip made,
 - iii) the amount of the Fare collected for each Trip, and
 - iv) confirmation of compliance with paragraph (a) of article 6.4.1, together with findings of any defects or damage. (149-2004)
- (l) retain all Trip Sheets for at least three (3) months and make them available for inspection at the request of a By-law Enforcement Officer or the City Clerk;
- (m) only enter a Taxicab Stand by taking the position at the end of any line formed by the Taxicabs already on the Taxicab Stand;
- (n) while waiting at a Taxicab Stand or at any public place:
 - i) not obstruct or interfere in any way with the normal use of the Taxicab Stand or public place, or interfere with the surrounding traffic patterns;
 - ii) not make any loud noise or disturbance;
 - iii) not wash the Taxicab;
 - iv) not make repairs to the Taxicab, unless the repairs are immediately necessary;
- (o) subject to paragraph (p), engage the Taxicab Meter at the commencement of the Trip when the Passenger enters the Taxicab and keep it engaged throughout the Trip;
- (p) be allowed to engage the Taxicab Meter before the Passenger enters the Taxicab only after the Taxicab Driver has notified the Passenger of

the arrival and has waited a reasonable time after the due time of the Order;

- (q) at the conclusion of the Trip, place the Taxicab Meter in the time off status and after payment place it in the vacant status;
- (r) keep in the Taxicab a current street guide for the City and the surrounding vicinity;
- (s) turn off any radio, tape player or any other sound-producing mechanical device in the Taxicab and turn down the volume on the two-way radio upon being requested so to do by any Passenger, and having done so leave such devices in the off position or, if a two-way radio, turned down until termination of the Trip with that Passenger;
- (t) on becoming aware that he or she has accidentally activated the emergency lights, immediately notify his/her Dispatcher of the accidental activation and pull over to the side of the road, as soon as it is reasonably safe to do so, and deactivate the emergency lights;
- (u) produce for the inspection of the City Clerk or a By-law Enforcement Officer, on request, the Maintenance Log for the Taxicab; and
- (v) securely fasten all Disabled Passengers, wheelchairs and any other Passenger aids, including batteries, so that they are prevented from moving while the Taxicab is in motion.
- (w) record all defects examined as provided in paragraphs (a) and (b), and record when, and to whom, the defects were reported on a Driver Taxicab Examination Log, in a form as prescribed by the City Clerk,
(149-2004)

6.4.1.1 Every Driver, when operating a Taxicab for which an Accessible Plate has been issued, shall provide priority service to Disabled Persons at all times, regardless of prior requests for service from persons who are not Disabled Persons; (149-2004)

6.4.2 A Driver shall not Operate a Taxicab unless it:

- (a) is equipped with an extra tire, wheel and jack ready for use for that Taxicab;
- (b) is equipped with a Taxicab Meter;
- (c) meets the standards for the Issue of a Safety Standard Certificate of mechanical fitness;
- (d) as to its interior, including the trunk, is:
 - i) free of all dust, dirt, grease, oil, adhesive resin and any other item which can be transferred onto the person, clothing or possessions of a Passenger;

- ii) free of all waste paper, cans, garbage or any other item not intrinsic to the Operation of the vehicle,
 - iii) free of noxious substances,
 - iv) free of tears and cigarette burns in the upholstery
 - v) dry, and
 - vi) in good repair; and
- (e) as to its exterior:
- i) free of all dust, dirt, grease, oil, adhesive resin and any other item which can be transferred onto the person, clothing or possessions of a Passenger, except water or snow,
 - ii) is in good repair,
 - iii) is free from exterior body damage,
 - iv) has a well maintained exterior paint finish, and
 - v) has four matching hubcaps.

6.4.3 Every Driver and Every Taxicab Owner Licensed under this By-law shall, on request of the City Clerk or a By-law Enforcement Officer, produce his or her Licence and such other documentation as is requested upon an inspection.

6.4.4 Every Driver who is charged or convicted with an offence under the *Criminal Code of Canada* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Highway Traffic Act* shall, within seven (7) calendar days of being so charged or convicted, report that fact to the City Clerk.

6.4.5 The City Clerk may, at any time if he or she believes it may be in the public interest, require a Driver to provide a certificate prepared by a duly qualified medical practitioner attesting as to whether or not the Driver is fit and able to Operate a Taxicab.

6.4.6 When a Driver has had his or her drivers' licence issued under the *Highway Traffic Act* cancelled, suspended or revoked or where that licence has expired, the Driver shall immediately report that fact to the City Clerk and the Licence issued under this By-law shall be deemed to be suspended as of the date of cancellation, or suspension or revocation of the *Highway Traffic Act* licence.

6.5 Driver Restrictions

6.5.1 No Driver shall:

- (a) drive a Taxicab unless they are,
 - i) well-groomed,

- ii) neat and clean in personal appearance, and
 - iii) dressed in pants (but not jeans or sweatpants) or skirt, shirt or blouse with a collar and shoes, all free from obvious wear or damage;
- (b) carry in any Taxicab a greater number of Passengers than is set out in the manufacturer's rating of seating capacity for such Taxicab;
 - (c) Operate a Taxicab with luggage or any object placed in, hung on or attached to the Taxicab or in such a manner as will obstruct the Driver's view of the highway;
 - (d) take or consume any intoxicants or take, consume or have in their possession any alcohol, or drugs prohibited by the Controlled Drugs and Substances Act (Canada) while they are Operating a Taxicab;
 - (e) use any Tariff Card, other than that obtained from the City Clerk;
 - (f) take on any additional Passengers after the Taxicab has departed with one or more Passengers from any one starting point except under the following circumstances:
 - i) when done at the request of a Passenger already in the Taxicab;
 - ii) in an emergency situation;
 - iii) when Operating a Taxicab which is being used exclusively for the transportation of children to and from school;
 - iv) when Operating a Taxicab which is being used pursuant to a prearranged contract for transportation of Disabled Passengers.
 - (g) drive a Taxicab with Mechanical Defects of which they are aware;
 - (h) drive a Taxicab whose Taxicab Owner does not have a Taxicab Owner Licence and Owner Plate registered under this By-law for that Taxicab;
 - (i) permit a Passenger to stand in the Taxicab while the Taxicab is in motion;
 - (j) Operate a Taxicab for more than twelve (12) hours in any period of twenty-four (24) hours, or for any period which is more than five (5) consecutive hours at any time without a break of not less than twenty (20) consecutive minutes;
 - (k) Operate a Taxicab when the Taxicab Meter has not been adjusted in accordance with the existing current tariffs in Schedule 2 or when the Operation of the Taxicab Meter has not been approved by the City Clerk;

- (l) Operate a Taxicab when the Taxicab Meter does not operate properly;
- (m) Operate a Taxicab when the Taxicab Meter seal is not affixed or improperly affixed;
- (n) Operate a Taxicab without,
 - i) an Owner Plate,
 - ii) side numbers,
 - iii) properly functioning emergency lights as required in subsection 7.6; and
 - iv) a properly functioning roof light;
- (o) induce any Person to engage his or her Taxicab by any misleading or deceiving statement or representation to that Person;
- (p) publish or use any tariff or demand or receive a Fare other than as calculated in accordance with Schedule 2, except pursuant to a written contract for taxicab services between a Taxicab Owner and another Person to extend for a period of nine months or more, at an agreed Fare, rate or charge;
- (q) except for a tip, gratuity or credit card service charge, recover or receive any Fare or charge from any Passenger or Persons who had demanded his or her services which is greater than the Fare or charge permitted by this By-law, except pursuant to a written contract for taxicab services between a Taxicab Owner and another Person to extend for a period of nine months or more, at an agreed Fare, rate or charge;
- (r) recover or receive any Fare or charge from any Passenger in respect of whom the Driver has refused or neglected to comply with clause 6.4.1(d.1) of this By-law, except pursuant to a written contract for taxicab services between a Taxicab Owner and another Person to extend for a period of nine months or more, at an agreed Fare, rate or charge; (147-2011)
- (s) make any charge for time lost through defects or inefficiency of the Taxicab or the errors of the Driver;
- (t) make any charge for the time elapsed due to early arrival of the Taxicab in response to a call for the Taxicab to arrive at a fixed time;
- (u) Operate a Taxicab for which there is no proof of current insurance;
- (v) use or permit to be used a two-way radio or monitoring device in the Taxicab which enables the transmission and/or reception of any

frequency of a Taxicab Broker Licensed under this By-law with whom he or she is not Affiliated;

- (w) smoke in a Taxicab;
- (x) use any radio system or telephone system to speak to anyone other than a Dispatcher while a Passenger is in the Taxicab;
- (y) speak in an obscene, foul, boisterous, racist, loud, threatening or abusive manner to any Person, including a Dispatcher, while Operating a Taxicab;
- (z) transport a child under the age of twelve years old in the front seat of the Taxicab, without first disengaging the front seat passenger air bag;
- (aa) knowingly activate the emergency lights on a Taxicab except where, on reasonable grounds, he or she believes that a threat exists of:
 - (i) harm to any person; or
 - (ii) damage to, or loss of, any property.
- (bb) Operate a Taxicab without there being displayed and maintained in good, legible condition, a true copy of Schedule 3 to this By-law in an area of the Taxicab as approved by the City Clerk; or
- (cc) Operate a Taxicab for the purpose of transporting Passengers who are confined to a wheelchair unless the Taxicab is an Accessible Taxicab; and (149-2004)
- (dd) Transport Passengers who are confined to a wheelchair in a Taxicab unless that Driver is an Accessible Driver. (149-2004)

6.6 Miscellaneous

6.6.1 No Driver shall be required to accept any Order or request for service when the expenditure of money by the Driver is required on behalf of the Passenger.

Section 7: Taxicab Owner Licence Requirements

7.1 Obtaining A Licence

7.1.1 A Person who is the owner of more than one Taxicab shall take out a separate Licence and Owner Plate for each Taxicab Operated or permitted or allowed to be Operated in the City by that Person.

7.1.2 Every Applicant for a Taxicab Owner Licence and Owner Plate shall, immediately prior to the issuance of a Taxicab Owner Licence and Owner Plate:

- (a) provide proof in a form acceptable to the City Clerk of compliance with article 7.1.3;

- (b) submit to the City Clerk, a current passenger motor vehicle permit which is in good standing and was issued by the Ministry of Transportation for the Motor Vehicle to which the Owner Plate will be attached and:
 - i) said permit shall be issued in the name of the Applicant where the Owner Plate is an Executive Plate; and
 - ii) as of May 1, 2004, said permit shall be issued in the name of the Applicant where the Owner Plate is a Standard Plate; (15-2004)
- (c) submit and file with the City Clerk a copy of the current Ontario Standard Automobile Insurance policy for the Vehicle for which the Applicant is the owner and the policy shall be endorsed to provide that the City Clerk will be given at least fifteen (15) days notice in writing prior to cancellation, expiration or change in the amount of the policy and the policy should insure in respect to any one accident a third party liability limit of at least one million dollars (\$1,000,000.00);
- (d) submit and file a Safety Standard Certificate issued within the previous thirty-six (36) days of the date of application under the Highway Traffic Act for the Motor Vehicle to which the Owner Plate will be attached;
- (e) pay the applicable fees set out in Schedule 1 to this By-law;
- (f) pay all fines, penalties, judgments and any other amounts, including awards of legal costs and disbursements, owing to the City, including outstanding property taxes where such amounts outstanding are \$10,000 or more; (96-2005)
- (g) submit the Motor Vehicle to which the Owner Plate will be attached for inspection and registration by the City Clerk; and
- (h) meet the requirements of this By-law relating to Vehicle standards.

7.1.2.1 Every person to whom an Accessible Taxicab Owner Licence and Accessible Plate is to be issued, immediately prior to the issuance of that Licence and Plate, shall provide the City Clerk with such evidence as prescribed by him or her showing that the Taxicab to be registered under this By-law for that Accessible Plate meets the requirements of Ontario Regulation 629, as amended, or its successor.

(149-2004)

7.1.3 No Person shall be:

- (a) issued a Taxicab Owner Licence;
- (b) have their name placed on the Plate Issuance Eligibility List; or
- (c) have their name maintained on the Plate Issuance Eligibility List unless they have, for an average of at least thirty-five (35) hours per week during at least forty-four (44) weeks per year, been:

- i) licensed as a driver of taxicabs under this By-law or the by-law of any other municipality;
- ii) licensed as an owner of taxicabs under this By-law or the by-law of any other municipality;
- iii) licensed as a broker of taxicabs under this By-law or the by-law of any other municipality;
- iv) employed by a broker of taxicabs licensed under this By-law or the by-law of any other municipality; or
- v) a combination of any of (i) through (iv)

for the 2 (two) years immediately preceding the date of application for a Taxicab Owner Licence, for the 2 (two) years immediately preceding the placement of their name on the Plate Issuance Eligibility List or continuously since the placement of their name on the Plate Issuance Eligibility List, respectively.

7.1.3.1 Notwithstanding anything to the contrary in article 7.1.3 or this By-law, the City Clerk may, at the direction of City Council, issue six (6) Accessible Taxicab Owner Licences and Accessible Plates to whomsoever directed by City Council, without regard to the Plate Issuance Eligibility List and notwithstanding that the issuance of these Licences and Plates may cause the maximums established by article 10.3.1 to be exceeded. (149-2004)

7.1.4 Where on account of Disability, a Person has become unable to drive a taxicab or continue employment with a broker of taxicabs and that Person:

- (a) immediately prior to the occurrence or onset of the disability did comply with article 7.1.3, at least in part, by virtue of compliance with subparagraph (i) or (iv) thereof; and
- (b) files with the City Clerk as soon as physically possible, a current doctor's certificate confirming the disability, and, if applicable, the date by which the Disability ended

that Person shall be deemed to have complied with article 7.1.3, notwithstanding their continued inability to drive or be employed, throughout the period of Disability.

7.1.5 When a Taxicab Owner ceases to have a current valid Ontario Standard Automobile Insurance Policy in good standing and properly endorsed in accordance with the requirements of this section, his, her or its Taxicab Owner Licence shall be deemed to be suspended as of the date on which such policy ceased to be in effect, and the said Licence shall only be reinstated on there being delivered to the City Clerk, written proof of insurance in accordance with the provisions of this By-law within sixty (60) days from the date of the deemed suspension.

7.1.6 Where a Licence has been deemed to be suspended under article 7.1.5, and where no written proof of insurance in accordance with the provisions of this By-law is

filed with the City Clerk within sixty (60) days from the date of the deemed suspension, that Licence and the Owner Plate shall be deemed to have been cancelled.

7.1.7 When a Taxicab Owner cancels their current insurance before the expiry date of the policy, they must produce a certificate of newly acquired insurance.

7.1.8 Every Taxicab Owner shall file with the City Clerk at least five (5) working days prior to the expiry date of any current insurance policy all insurance renewal policies or certificates of insurance in accordance with the insurance requirements of this By-law.

7.2 Plate Issuance Eligibility List

7.2.1 The City Clerk shall maintain a Plate Issuance Eligibility List which shall contain the names of Applicants for a Taxicab Owner Licence in the order of the receipt of their application, subject to article 7.2.5, and the City Clerk may, subject to the provisions of this By-law, issue a Taxicab Owner Licence and Executive Plate as they become available in accordance with subsection 10.3, to those individuals in the order in which their names appear on the Plate Issuance Eligibility List.

7.2.2 No Person, by virtue of the submission of an application for a Taxicab Owner Licence and Owner Plate or by virtue of the placing of their name on the Plate Issuance Eligibility List, shall obtain a vested right to a Taxicab Owner Licence and/or Owner Plate, or to remain on the Plate Issuance Eligibility List at any time and Council reserves the right to amend or repeal this By-law and any successor By-laws and to place further or additional requirements or restrictions on such Applicants or Persons at any time and from time to time, or to purge or eliminate the Plate Issuance Eligibility List at any time or from time to time.

7.2.3 When a completed application for a Taxicab Owner Licence is received by the City Clerk and the Applicant meets all the requirements of this By-law and the attached Schedules but a Licence cannot be issued because of the limitation on the number of Taxicab Owner Licences and Owner Plates set out in subsection 10.3, the Applicant's name shall be placed at the end of the Plate Issuance Eligibility List by the City Clerk if the Applicant provides proof in a form acceptable to the City Clerk of compliance with article 7.1.3.

7.2.4 No Person shall hold more than one position on the Plate Issuance Eligibility List at any one time.

7.2.5 Those Persons whose names appeared on the previous Priority Waiting List under By-law 102-2000 shall, if they continuously comply at all times with all of the requirements of this section, have their names placed and maintained on the Plate Issuance Eligibility List in the order in which they appeared on the said Priority Waiting List and in priority to all Applicants under this By-law.

7.2.6 The Plate Issuance Eligibility List shall be available for inspection during normal business hours at the office of the City Clerk.

7.2.7 The City Clerk shall review the Plate Issuance Eligibility List at regular intervals, but in any case not less than once annually, to determine that those listed on it continue

to remain in compliance with the requirements of this By-law and any Person whose name is on the Plate Issuance Eligibility List and who appears to the City Clerk to not comply with this By-law shall be notified by registered letter mail to his her or its last known address that their name is to be removed from the Plate Issuance Eligibility List and that Person may appeal this decision to the Hearings Officer within fourteen (14) days following the date of mailing of the notice, whether actually received or not, by the City Clerk. (33-2014)

7.2.8 Each Person whose name appears on the Plate Issuance Eligibility List shall complete a statutory declaration in a form as required by the City Clerk attesting to their continued eligibility to remain on the Plate Issuance Eligibility List in accordance with the requirements of this By-law, as they may be amended from time to time, and shall provide an original copy to the Clerk within thirty (30) days following the date of mailing of a notice by registered letter mail to his her or its last known address, whether actually received or not, in which the Clerk notifies that it is required.

7.2.9 Persons who fail to comply with article 7.2.8 shall have their names removed from the Plate Issuance Eligibility List without further notice.

7.2.10 When a Taxicab Owner Licence and Owner Plate is issued to a Person whose name is on the Plate Issuance Eligibility List, the name of that Person shall be removed from the List by the City Clerk and all other names below that of the said Person's shall be moved forward one position.

7.2.11 Where the City Clerk has removed a Person's name from the Plate Issuance Eligibility List pursuant to article 7.2.7, and an appeal to the removal of the name has been received by the City Clerk, the City Clerk shall not remove that name from the Plate Issuance Eligibility List until such time as the Hearings Officer has disposed of the appeal and the City Clerk shall note beside that name on the Plate Issuance Eligibility List that an appeal has been received and the City Clerk shall not issue any Taxicab Owner Licences or Owner Plates under this By-law until such time as the Hearings Officer has disposed of all outstanding appeals unless the Taxicab Owner Licences and Owner Plates to be issued would not have gone to the affected Person due to their position on the Plate Issuance Eligibility List. (33-2014)

7.2.12 When a Taxicab Owner Licence and Owner Plate is approved for issuance, the Applicant shall, within one month of the date of notification of such approval by the City Clerk, register a Taxicab to that Owner Plate and affix the Owner Plate to that Taxicab, failing which, that Applicant shall not be issued the Taxicab Owner Licence and Owner Plate, their name shall be removed from the Plate Issuance Eligibility List, and the City Clerk may proceed to issue the Taxicab Owner Licence and Owner Plate to another eligible Applicant in accordance with this By-law.

7.3 Owner Duties

7.3.1 Every Taxicab Owner shall:

- (a) keep at all times in the Taxicab for which they are the owner, the original or a photostatted copy of the original of each of the following documents:
- i) the current Ontario Ministry of Transportation Passenger Motor Vehicle Permit issued for that Taxicab;
 - ii) the current Taxicab Owner Licence issued under this By-law; and
 - iii) the certificate of liability insurance for the Taxicab;
 - iv) a current, unaltered, unmutated Driver Taxicab Examination Log showing all defects recorded by all Driver's of that Taxicab within the immediately preceding three (3) months. (149-2004)
- (b) maintain each Taxicab registered under this By-law in operation not less than thirty-five (35) hours per week at all times. Taxicabs may not comply with this requirement for a period of up to eight (8) weeks, consecutive or intermittently, in one (1) licence year without violating this requirement. The City Clerk may grant one extension only of the eight (8) week period upon application in writing, stating reasons for the request, to the City Clerk prior to the end of the initial eight (8) week period. (33-2014)
- (c) employ or use only the services of Drivers who are licensed by the Ontario Ministry of Transportation for the particular class of the Vehicle being Operated as a Taxicab and who are Licensed under this By-law;
- (d) provide the City Clerk and, where applicable, any Taxicab Broker with whom they are Affiliated, with the names of all Drivers who are permitted to Operate the Taxicab;
- (e) Intentionally deleted; (149-2004)
- (f) repair any Mechanical Defect(s) in the Taxicab reported to them by a Driver, the City Clerk or a By-law Enforcement Officer;
- (g) notify the City Clerk when a Taxicab is not expected to be Operated for more than five (5) consecutive days, together with the reason, within seventy-two (72) hours of the Taxicab Owner becoming aware of the reason it will not be Operated and, upon being Operated again, provide the City Clerk with a Safety Standard Certificate issued under the Highway Traffic Act forthwith, at the discretion of the City Clerk, where the reason for not being in Operation was a Mechanical Defect or damage to the Taxicab;
- (h) have in or on the Taxicab, as required:
- i) the Owner Plate firmly affixed to the rear bumper of the Taxicab or at a location and manner approved by the City Clerk; (147-2011)

- ii) the number of the Owner Plate registered for use with that Taxicab in numbers of at least ten (10) centimetres in height of a distinct contrasting colour to that of the Taxicab, affixed on both front fenders on the top rear of the fender not more than eight (8) centimetres below the top of the fender or otherwise in a location or manner approved by the City Clerk. Where the Taxicab is a spare Taxicab, to be used in accordance with article 7.4.4, the number displayed on that Taxicab shall be one approved by the City Clerk and preceded by the letter "S"; (149-2004)
 - iii) affixed in a location approved by the City Clerk, the current Tariff Card in a form as the City Clerk may from time to time direct; (147-2011)
 - iv) a Taxicab Meter of the type approved by the City Clerk and sealed by the City Clerk and mounted in a position approved by the City Clerk so that it is clearly visible to the Passengers in the front and rear seat of the Taxicab;
 - v) an electrically illuminated roof sign which is securely attached to the top of the Taxicab in a manner approved by the City Clerk; and
 - vi) the name of the Taxicab Owner or the Taxicab Broker for that Taxicab on the front door of each side of the vehicle, in contrasting lettering at least ten (10) centimetres high and five (5) centimetres wide;
- (i) register his, her or its corporate colours or emblems, if he, she or it is not Affiliated with a Taxicab Broker, with the City Clerk;
 - (j) upon receipt of a notice of inspection by the City Clerk, attend, personally or by agent, with the Taxicab referred to in the said notice at the appointed time and place and shall bring a Safety Standard Certificate issued under the Highway Traffic Act and dated not more than thirty-six (36) days prior to the date of the inspection;
 - (k) display and maintain in good, legible condition a true copy of the Taxicab Passenger Rights and Responsibilities (Schedule 3) in an area of the Taxicab as approved by the City Clerk;
 - (l) maintain in the Taxicab a current Maintenance Log of all maintenance and repairs performed on the Taxicab within the immediately preceding six (6) months; and
 - (m) maintain the Taxicab in good condition at all times. Without limitation, every Owner shall:
 - i) maintain all drive train components (including the engine, transmission, suspension, braking system, etc.) in accordance with the standards of Ontario Regulation 611 (R.R.O. 1990), as may be

amended from time to time, passed pursuant to the Highway Traffic Act;

- ii) maintain all factory and after-market parts (such as lamps, latches, seats, body parts, windows, heater/defroster systems, etc.) free of defects or damage and in complete operational order; and
- iii) maintain the vehicle generally to allow for its safe operation.

7.3.1.1 Every Owner of a Taxicab to which an Accessible Plate is affixed shall:

- (a) Ensure the Taxicab is in compliance with Ontario Regulation 629, as amended, at all times during operation of that Taxicab;

and

- (b) Ensure that every Driver of the Taxicab complies with the requirements of article 6.4.1.1 of this By-law. (149-2004)

7.4 Vehicle Registration

7.4.1 Every Taxicab Owner, before using the Taxicab to which an Owner Plate will be affixed, shall submit the Taxicab for inspection and registration by the City Clerk under this By-law during normal business hours and it shall not be used until the inspection has taken place and the approval given.

7.4.2 When the Taxicab Owner meets all the requirements of this By-law, the City Clerk shall register it as a Taxicab for the Owner Plate that is affixed to it.

7.4.3 Where a Taxicab Owner wishes to change the Motor Vehicle which is registered as a Taxicab for an Owner Plate, he, she or it shall submit the new Motor Vehicle for inspection under this subsection and, upon registration of the new Motor Vehicle, shall pay the fee prescribed under Schedule 1.

7.4.4 Notwithstanding the provisions of article 7.4.1, article 7.4.3, paragraph (d) of article 7.7.1, and article 7.7.4, where a Taxicab cannot be Operated because of a Mechanical Defect or damage to the Taxicab, a Taxicab Owner may, for a temporary period not exceeding 28 consecutive days, affix an Owner Plate to a Vehicle for which that same Owner Plate is not registered where:

- (a) that Vehicle has been registered by the City Clerk as a spare Taxicab for the current year by a Broker Affiliated with that Owner, or by the Owner;
- (b) that Vehicle has met all of the requirements under this By-law;
- (c) a valid Safety Standard Certificate not more than six months old for that Vehicle is on file with the City Clerk and the Vehicle has passed the most recent semi-annual inspection by the City Clerk;

- (d) the Owner shall report the use of a spare Taxicab to the City Clerk immediately upon commencement of its use and shall include in the notification which Taxicab it is replacing and confirm that the Owner Plate of the replaced Taxicab has been affixed to the spare Taxicab. For certainty, reporting of use may be done by depositing written notification in the City Hall after hours mail deposit box, or by facsimile transmission to the Licensing Division if the spare Taxicab is used when City Hall is not open for business;
- (e) the Owner shall report the return to service of the replaced Taxicab to the City Clerk immediately upon recommencement of its use and confirm that the Owner Plate has been reaffixed to the formerly replaced Taxicab and that the spare Taxicab is no longer being used;
- (f) that Vehicle is equipped with a Taxicab Meter of the type approved by the City Clerk and sealed by the City Clerk and mounted in a position approved by the City Clerk so that it is clearly visible to the Passengers in the front and rear seat of the Taxicab; and
- (g) where the Owner Plate to be affixed to a spare Taxicab is an Accessible Plate, the spare Taxicab must be an Accessible Taxicab.
(149-2004)

7.5 Model Year Restrictions

7.5.1 No Motor Vehicle more than seven (7) years old may be registered for the first time as a Taxicab under this By-law.

7.5.2 No Motor Vehicle more than ten (10) years old shall be used as a Taxicab in the City.

7.5.3 For the purpose of this By-law the age of a Motor Vehicle shall be determined from January 1st of the model year of said Motor Vehicle.

7.5.4 The requirements of articles 7.5.1 and 7.5.2 shall not apply to a Motor Vehicle to which a Standard Plate is affixed provided that the following requirements have been satisfied:

- (a) any Motor Vehicle from model year 1990 or older shall not be used as a Taxicab in the City after October 1, 2003, and may be replaced with a Motor Vehicle with a model year 1991 or newer, in which case the requirements of paragraphs (b) through (d) shall apply to that Motor Vehicle;
- (b) any Motor Vehicle from model years 1991 through and including 1993 shall not be used as a Taxicab in the City after October 1, 2004, and may be replaced with a Motor Vehicle with a model year 1994 or newer, in which case the requirements of paragraphs (c) and (d) shall apply to that Motor Vehicle;

- (c) any Motor Vehicle from model years 1994 through and including 1996 shall not be used as a Taxicab in the City after October 1, 2005, and may be replaced with a Motor Vehicle with a model year 1997 or newer, in which case the requirements of paragraph (d) shall apply to that Motor Vehicle; and
- (d) Commencing on October 1, 2006, the requirements of articles 7.5.1 and 7.5.2 shall apply to a Motor Vehicle to which a Standard Plate is affixed.

7.6 Vehicle Standards

7.6.1 Every Taxicab Owner Licensed as such under this By-law shall cause his, her or its Taxicab used in the City to conform, at all times, to the following standards:

- (a) Every Taxicab registered for the first time on or after October 1, 2003 shall:
 - i) be a four (4) door sedan or wagon with two rear passenger doors and a rear seat width of at least 137 centimetres from inside door to inside door or be a van equipped with four side doors; and
 - ii) be equipped with functioning air conditioning and heater; and
 - iii) be equipped with clear untinted glass windows, except such tint as installed by the original manufacturer of the Vehicle.
- (b) Every Taxicab shall be equipped with two (2) emergency lights conforming to the following standards:
 - i) equipped with an intermittent flasher to continuously flash until reset or disengaged;
 - ii) amber in colour;
 - iii) minimum of 5 centimetres in diameter;
 - iv) shock resistant;
 - v) wired on a circuit independent from all other equipment in or on the Taxicab;
 - vi) visible, upon activation, from the front and rear of the Taxicab from a distance no less than 15 metres during daylight and evening hours;
 - vii) installed at opposite ends (front and back) of the Taxicab with one located on the roof facing toward the front of the Taxicab and one located on the trunk or rear of the Taxicab, facing to the rear of the vehicle; and

- viii) situated such that the lights, when activated, are not visible to occupants of the Taxicab.
- (c) Every Taxicab shall be equipped with:
- i) a silent activation switch to activate the emergency lights located as approved by the City Clerk; (149-2004)
 - ii) an illuminated activation switch for the emergency lights located in the trunk of the Taxicab located out of plain view, and protected from accidental activation;
 - iii) a reset/disengage switch for the emergency lights located only in the trunk of the Taxicab, located out of plain view, that remains illuminated so long as the emergency lights are activated; and
 - iv) an emergency alert system incorporated with a two-way radio system as approved by the City Clerk.
- (d) Subsections 7.6.1(b) and (c) shall not apply where every taxicab is equipped with:
- i) a Global Positioning System for monitoring the position of the taxicab at all times; and,
 - ii) a driver emergency switch connected to the Global Positioning System situated in a convenient but discreet location within the taxicab. (24-2006)
- (e) Every Taxicab shall be equipped with either of the following devices which shall be installed to the satisfaction of the City's Director, Municipal Law Enforcement and Licensing Services: (103-2008)
- i) a shield that will prevent a Passenger from accessing the space occupied by the Driver; or
 - ii) a security camera that accurately records the interior of the Taxicab at all times that a Passenger is within the Taxicab. (103-2008)

7.7 Taxicab Owner Restrictions

7.7.1 No Taxicab Owner shall:

- (a) permit, in any manner, a Taxicab not owned by them to be Operated under the authority of an Owner Plate issued to them under this By-law;
- (b) Operate or permit a Taxicab for which he, she or it has been issued an Owner Plate to be Operated with Mechanical Defects of which they are aware;

- (c) Operate a Taxicab or permit a Taxicab to be Operated without the Owner Plate for which that Taxicab is registered affixed thereto;
- (d) Operate a Taxicab or permit a Taxicab to be Operated which is not registered under this By-law;
- (e) Operate a Taxicab or permit a Taxicab to be Operated with usable trunk capacity such that the Taxicab is incapable of being able to accommodate a wheelchair, walker or similar device used to aid Disabled Passengers;
- (f) permit the Taxicab for which he, she or it has been issued an Owner Plate to be Operated without a heater in working condition and without an air conditioning system in working condition;
- (g) use on the Taxicab for which he, she or it has been issued an Owner Plate any emblem, decal, roof sign or other markings which are the same colour or similar to any distinctive emblem, decal, roof sign or other marking being used by any Taxicab Broker with whom they are not Affiliated;
- (h) Operate a Taxicab for which he, she or it has been issued an Owner Plate in Affiliation with a Taxicab Broker who is not Licensed under this By-law;
- (i) display any sign, emblem, decal, ornament or advertisement on or in a Taxicab for which he, she or it has been issued an Owner Plate except in accordance with the City's Sign By-law 72-96 and Licensing By-law 100-2000, as they may be amended from time to time, or their successors;
- (j) Operate or permit a Taxicab for which he, she or it has been issued an Owner Plate to be Operated unless the Taxicab Meter has been tested and sealed by the City Clerk or a By-law Enforcement Officer;
- (k) put any Taxicab into service without first having properly affixed to the Taxicab the Owner Plate issued under this By-law for that Taxicab, the roof light and the side numbers;
- (l) cause, permit or maintain any window surface in a Taxicab for which he, she or it has been issued an Owner Plate to be coated with any coloured spray or other coloured, tinted or reflective material, except such tint as installed by the original manufacturer of the Vehicle; or
- (m) Operate or permit a Taxicab for which he, she or it has been issued an Owner Plate to be Operated without four (4) identical hubcaps.
- (n) permit a Taxicab for which he, she or it has been issued an Accessible Plate to be Operated by any Person who is not an Accessible Driver;

(149-2004)

- (o) permit the transportation in a Taxicab of Passengers who are confined to a wheelchair, unless that Taxicab is an Accessible Taxicab; and (149-2004)
- (p) permit the transportation of Passengers who are confined to a wheelchair by Drivers who are not Accessible Drivers. (149-2004)

7.7.2 Notwithstanding anything to the contrary in articles 6.5.1, paragraphs (l) or (m), 7.3.1, paragraph (h)(iv) and 7.7.1, paragraph (j), when the City Clerk is not available to test or seal a Taxicab Meter as required, the Taxicab Owner or Driver who has had a Taxicab Meter altered, repaired or replaced may Operate the Taxicab in which the Taxicab Meter is installed for a period up to seventy-two (72) hours provided that:

- (a) the Driver has in their possession a receipt for the repair or installation of the Taxicab Meter;
- (b) the receipt is signed by the Person who made the repairs or installation, which Person is a Person who carries on the trade of repairing Taxicab Meters
- (c) the City Clerk has been notified that the repair has been made; and
- (d) the receipt sets out the date, time and nature of the repair or installation.

7.7.3 Notwithstanding anything to the contrary in this By-law, no Person shall, at any time, lease or rent an Owner Plate issued to him, her or it under this By-law to any other Person. Nothing in this Article shall prevent a Driver from assuming care and control of a Taxicab to which an Owner Plate is both registered and affixed for a shift.

7.7.4 Notwithstanding anything to the contrary in this By-law, no Person shall, at any time, permit an Owner Plate issued to him, her or it under this By-law to be affixed to or displayed on a Vehicle where the permits issued by the Ontario Ministry of Transportation do not show that Person as the Registered Owner of the Vehicle and the owner of the provincial licence plate affixed to that Vehicle. (149-2004)

7.7.5 No Taxicab Owner shall operate or permit a Taxicab for which he, she or it has been issued an Owner Plate to be Operated unless it: (24-2006)

- (a) is equipped with an extra tire, wheel and jack ready for use for that Taxicab;
- (b) is equipped with a Taxicab Meter;
- (c) meets the standards for the Issue of a Safety Standard Certificate of mechanical fitness;

- (d) as to its interior, including the trunk, is:
 - i) free of all dust, dirt, grease, oil, adhesive resin and any other item which can be transferred onto the person, clothing or possessions of a Passenger;
 - ii) free of all waste paper, cans, garbage or any other item not intrinsic to the Operation of the vehicle,
 - iii) free of noxious substances,
 - iv) free of tears and cigarette burns in the upholstery,
 - v) dry, and
 - vi) in good repair; and
- (e) as to its exterior:
 - i) free of all dust, dirt, grease, oil, adhesive resin and any other item which can be transferred onto the person, clothing or possessions of a Passenger, except water or snow,
 - ii) is in good repair
 - iii) is free from exterior body damage,
 - iv) has a well maintained exterior paint finish, and
 - v) has four matching hubcaps.

7.8 Transfer of Owner Plates

7.8.1 No Person may transfer, give, assign or convey any right, title or interest in a Taxicab Owner Licence or Owner Plate to any Person whatsoever and any instrument which purports to transfer, give, assign or convey any right, title or interest in the said Licence is void and of no effect.

7.8.2 Those Persons to whom a Standard Plate has been issued are hereby exempt from article 7.8.1 with respect to the transfer of a Standard Plate, but subject to articles 7.8.3 and 7.8.4.

7.8.3 No Person who has been issued a Standard Plate shall transfer, give, assign or convey any right, title or interest in the said Plate to any Person whatsoever except in accordance with the following:

- (a) the transferor has completed an application to transfer document in a form as required by the City Clerk;
- (b) the transferee has paid the fee set out in Schedule 1 for the transfer; and

- (c) the transferee has applied for a Taxicab Owner Licence and meets all of the requirements of a Taxicab Owner under this By-law and will be issued a Taxicab Owner Licence under this By-law at the time of the transfer.

7.8.4 When a transfer of a Standard Plate is approved by the City Clerk, the transferee must submit the Vehicle to which the Standard Plate will be affixed for inspection and registration in accordance with the requirements of this By-law before a Taxicab Owner Licence is issued and a Standard Plate is permitted to be transferred.

7.9 Operation/Transfer of Owner Plates by an Estate

7.9.1 Within ninety (90) days following the death of a natural person to whom one or more Owner Plates have been issued, the Executor or Administrator of the estate of the natural person shall file the following with the City Clerk:

- (a) Proof of death of the natural person; and
- (b) Proof of the Executor's or Administrator's capacity. (149-2004)

7.9.2 On the death of a natural person to whom one or more Owner Plates have been issued, the Executor or Administrator may continue to Operate or cause or permit a Taxicab to which the Owner Plate is attached to be Operated for a period of up to three (3) months following the date of death of the said natural person, provided they comply with all of the requirements of this By-law.

7.9.3 Upon the expiry of three (3) months following the date of death of a natural person to whom one or more Owner Plates have been issued, the Taxicab Owner Licence and the Owner Plate shall be deemed to be cancelled and they shall then be returned to the City Clerk forthwith thereafter.

7.9.4 Those Persons to whom a Standard Plate has been issued are hereby exempt from articles 7.9.2 and 7.9.3, but subject to articles 7.9.5, 7.9.6 and 7.9.7.

7.9.5 On the death of a natural person to whom one or more Standard Plates have been issued, the Executor or Administrator may continue to hold the interest in the said Plates for a period of up to one (1) year following the date of death of the natural person, and may Operate or cause or permit a Taxicab to which the Standard Plates are attached to be Operated provided they comply with all of the requirements of this By-law during that time.

7.9.6 Where the Executor or Administrator of the estate of a natural person to whom one or more Standard Plates have been issued cannot transfer every such Standard Plate within one (1) year following the date of death of the natural person, the Executor or Administrator may apply to Council and Council may, in its discretion which discretion shall be exercised upon the grounds contained in subsection 9.2, permit the Executor or Administrator to continue to Operate or cause or permit a Taxicab to which the Standard Plates are attached for such further time as Council prescribes.

7.9.7 In the event that the Executor or Administrator of the estate of a natural person to whom one or more Standard Plates have been issued does not or cannot transfer the

interests of the Estate in every such Standard Plate within one (1) year following the date of death of the natural person, or within such further time as prescribed by Council pursuant to Article 7.9.6, whichever is later, all of the Taxicab Owner Licences and Standard Plates remaining untransferred at the expiry of that time shall be deemed to be cancelled.

Section 8: Taxicab Broker Licence Requirements

8.1 Taxicab Broker Duties

8.1.1 Every Taxicab Broker shall:

- (a) maintain an office within the City from which the taxicab brokerage business is conducted which provides adequate telephone, radio and Dispatch facilities and off-street parking;
- (b) require all Taxicab Owners who have entered into an Affiliation with him, her or it for the provision of taxicab brokerage services to use the same design and colour scheme of roof sign which shall include the name of the Taxicab Broker or the business name under which the Taxicab Broker operates, and shall produce and file a sample of the roof sign with the City Clerk;
- (c) make or cause to be made a daily inspection of all Taxicabs Operated in Affiliation with him, her or it on that day, prior to such Operation, ensuring that they are clean, properly equipped and identified, as required by this By-law;
- (d) keep a record of each Taxicab Dispatched on a Trip, the time and date of receipt and Dispatch of the Order, and the pickup location, and shall retain the records for a period of at least six months;
- (e) upon request, inform any Person requesting taxi service of the anticipated length of time required for a Taxicab to arrive at the pickup location;
- (f) when volume of business is such that service will be delayed to any Person requesting taxi service, the Taxicab Broker shall inform the Person of the approximate time of the delay before accepting the Order;
- (g) Dispatch a Taxicab to any Person requesting service within the City unless the Person requesting service has not paid for a previous Trip;
- (h) carry on business only in the name in which he, she or it is Licensed;
- (i) where the Taxicab Broker dispatches to Taxicabs for which an Accessible Plate has been issued, and service is requested by a Disabled Person, provide priority service for such Person, but subject to prior requests for service by other Disabled Persons; (149-2004)

- (j) where service requested is for a Disabled Passenger and the Taxicab Broker is unable to provide such service, direct the Person requesting such service to another Taxicab Broker or other party that can provide such service;
- (k) shall promptly investigate any complaint brought to his, her or its attention by the City Clerk against any Driver or Taxicab Owner and shall report his, her or its findings to the City Clerk and any action taken; and
- (l) register his, her or its corporate colours or emblems with the City Clerk.

8.2 Taxicab Broker Restrictions

8.2.1 No Taxicab Broker shall:

- (a) be permitted to have exclusive rights to any Taxicab Stand in the City or enter into or become a party to any exclusive concession agreement;
- (b) possess or use (either in the brokerage office, garage or anywhere else on the premises) or have anywhere in their possession a scanner or radio that is capable of monitoring a Taxicab Broker's radio frequency other than their own;
- (c) accept Orders for, or in any way Dispatch or direct Orders to a Taxicab if the Taxicab Owner or Driver of the said Taxicab is not Licensed under this By-law;
- (d) permit any Person to use obscene, boisterous, loud, threatening, abusive, foul or racist language in the course of transmitting or receiving messages or Orders on any radio system or telephone system used in conjunction with the brokerage; or
- (e) use colours or emblems except those registered to the Taxicab Broker with the City Clerk.

8.3 Obtaining a Licence

8.3.1 Every Applicant for a Taxicab Broker Licence and every Taxicab Broker Licensee shall, in addition to the requirements of section 4, submit to the City Clerk, if so requested, a copy of a current agreement constituting an Affiliation with at least one Taxicab Owner. (149-2004)

8.3.2 It is a condition of each Taxicab Broker Licence that the Licensee shall, at all times, maintain an Affiliation with at least one Taxicab Owner. (149-2004)

Section 9: Refusal / Revocation / Suspension / Appeals

9.1 No Person shall enjoy a vested right in or to a Licence or Owner Plate or Accessible Driver endorsement or to the continuance of a Licence or Owner Plate or

Accessible Driver endorsement and, upon issuance, renewal, cancellation, or suspension, the Licence and Owner Plate remains the property of the City and the City Clerk may, refuse to issue or renew or may suspend, revoke or cancel any Licence or Owner Plate issued under this By-law, or revoke any Accessible Driver endorsement, or may issue a Licence or Owner Plate or Accessible Driver endorsement subject to conditions, in the City Clerk's discretion. (33-2014)

9.2 The exercise of the discretion of the City Clerk pursuant to this section shall be based on: (33-2014)

- (a) the breach by an Applicant or Licensee or shareholder of a corporate Applicant or Licensee of any By-law of the City, including this By-law, or any statute or regulation of the Province of Ontario or any statute or regulation of the Country of Canada, including without limitation the Criminal Code (Canada) and the Controlled Drugs and Substances Act (Canada) or the fact of outstanding charges existing under any of the foregoing;
- (b) the failure of an Applicant or Licensee or shareholder of a corporate Applicant or Licensee to meet, at any time, any of the requirements of this By-law or any conditions imposed on a Licence;
- (c) the submission of false information filed in support of an application for or renewal of a Licence or Owner Plate, or the transfer of an Owner Plate;
- (d) the Applicant or Licensee or shareholder of a corporate Applicant or Licensee is incompetent in a manner that affects the safety, health or welfare of the public;
- (e) the Applicant or Licensee or shareholder of a corporate Applicant or Licensee has been found to have discriminated against a member of the public contrary to the Human Rights Code in connection with the operation of a business for which a Licence is required under this By-law;
- (f) the protection of the health or safety of any Person;
- (g) the control or abatement of nuisance;
- (h) the protection of consumers;
- (i) the issuance of the Licence or renewal of the Licence would be contrary to the public interest or would contravene any of the provisions of this By-law;
- (j) the Applicant or Licensee or shareholder of a corporate Applicant or Licensee is carrying on activities that are, or will be, if the Applicant is Licensed, in contravention of this By-law;

- (k) the application is for a Taxicab Owner Licence and the Licence and Owner Plates, if issued, would exceed the maximum number of Licences and Owner Plates permitted by Council;
- (l) the Applicant or Licensee fails to successfully complete any testing, training, educational or awareness program required by the City Clerk; or
- (m) upon the grounds that the conduct of any Person, including the officers, directors, employees or agents or shareholders of a corporation, affords reasonable cause to believe that the Licensee will not carry on or engage in the business in accordance with the law or with honesty and integrity.

9.3 Where the City Clerk refuses to issue a Licence or suspends or revokes a Licence, the Director may, on the Director's initiative or on application by the Applicant, issue the Licence, exempt the Applicant from any part of this By-law and may impose such conditions as the Director determines are appropriate where the Director is satisfied that the issuing of the Licence, the granting of an exemption or the imposition of conditions, as the case may be, will maintain the general intent and purpose of the this By-law. Nothing in this subsection permits the Director to issue a Licence or to grant an exemption that would result in the number of Licences exceeding the maximum prescribed by subsection 10.3. (33-2014)

9.4 Where any Person is affected by a decision of the City Clerk or a By-law Enforcement Officer under this By-law (including the issuance of an order issued under article 10.1.9) or whose Licence(s)/Owner Plate(s) is/are subject to a deemed cancellation pursuant to articles 7.1.6 or 7.9.7, but not 10.1.13, such person may appeal the decision or cancellation to the Hearings Officer within fourteen (14) days of the date of the order, decision or cancellation (as the case may be) by providing a letter to the City Clerk stating the fact of the appeal and the reasons therefor together the fee prescribed by Schedule 1 for the hearing of an appeal and, until such time as the Hearings Officer disposes of the appeal, the decision or cancellation shall be stayed. (33-2014)

9.5 The Hearings Officer shall not make a decision under this section without first affording the affected Person an opportunity to be heard. (33-2014)

9.6 Intentionally deleted. (33-2014)

9.7 Intentionally deleted. (33-2014)

9.8 Intentionally deleted. (33-2014)

9.9 Intentionally deleted. (33-2014)

9.10 Notice of the decision of the Hearings Officer may be given by mailing a copy thereof by registered letter mail to the Person or Applicant at his, her or its last known address and, upon such mailing, the Hearings Officer's decision shall take effect, whether the notice is actually received or not. (33-2014)

9.11 Any Licence or Owner Plate issued under this By-law may be cancelled by the City Clerk at any time upon the written request of the Licensee.

9.12 When a Licence or Owner Plate has been revoked, cancelled or suspended, the holder of the Licence shall return the Licence and if applicable, Owner Plate, to the City Clerk within twenty-four (24) hours of service of written notice of the decision or other event causing revocation, cancellation or suspension and the City Clerk may enter upon the business premises or into the Taxicabs of the Licensee for the purpose of receiving, taking or removing the said Licence or Owner Plate. (33-2014)

9.13 When a Person has had their Licence or Owner Plate revoked, cancelled or suspended under this By-law they shall not refuse to deliver up or in any way obstruct or prevent the City Clerk or a By-law Enforcement Officer from obtaining the Licence or Owner Plate.

Section 10: General Procedures

10.1 Right of Inspection of Licenced Premises

10.1.1 The City Clerk shall carryout a minimum of two random and two scheduled inspections of Taxicabs annually, one of which shall be immediately prior to issuance or renewal of a Taxicab Owner Licence.

10.1.2 The City Clerk or a By-law Enforcement Officer may require at any time that a Taxicab Owner or Driver submit their Taxicab for inspection at an appointed place. Notification of a required inspection may be made:

- (a) by personally serving it on the Taxicab Owner;
- (b) by registered letter mail to the last known address of the Taxicab Owner, whether actually received or not;
- (c) by personally serving it on a Driver Operating the Taxicab; or
- (d) by serving it on a Broker Affiliated with the Taxicab Owner by leaving a copy with a person who appears to be in control of the premises of the Broker, or by facsimile to a facsimile number of the Broker on file with the City Clerk.

10.1.3 The City Clerk or a By-law Enforcement Officer may at any time a Taxicab is not engaged in the actual transportation of Passengers enter upon and inspect the Taxicab of any Licensee, or Taxicab being Operated by a Licensee, to ensure that the provisions of this By-law are being complied with.

10.1.4 Every Taxicab Owner shall submit or cause their Taxicab to be submitted for inspection when required to do so by the City Clerk or a By-law Enforcement Officer.

10.1.5 Every Driver shall submit the Taxicab being Operated by them for inspection when required to do so by the City Clerk or a By-law Enforcement Officer.

10.1.6 No Driver shall refuse to permit a random inspection of a Taxicab under his or her control, at such times as the Taxicab is not engaged in the actual transportation of Passengers, by the City Clerk or a By-law Enforcement Officer. Nothing in this article will prevent the removal of any Person's personal property from a Taxicab prior to an inspection.

10.1.7 No Person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection of a Taxicab by the City Clerk or a By-law Enforcement Officer.

10.1.8 Upon an inspection under this section the City Clerk or a By-law Enforcement Officer is entitled to request and have produced all relevant Licences and permits and to have access to the invoices, vouchers, appointment books or Trip Sheets or like documents of the Licensee, including any documents required to be maintained under this By-law and the City Clerk or By-law Enforcement Officer may remove any of the aforementioned documents for the purpose of photocopying provided a receipt is given to the Licensee and the documents are returned to the Licensee within forty-eight (48) hours of removal.

10.1.9 Where the City Clerk or a By-law Enforcement Officer finds that a Taxicab does not comply with any standard or requirement of this By-law, he or she may make an order to the Owner of that Taxicab:

- (a) stating the Owner Plate number of the Taxicab;
- (b) giving reasonable particulars of the repairs to be made;
- (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the Taxicab Owner Licence and Owner Plate which is registered to that Taxicab shall be deemed to be suspended; and
- (d) indicating the final date for giving notice of appeal from the order.

10.1.10 An order made under this section shall be served on the Taxicab Owner:

- (a) personally;
- (b) by registered letter mail to the last known address of the Taxicab Owner, whether actually received or not;
- (c) by personally serving it on a Driver Operating the Taxicab; or
- (d) by serving it on a Broker Affiliated with the Taxicab Owner by leaving a copy with a person who appears to be in control of the premises of the Broker, or by facsimile to a facsimile number of the Broker on file with the City Clerk.

10.1.11 An order that is not appealed within the time referred to in subsection 9.4 shall be deemed to be confirmed.

10.1.12 If an order of the City Clerk or a By-law Enforcement Officer under this subsection (as deemed confirmed or as confirmed or modified by the Hearings Officer) is not complied with in the time provided for in that order, the Taxicab Owner Licence and Owner Plate in respect of that Taxicab shall be deemed to be suspended at 11:59 p.m. on the date on which compliance was required, and the said Licence shall only be reinstated on there being delivered to the City Clerk, satisfactory evidence of compliance within sixty (60) days from the date of the deemed suspension. (33-2014)

10.1.13 Where a Licence and Owner Plate has been deemed to be suspended under this subsection, and where no satisfactory evidence of compliance with the order is filed with the City Clerk within sixty (60) days from the date of the deemed suspension, that Licence and the Owner Plate shall be deemed to have been cancelled.

10.1.14 Where the City Clerk or a By-law Enforcement Officer finds that a Taxicab is being Operated in contravention of any requirement of this By-law that, on reasonable grounds, is a danger to the health or safety of the public, he or she may take custody of the Owner Plate affixed to that Taxicab, cut the seal on the Taxicab Meter, order that the Taxicab be immediately removed from service and may order the Driver or Taxicab Owner to have the Taxicab towed to a place of repair or other private property, at the Driver or Taxicab Owner's expense and the Owner shall not Operate or cause or permit the Operation of that Taxicab until the contravention is remedied and the Taxicab has been inspected by the City Clerk and the Taxicab Meter has been resealed.

10.1.15 Where he or she believes it is in the public interest, the City Clerk may demand that a Taxicab Owner file a Safety Standard Certificate issued under the *Highway Traffic Act* for any Taxicab owned by him, her or it dated not prior to the date of demand and may suspend a Taxicab Owner Licence and Owner Plate until the Certificate has been filed.

10.1.16 Where the City Clerk demands a Safety Standard Certificate pursuant to article 10.1.15, the Taxicab Owner shall provide it forthwith.

10.2 Notification of Change of Information

10.2.1 A licensee shall carry on business in the City in the name which is set out on the Licence and shall not carry on business in the City in any other name unless they have first notified the City Clerk and complied with article 10.2.2.

10.2.2 When a licensee changes their name or address or any information relating to their Licence, they shall notify the City Clerk within forty-eight (48) hours of the change of address or any other information relating to their Licence and shall return the Licence immediately to the City Clerk for amendment.

10.3 Limitation of Number of Taxicab Owner Licences Issued

10.3.1 The total number of Taxicab Owner Licences and Owner Plates issued at any given time shall not exceed the number established by the ratio of one Licence for each 1,500 residents of Oshawa; but the number of Taxicab Owner Licences and Owner Plates may be lesser in the discretion of Council and may be established by resolution from time to time. For the purposes of this article, the number of residents of the City

shall be as determined by the latest revised population figures available from Statistics Canada (annual estimates and the five-year actuals).

10.3.2 The City Clerk may annually issue new Taxicab Owner Licences and Owner Plates within three months of the annual population statistics from Statistics Canada (annual estimates and the five-year actuals) if warranted in accordance with article 10.3.1, subject to contrary direction of Council.

10.3.3 All Standard Plates that are revoked, cancelled, or surrendered shall, on their return to the City Clerk, be removed from circulation and shall not be reissued under this By-law.

10.3.4 Executive Plates shall be the only Owner Plates issued from the Plate Issuance Eligibility List.

10.3.5 The City Clerk may issue up to seven (7) Taxicab Owner Licences and Executive Plates in the year 2003 notwithstanding that the issuance of these licences may cause the maximums established by article 10.3.1 to be exceeded.

10.3.6 Delegation (33-2014)

10.3.7 It is Council's opinion that the delegations in this By-law to the City Clerk and to the Hearings Officers are of a minor nature. In forming this opinion, Council has had regard to the number of people, the size of the geographic area and the time period affected by the exercise of each delegated power. (33-2014)

Section 11: Offences / Penalties

11.1 Every Person who contravenes any of the provisions of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or to both.

11.2 Where a corporation is convicted of an offence under subsection 11.1, the maximum penalty that may be imposed on the corporation is \$50,000 and not as provided in that subsection.

By-law read a first, second and third time and finally passed this 13th day of May, 2003.

Mayor

City Clerk

Schedule 1 to By-Law 50-2003

Licence Fees

1. Licence	Annual Fee
(a) Taxicab Owner Licence	\$ 250.00 (116-2008)
(b) Taxicab Broker Licence	\$ 250.00 (116-2008)
(c) Taxicab Driver Licence (valid for 2 years)	\$ 150.00 (116-2008)
2. Transfers	Fee
(a) Transfer of Standard Plate	\$ 1,000.00
3. Other Services	Fees
(a) Driver examination fee per sitting	not set
(b) Filing a letter of appeal to Committee	\$ 75.00
(c) Replacement fee for driver photo identification card and driver licence	\$ 10.00
(d) Replacement fee for Owner Plate	\$ 25.00
(e) Replacement fee for each tariff card	\$ 10.00
(f) Change of Registered Vehicle	\$100.00
(f.1) Annual Registration of a Spare Taxicab	\$100.00 (149-2004)
(g) Re-inspection fee without Taxicab Meter	\$ 20.00
(h) Re-inspection fee with Taxicab Meter	\$ 35.00
(i) In addition to the fee for an Owner Licence, an annual levy shall be paid by each Taxicab Owner for use of Taxicab Stands in accordance with the following formula:	

$$\frac{M \times D \times H \times R}{L}$$

L

Where:

“M” = the number of parking meters removed to permit operation of Taxicab Stands in Oshawa;

“D” = the number of days in a year when metered on-street parking is chargeable as provided pursuant to Oshawa By-law 79-99, as amended or its successors;

“H” = the number of hours per day when metered on-street parking is chargeable as provided pursuant to Oshawa By-law 79-99, as amended or its successors;

“R” = the hourly rate for on-street parking meters as provided for in Oshawa By-law 79-99, as amended or its successors; and

“L” = the total number of Owner Licences issued by the City in the previous calendar year.

Schedule 2 to By-Law 50-2003

Taxicab Tariff (Inclusive Of H.S.T.) (78-2010)

Distance

For the initial 132 metres or part thereof: \$3.75 (78-2010)

For each additional 132 metres or part thereof: \$0.25 (78-2010)

Waiting Time

For each 33.1 seconds of waiting time while engaged: \$0.25 (78-2010)

Packages, Luggages, Etc.

For each package or piece of luggage handled

by Driver in excess of four (4) pieces: \$0.30

Wheelchairs, walkers, etc.: free

Debit Charge

For each transaction utilizing technology that

allows the direct debiting of a Passenger's

account with a financial institution for the

payment of a Fare: up to \$1.75 (149-2004)

Schedule 3 to By-Law 50-2003



Taxicab Passenger Rights and Responsibilities

Oshawa Taxicab Passengers are Entitled to a **professional driver who:**

- Is licensed by the City of Oshawa and prominently displays his/her Taxicab Driver Licence inside the taxicab;
- Is knowledgeable and knows the major routes and destinations in the City;
- Is well-groomed, neat and clean in personal appearance, and dressed in pants (no jeans or sweatpants) or skirt, shirt or blouse with a collar and shoes, all free from obvious wear or damage;
- Speaks, reads and understands English;
- Is courteous and provides assistance;
- Provides a safe ride;
- Knows and obeys City by-laws and all traffic laws;
- Offers a silent ride if desired;
- Takes the most direct route to the destination unless otherwise directed by the passenger;
- Is physically able to assist passengers into the vehicle and to assist them with their belongings;
- Keeps the interior of his/her taxicab clean and free of debris; and
- Issues a receipt upon request noting the date and time of the trip, place of pick up, place of discharge, Taxicab Licence number, Provincial Plate number and the fare charges and paid.

Oshawa Taxicab Passengers are Entitled to a **quality taxicab:**

- In good mechanical and physical condition;
- With a properly calibrated and sealed taximeter;
- With a clean exterior, passenger area and trunk;

- Is heated or air conditioned on demand;
- With easy access to seatbelts; and
- With a smoke-free environment.
- Oshawa **taxicab passengers** are **responsible for**:
- Not eating, drinking or smoking inside the taxicab;
- Not interfering with the taxicab driver in the conduct of his/her duties;
- Any damage caused to the taxicab; and
- Paying the required fare

Customer compliments and/or complaints may be directed to the City's Licensing Information Line at (905) 436-5649 or by e-mail at Taxibylaw@oshawa.ca.

Schedule 4 to By-Law 50-2003

Explanation of Reasons for Licensing

The Council of the City of Oshawa considers it necessary and desirable to license, regulate and govern the businesses of owners and drivers of taxicabs and the business of taxicab brokers for the following reasons:

Health and Safety

The City of Oshawa has chosen to licence, regulate and govern Taxicab Owners and Drivers and Taxicab Brokers to enhance and encourage safe maintenance and operational practices for Drivers and Owners, ensure experienced and qualified Drivers are providing services, supply passengers with Drivers who have proven themselves to be trustworthy to care for their belongings and their person, and ensure accountability of industry participants for health and safety issues.

This reason relates to health and safety as the licensing, regulating and governing provisions aim to protect the health of passengers and those members of the public using the streets in the City of Oshawa by ensuring safe operation of taxicabs, providing for safety mechanisms to protect Drivers, and ensuring the safety of passengers and other users of the public streets in Oshawa.

Consumer Protection

The City of Oshawa has chosen to licence, regulate and govern Taxicab Owners and Drivers and Taxicab Brokers to enhance and encourage equal, fair and courteous treatment of passengers, Drivers, Owners and Brokers, protect the property of passengers, ensure competence of Owners and Drivers in providing Taxicab services, promote accountability, ensure consistency in the application of fares, and support proper and good business practices.

This reason relates to consumer protection as the licensing, regulating and governing provisions aim to prevent, mitigate or redress losses or harm to, or practices which might negatively impact on, Passengers, Drivers, Owners and Brokers.

Nuisance Control

The City of Oshawa has chosen to licence, regulate and govern Taxicab Owners and Drivers and Taxicab Brokers to promote professional behaviour, fair dealing amongst participants in the industry, ensure courteous treatment, and limit or mitigate unsightliness, unnecessary noise, nuisance or disruption for passengers, Drivers, Owners, Brokers and the general public.

This reason relates to nuisance control as the licensing, regulating and governing provisions aim to limit conditions which might reasonably disturb or cause interference to the participants in the industry, the Passengers and the general public.

Public Report

To: Corporate Services Committee

From: Beverly Hendry, Commissioner,
Corporate Services Department

Report Number: CORP-16-65

Date of Report: September 8, 2016

Date of Meeting: September 12, 2016

Subject: Designated Driving Services and Assessment of Licensing and
Insurance Regulations

File: D-2300

1.0 Purpose

This report responds to Council's May 24, 2016 and June 27, 2016 directions for staff to assess the suitability of licensing requirements for the Designated Driving (D.D.) Industry in Licensing By-law 120-2005 ("Licensing By-law") and provide a final recommendation on appropriate insurance requirements for D.D. Brokers.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That Council amend Schedule "N" of Licensing By-law 120-2005 respecting Designated Driving Services in the form of Attachment 6 to Report CORP-16-65 to update insurance requirements for Designated Driving Brokers and the effective date of the Designated Driver licensing regime.

3.0 Executive Summary

A three-year D.D. Industry licensing study and public consultation process has identified a need to regulate the Industry for the purposes of health and safety and consumer protection. This report reexamines licensing and insurance requirements for the Industry as set out in the City's Licensing By-law and recommends that D.D. Brokers be required to maintain a \$2 million Commercial General Liability (C.G.L.) insurance policy. The report further recommends extending the implementation date of the D.D. licensing regime to January 2, 2017 to create an education period for all stakeholders.

4.0 Input From Other Sources

The following stakeholders were consulted in the preparation of this report:

- Finance Services – Risk Management and Insurance
- Legal Services
- Insurance Brokers in Oshawa
- Designated Driving Services Industry

5.0 Analysis

5.1 Background

Council provided the following direction at its May 24, 2016 meeting:

1. That Correspondence CORP-16-43 from Dave Hare, Petley-Hare Limited expressing concerns with Designated Driving Services By-law 111-2015 concerning the \$2M Commercial General Liability and Correspondence CORP-16-45 from Patricia and Giovanni Bandiera requesting Council repeal Designated Driving Services By-law 111-2015, be received for information; and,
2. That staff be directed to meet with representatives of local insurance agencies and Designated Driving Services to further investigate the type and level of insurance with an interim report to the Corporate Services Committee at the June 20, 2016 meeting; and;
3. That staff be directed to investigate the licensing recommended or required with a report back to the Corporate Services Committee at the September 12, 2016 meeting; and,
4. That the implementation of By-law 111-2015 be delayed to November 1, 2016.

At its June 20, 2016 meeting, the Corporate Services Committee (“Committee”) considered staff report CORP-16-58 (**Attachment 1**) responding to the second Council direction from its May 24, 2016 meeting. CORP-16-58 proposed an updated insurance framework for D.D. Brokers and recommended that staff monitor the availability of a \$2 million C.G.L. insurance policy for D.D. Brokers and to report back with a final recommendation on insurance requirements to Committee at its September 12, 2016 meeting.

This report addresses Council’s following directions:

- That staff be directed to investigate the licensing recommended or required with a report back to the Corporate Services Committee at the September 12, 2016 meeting.
- That staff monitor the availability of a \$2 million Commercial General Liability insurance policy and report back to the Corporate Services Committee at its September 12, 2016 meeting with a final recommendation on the appropriate insurance requirements for Designated Driving Brokers.

5.2 Licensing and Operating Requirements

Schedule “N” of the Licensing By-law establishes licensing and operating standards for the D.D. Industry to address health and safety issues. Specifically, the By-law sets:

- Designated Driver Licensing Requirements
- D.D. Broker Licensing Requirements
- Designated Driver and D.D. Broker Operating Standards
- Designated Driver Support Vehicle Standards

A comprehensive summary of licensing and operating standards is outlined in **Table 1**. Staff reexamined the licensing and operating requirements and have determined that the existing standards are appropriate for establishing a minimum level of health and safety for both the D.D. Industry and the public. Only minor amendments to insurance requirements for D.D. Brokers are required. This assessment was based on a review of the findings in previous reports detailed in **Table 1**.

Table 1 Summary of Licensing and Operating Requirements in D.D .By-law and Applicable Reports

Summary of Licensing and Operating Standards (Schedule “N” of Licensing By-law)	Applicable Report
<p>Designated Driver Licensing Requirements:</p> <ul style="list-style-type: none"> • Criminal Information Report with Vulnerable Sector Screening • Driver’s Abstract • Proof of “G” (minimum) Driver Licence • Proof of Affiliation with Licensed D.D. Broker • Proof that applicant is twenty-five (25) years or older • Medical Clearance Letter 	<p>Attachment 2, CORP-15-22, Section 5.2.1. Attachment 3, CORP-15-74, Section 5.2 (c)</p>
<p>D.D. Broker Licensing Requirements:</p> <ul style="list-style-type: none"> • \$2 million C.G.L. insurance with additional endorsements of Non-owned Automobile liability and Legal Liability for Damage to Automobile in the Care, Custody or Control of the Insured coverage • Ontario Master Business Licence or Articles of Incorporation 	<p>Attachment 2, CORP-15-22, Section 5.2.2 Attachment 4, CORP-15-160, Section 5.4 Attachment 1, CORP-16-58</p>

Summary of Licensing and Operating Standards (Schedule “N” of Licensing By-law)	Applicable Report
<p>Designated Driver and D.D. Broker Operating Standards:</p> <ul style="list-style-type: none"> • D.D. Broker must ensure that all Designated Drivers affiliated with the Broker are appropriately insured and operate in accordance with the provisions in the Licensing By-law • Designated Drivers: <ul style="list-style-type: none"> ○ Prohibited from conveying passengers in Designated Driver Support vehicle ○ Prohibited from transporting more passengers than available seat belts in client’s vehicle. ○ Must confirm/obtain: Ownership and insurance and registered vehicle owner’s or authorized user’s consent ○ Must prominently display Designated Driver Licence ○ Shall not charge any other fee that exceeds the negotiated fee ○ Must maintain a paper or electronic trip log for up to 3 months 	<p>Attachment 2, CORP-15-22, Section 5.2.3 (c) Attachment 3, CORP-15-74, Section 5.2 (h)</p>
<p>Designated Driver Support Vehicle Standards:</p> <ul style="list-style-type: none"> • Must display D.D. Broker Markings, Contact, and Licensing information on the Designated Driver Support Vehicle • Must be well maintained and in good repair • Roof lights must comply with specific standards 	<p>Attachment 2, CORP-15-22, Section 5.2.3 (c) Attachment 5, CORP-15-87 Section 5.2.2</p>

5.3 Insurance Requirements for D.D. Brokers

The City’s Licensing By-law requires that D.D. Brokers maintain a \$2 million C.G.L. insurance policy with the two (2) additional endorsements/coverages of Non-Owned Automobile Liability and Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured. CORP-16-58 (**Attachment 1**) outlines the current insurance requirements for D.D. Brokers.

Staff conducted a review of the insurance requirements in partnership with local insurance brokers and D.D. Brokers and found that while an insurance product as stipulated in the Licensing By-law is offered for other business operations, it is not presently being offered for the D.D. Industry. Specifically, the \$2 million C.G.L. insurance policy is being offered to the D.D. Industry; however, the two (2) additional endorsements/coverages are not presently available in conjunction with the C.G.L. insurance coverage.

Staff recommended removing the requirement for D.D. Brokers to maintain the two (2) additional endorsements/coverages based on the analysis conducted in CORP-16-58. The

analysis determined that requiring D.D. Brokers to maintain a \$2 million C.G.L. insurance policy would provide an appropriate level of protection for D.D. Brokers and their employees and an ancillary benefit to consumers and the public in the absence of an insurance product that would satisfy the current requirements¹ in the Licensing By-law. Nevertheless, the availability of such a product was limited at the time and Council directed staff to continue to monitor the availability of the product and to report back to Committee at its September 12, 2016 meeting with its final recommendations on insurance for D.D. Brokers.

5.3.1 Availability of \$2 Million C.G.L. Insurance Policy

Staff liaised with local insurance brokers in late August 2016 to assess the availability of the \$2 million C.G.L. insurance product for the D.D. Industry and the availability of other suitable insurance products. Local insurance brokers confirmed the following:

- There is presently one (1) insurance company offering a \$2 million C.G.L. insurance policy for D.D. Brokers and their employees and Designated Drivers operating as independent contractors for D.D. Brokers
- The \$2 million C.G.L. insurance product is the only insurance policy being offered to the Designated Driver Industry at this time.
- Insurance brokers are not aware of any insurance company that will presently offer a C.G.L. insurance policy in conjunction with the two (2) additional endorsements of non-owned automobile liability and legal liability for damage to automobiles in the care, custody or control of the insured.

5.4 Recommended Amendments: Insurance and Implementation Date

Staff are recommending that D.D. Brokers be required to maintain a \$2 million C.G.L. insurance policy based on the information received from local insurance brokers and an updated assessment. Moreover, it is recommended that the current requirement for D.D. Brokers to maintain the two (2) additional endorsements² **in conjunction** with the \$2 million C.G.L. insurance policy be removed. The requirement for D.D. Brokers to maintain a \$2 million C.G.L. insurance policy establishes an appropriate level of protection for D.D. Brokers, their employees and the public.

In addition to insurance requirements, staff are recommending that the implementation date of the D.D licensing regime be deferred until January 2, 2017. This will provide the necessary time to educate all stakeholders on the applicable standards and for the City to implement the new licensing regime.

¹ The Licensing By-law requires that D.D. Brokers maintain a \$2 million C.G.L. insurance policy with the two (2) additional endorsements/coverages of Non-Owned Automobile Liability and Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured.

² Non-Owned Automobile Liability and Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured.

5.5 Proposed Amending By-law

Attachment 6 is the draft proposed by-law; following are its key features (parenthetical references are to section numbers in the proposed draft by-law):

- a) Removes the requirement for D.D. Brokers to maintain the two additional endorsement of Non-owned Automobile liability and Legal Liability for Damage to Automobile in the Care, Custody or Control of the Insured coverage (1.1)
- b) Amends the effective date of licensing standards applicable to the D.D. Industry to January 2, 2017 (2.1)

5.6 Conclusion

The three-year D.D. Industry licensing study and public consultation process has identified a need to regulate the Industry for the purposes of health and safety and consumer protection. Staff have reexamined the licensing and insurance requirements in the Licensing By-law and have concluded that the standards are appropriate as they establish a minimum level of health and safety for both the D.D. Industry and the public. It is recommended that the proposed amending by-law be approved.

6.0 Financial Implications

There are no financial implications directly related to the recommendations in this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendations in this report respond to the Oshawa Strategic Plan Goal of 4.2: Accountable Leadership: Deliberate Community Engagement, and Develop and Leverage Relationships.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



Beverly Hendry, Commissioner,
Corporate Services Department



Public Report

To: Corporate Services Committee

From: Beverly Hendry, Commissioner,
Corporate Services Department

Report Number: CORP-16-58

Date of Report: June 16, 2016

Date of Meeting: June 20, 2016

Subject: Designated Driving Services: Insurance Requirements Interim
Report

File: D-2200

1.0 Purpose

This report responds to City Council's ('Council') May 24, 2016 direction for staff to meet with representatives of local insurance agencies and Designated Driving (D.D.) Services to further investigate the type and level of insurance required for D.D. Services and to provide an interim report to the Corporate Services Committee ('Committee') by its June 20, 2016 meeting.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That staff monitor the availability of a \$2 million Commercial General Liability insurance policy and report back to the Corporate Services Committee at its September 12, 2016 meeting with a final recommendation on the appropriate insurance requirements for Designated Driving Brokers.

3.0 Executive Summary

At its May 24, 2016 meeting, Council directed staff to further investigate the appropriate type and level of insurance required for D.D. Services and to provide an interim report to Committee by June 20, 2016. Staff undertook two separate stakeholder meetings with Insurance Brokers and the Designated Driver Industry on June 3 and June 7 respectively. An assessment conducted by staff identified that while insurance requirements for D.D. Brokers in Designated Driving Services By-law 111-2015 ('By-law 111-2015') were appropriate, the Insurance Industry was not presently offering the two additional endorsements/coverages in conjunction with a \$2 million Commercial General Liability (C.G.L.) insurance policy as required by By-law 111-2015. This report recommends that staff continue to liaise with all stakeholders, monitor the availability of a \$2 million C.G.L.

insurance policy, and report back to the Corporate Services Committee at its September 12, 2016 meeting.

The following are reference documents appended to this report:

- **Attachment 1** - Applicable definitions in Designated Driving Services By-law 111-2015
- **Attachment 2** - Frequently Asked Questions: D.D. Services and Insurance

4.0 Input From Other Sources

The following stakeholders were consulted in the preparation of this report:

- Finance Services - Risk Management and Insurance
- Legal Services
- Insurance Brokers in Oshawa
- Designated Driver Industry
- Insurance Corporation of British Columbia (I.C.B.C.)

5.0 Analysis

5.1 Background

At its May 9, 2016 meeting, Committee received delegations and correspondence from Dave Hare of Petley-Hare Limited, an insurance brokerage operating in Durham Region, and several members of the D.D. Industry raising concerns over the established insurance requirements for D.D. Brokers pursuant to By-law 111-2015. Delegates stated that, to their knowledge, they were unable to find an insurer that would offer a \$2 million C.G.L insurance policy in conjunction with the following two (2) additional endorsements for D.D. Brokers:

- Non-owned Automobile Liability
- Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured

Council provided the following direction to staff at its May 24, 2016 meeting:

1. That Correspondence CORP-16-43 from Dave Hare, Petley-Hare Limited expressing concerns with Designated Driving Services By-law 111-2015 concerning the \$2M Commercial General Liability and Correspondence CORP-16-45 from Patricia and Giovanni Bandiera requesting Council repeal Designated Driving Services By-law 111-2015, be received for information; and,
2. That staff be directed to meet with representatives of local insurance agencies and Designated Driving Services to further investigate the type and level of insurance with an interim report to the Corporate Services Committee at the June 20, 2016 meeting; and;
3. That staff be directed to investigate the licensing recommended or required with a report back to the Corporate Services Committee at the September 12, 2016 meeting; and,
4. That the implementation of By-law 111-2015 be delayed to November 1, 2016.

This report responds to Council's second direction.

5.2 Current Insurance Framework for the Designated Driver Industry

By-law 111-2015 establishes a regulatory framework for the D.D. Industry for the purposes of health and safety and consumer protection. In addition to other standards that address health and safety and consumer protection, By-law 111-2015 requires D.D. Brokers to maintain a Commercial General Liability insurance policy that:

- a) Includes a limit of liability of not less than two million dollars (\$2,000,000.00) per accident or occurrence
- b) Names the D.D. Broker and/or Owners as Named Insured(s)
- c) Insures all Designated Drivers who are employees of the D.D. Broker
- d) Includes additional endorsements of:
 - i. Non-owned Automobile Liability
 - ii. Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured
- e) Requires that the City be notified of the cancellation of the C.G.L. policy by the insurer no fewer than fifteen (15) days prior to such cancellation.

Table 1 provides a general overview of the insurance requirements for D.D. Brokers as established in By-law 111-2015. Section 5.3 provides a more detailed description of C.G.L. insurance policy.

Table 1 D.D. Brokers and Required Insurance Coverage

Insurance Coverage	Type of Coverage	Coverage Provided
Commercial General Liability Insurance (C.G.L.)	Insurance Policy	C.G.L. insurance is designed to protect a business against claims that arise out of the Insured’s business operations that are generally not related to the operation of an automobile.
Non-Owned Automobile Liability	Additional Endorsement	An additional endorsement on a C.G.L. policy that provides coverage for claims that arise against the insured and/or employee for the use or operation of any automobile not owned in whole or in part or licensed in the name of the insured and/or employee. Non-owned Automobile Liability Insurance is liability coverage for a vehicle used on behalf of a D.D. Broker but is not owned by the D.D. Broker; it provides coverage for employees who periodically use their personal vehicles on behalf of a D.D. Broker
Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured	Additional Endorsement	An additional endorsement on a C.G.L. policy that provides liability coverage for the Insured for loss or damage arising from the care, custody or control of any automobile not owned in whole or in part by or licensed in the name of the Insured.

5.3 Commercial General Liability Coverage

A Commercial General Liability insurance policy is designed to respond to ‘claims’ that arise out of the Insured’s business operations that are generally **not** related to the operation of an automobile. Coverage is provided for the Insured for a specified amount in instances when the Insured becomes obligated to pay for compensatory damages due to:

- **Bodily Injury** - For example, the client sues the D.D. Broker and/or Designated Driver because the client trips and falls while the Designated Driver is assisting the client up the steps to the client’s house.
- **Property Damage** - For example, the client sues the D.D. Broker and/or Designated Driver because the Designated Driver damaged the client’s assistive walking device while unloading it from the trunk of the client’s vehicle.
- **Personal Injury** - For example, the client sues the D.D. Broker and/or Designated Driver because the client claims the Designated Driver wrongfully entered the vehicle and drove it without the client’s permission.

Additional insurance coverages can be purchased under a C.G.L. insurance policy. Such coverages are commonly referred to as Additional Endorsements.

5.4 Principal Issue: Additional Endorsements

The insurance requirements detailed in Section 5.2 were developed through discussions with members of the Insurance Industry and comparisons with similar industries. The present insurance framework represents the ideal level of insurance coverage for D.D. Brokers, their employees, and the public/customer. While the required insurance framework is offered for other business operations, staff are aware that the insurance requirements, as defined in Section 5.2, are not presently available to the D.D. Industry. Specifically, the C.G.L. insurance coverage **is available** to the D.D. Industry; however, the two (2) additional endorsements are not presently available **in conjunction** with the C.G.L. insurance coverage.

5.5 Consultation Process

As per Council's May 24, 2016 direction, staff met with Insurance Brokers and members of the D.D. Industry to discuss their concerns. Sections 5.5.1 and 5.5.2 provide a summary of input received from stakeholders.

5.5.1 Consultation with Insurance Brokers

Staff met with local insurance brokers on June 3, 2016 to discuss options and availabilities of appropriate insurance products for the D.D. Industry. Two (2) local insurance brokers attended and the following is a summary of input received:

- Insurance brokers are not aware of any insurance company that will presently offer a C.G.L. insurance policy **in conjunction** with the two (2) additional endorsements as specified in Section 5.2.
- A \$2 million C.G.L. insurance policy is available to D.D. Brokers and their employees and Designated Drivers operating as independent contractors for D.D. Brokers. Details of the policy from one insurance company are as follows:
 - The minimum premium for the \$2 million C.G.L. insurance policy for D.D. Brokers and their employees is approximately \$1000.
 - The premium is based on annual gross sales figures, and therefore, the higher the annual gross sales figure, the higher the premium.
- The province of British Columbia, through the Insurance Corporation of British Columbia¹, offers a Valet insurance policy for D.D. Services which prevents the client's automobile insurance from being impacted if an accident occurs while a Designated Driver is operating the client's vehicle. It is important to note that this product is not available in Ontario.

¹ The Insurance Corporation of British Columbia is a government-owned monopoly insurer which provides mandatory standard auto insurance to all registered vehicle owners in the province of British Columbia. Additional coverages can be purchased from private insurers or from the I.C.B.C.

5.5.2 Consultation with D.D. Brokers

Staff met with D.D. Brokers on June 7, 2016 to discuss options, availabilities, and their concerns regarding the appropriate level of insurance for the D.D. Industry. Seven (7) D.D. Brokers attended the consultation meeting and the following is a summary of input received:

- Two (2) of the D.D. Brokers attending the meeting reported having C.G.L. insurance coverage for their companies.
- Some D.D. Brokers expressed concerns regarding the cost associated with a requirement to maintain a C.G.L. insurance policy and that costs would be too prohibitive for Designated Drivers operating as independent contractors.
- Some D.D. Brokers were concerned that costs would impact the affordability of the service as D.D. Brokers would be compelled to charge higher fares. The increase in fares could potentially discourage impaired drivers from using their services.





5.6 Preliminary Assessment of Insurance Options and Recommended Insurance Framework

The primary objective of regulating the D.D. Industry, as stated earlier, is to establish minimum standards that address consumer protection and health and safety concerns for the general public and the D.D. Industry. Accordingly, staff have determined that establishing insurance requirements for D.D. Brokers is essential for addressing this objective.

The assessment of feedback from both the Insurance and D.D. Industries supports amending the insurance requirements for D.D. Brokers established in By-law 111-2015. Specifically, it is not presently possible for D.D. Brokers to comply with the By-law's insurance requirements considering insurance companies are not offering D.D. Brokers the option to acquire the two (2) additional endorsements² in conjunction with a \$2 million C.G.L. insurance policy. The assessment supports removing the requirement for D.D. Brokers to obtain the two (2) aforementioned additional endorsements and instead, require D.D. Brokers to only obtain \$2 million C.G.L. coverage. **Table 2** provides a summary of staff's recommendations.

² Non-owned Automobile Liability and Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured

Table 2 Proposed Insurance Requirements for D.D. Brokers

Insurance Coverage	Current Requirements	Proposed Requirements
Commercial General Liability Coverage: Commercial General Liability Insurance of not less than two million dollars (\$2,000,000.00) per accident or occurrence		
Additional Endorsement: Non-owned Automobile Liability		
Additional Endorsement: Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured		

5.6.1 Insurance Coverage under Proposed Insurance Framework

The proposed insurance framework could potentially provide the following coverages detailed in the examples³ below. Given that insurance policies vary in their levels of coverages and conditions, it is important to note that the following is for general reference purposes only and does not constitute advice on how insurance coverages will respond to each scenario.

a) **Accident involving Client’s Vehicle:** For example, the Designated Driver is involved in a collision in their client’s vehicle.

Applicable Insurance Policy Providing Coverage: Client’s Standard Automobile insurance policy responds to claims:




- for damage to the Client’s vehicle;
- for injury to occupants of the Client’s vehicle⁴; and
- for threshold injury claims presented by occupants of the third-party vehicle involved in the accident.

Individuals Covered: Table 3 details the parties that would be covered under the Client’s Standard Automobile insurance policy in the event of an accident involving the client’s vehicle.

³ The examples provided represent a limited number of scenarios where applicable insurance coverages could apply.

⁴ If an occupant is a Named Insured on their own automobile insurance policy, they would make a claim for injury with their own insurer.

Table 3 Individuals Covered: Accident Involving Client’s Vehicle

Client	D.D. Broker	Designated Driver (Employee)	Designated Driver (Contractor)
	Not applicable		



b) **Accident involving D.D. Support Vehicle:** For example, the Designated Driver operating the D.D. Support Vehicle is involved in a collision while delivering his/her fellow Designated Driver to a client.

Applicable Insurance Policy Providing Coverage: Designated Driver’s automobile insurance policy⁵ responds to claims:

- for damage to the D.D. Support Vehicle;
- for injury to occupants of the D.D. Support Vehicle⁶; and
- for threshold injury claims presented by occupants of the third-party vehicle involved in the accident.

Individuals Covered: Table 4 details the parties that would be covered under the Designated Driver’s Automobile insurance policy⁷ in the event of an accident involving the D.D. Support Vehicle.

Table 4 Individuals Covered: Accident Involving a D.D. Support Vehicle

Client	D.D. Broker	Designated Driver (Employee)	Designated Driver (Contractor)
Not applicable	Not applicable		

⁵ D.D. Support Vehicle insurance policy could include commercial vehicle insurance or a standard automobile insurance policy with a business rating.

⁶ If an occupant is a Named Insured on their own automobile insurance policy, they would make a claim for injury with that insurer.




⁷ D.D. Support Vehicle insurance policy could include commercial vehicle insurance or a standard automobile insurance policy with a business rating.

c) Non-Automobile Related Claims: For example, the client successfully sues the D.D. Broker and/or Designated Driver, an employee of the D.D. Broker, because the client trips and falls while the Designated Driver is assisting the client up the steps to the client’s house.

Applicable Insurance Policy Providing Coverage: D.D. Broker’s \$2 million C.G.L. insurance policy **or** the \$2 million C.G.L. insurance policy of the Designated Driver Contractor. Responds to claims for Bodily Injury presented by Client or any third party.

Individuals Covered: Table 5 details the parties that would be covered under the D.D. Broker’s **or** the Designated Driver Contractor’s \$2 million C.G.L. insurance policy in the event of a non-automobile related claim.

Table 5 Individuals Covered: Non-Automobile Related Claims

Client	D.D. Broker	Designated Driver (Employee)	Designated Driver (Contractor)
Not applicable			

5.6.2 Proposed Insurance Requirement: \$2 Million C.G.L. for D.D. Brokers

The proposed requirement for D.D. Brokers to maintain a \$2 million C.G.L. insurance policy will primarily protect D.D. Brokers and their employees from non-automobile related claims arising from their business operations. An ancillary benefit to this insurance requirement is that it provides a level of consumer protection as the consumer can potentially access a remedy in the event they are successful in a civil action against the D.D. Broker and/or their employees for non-automobile related claims.

Staff’s assessment has determined that requiring D.D. Brokers to maintain \$2 million C.G.L. insurance coverage is appropriate for the following reasons:

- The proposed insurance requirements provide a level of protection for the D.D. Industry and the consumer.
- The presence of such a policy is in keeping with good business practices and the associated costs do not appear prohibitive.
- A \$2 million C.G.L. insurance policy has no territorial restrictions and may be used for licensing purposes in other municipalities/jurisdictions that establish similar licensing regimes for D.D. Services in the future.

While requiring D.D. Brokers to maintain a \$2 million C.G.L. insurance policy constitutes the ideal type and level of insurance at this time, the availability of such a policy is presently limited. Therefore, it is recommended that staff continue to liaise with all stakeholders, monitor the availability of a \$2 million C.G.L. insurance policy for D.D. Brokers, and report back to the Corporate Services Committee at its September 12, 2016 meeting.

6.0 Financial Implications

There are no financial implications directly related to the recommendations in this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendations in this report respond to the Oshawa Strategic Plan Goal of 4.2: Accountable Leadership: Deliberate Community Engagement, and Develop and Leverage Relationships.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



Beverly Hendry, Commissioner,
Corporate Services Department

Attachments

Excerpt of Definitions from Designated Driving Services By-law 111-2015

Designated Drivers: means

- any person who operates a motor vehicle owned by another Registered Motor Vehicle Owner for the purposes of providing Designated Driving Services; or
- any person who operates a Designated Driver Support Vehicle,

but does not include a "Driver" while operating a "Taxicab" as those two terms are defined by the City's Taxicab Licensing By-law.

Designated Driving Brokers: means any person who accepts or communicates orders or information in any way related to the provision of Designated Driving Services by a Designated Driver to another person.

Designated Driving Services: means the transportation of an impaired Registered Motor Vehicle Owner and their passengers, where applicable, in the Registered Motor Vehicle Owner's vehicle from a licensed establishment or social engagement within the City to one or more residences for payment of a salary, a fee or for any other consideration.

Designated Driver Support Vehicle: means a motor vehicle operated by a Designated Driver for the purposes of assisting another Designated Driver in the provision of Designated Driving Services.

Frequently Asked Questions: Designated Driving Services and Insurance

Note: this document provides general information on D.D. Services and Insurance and is not intended as a substitute for legal and/or insurance advice.

1. Will using a Designated Driving Service impact my vehicle insurance?

Answer: In general, automobile insurance coverage is arranged for the insured vehicle and provides coverage for the driver and passengers using the insured vehicle with the owner's permission. When using a Designated Driving Service, any claims resulting from an accident caused by the Designated Driver may affect the customer's insurance record.

It is important for prospective Designated Driving Service Customers to contact their insurance provider to ensure that they have appropriate coverage prior to using a Designated Driving Service.

2. What is Commercial General Liability (C.G.L.) Insurance?

Answer: A C.G.L. insurance policy is designed to respond to 'claims' that arise out of the Insured's business operations that are generally **not** related to the operation of an automobile.

3. What sort of coverages does C.G.L. Insurance provide?

Answer: Coverage is provided for the Insured for a specified amount in instances when the Insured becomes obligated to pay for compensatory damages due to:

- **Bodily Injury** – For example, the client sues the D.D. Broker and/or Designated Driver because the client trips and falls while the Designated Driver is assisting the client up the steps to the client's house.
- **Property Damage** – For example, the client sues the D.D. Broker and/or Designated Driver because the Designated Driver damaged the client's assistive walking device while unloading it from the trunk of the client's vehicle.
- **Personal Injury** – For example, the client sues the D.D. Broker and/or Designated Driver because the client claims the Designated Driver wrongfully entered the vehicle and drove it without the client's permission.

4. **How much will C.G.L. Insurance cost for D.D. Brokers and how is the premium determined?**

Answer: The City is presently aware of an insurance company **or** companies that will offer a \$2 million C.G.L. insurance policy to D.D. Brokers and their employees and Designated Drivers operating as independent contractors for D.D. Brokers. According to one insurer, the minimum premium for a \$2 million C.G.L. insurance policy for Designated Driving Brokers and their employees is approximately \$1000. The premium is based on annual gross sales figures and therefore, the higher the annual gross sales figure, the higher the premium.

5. **Is a C.G.L. insurance policy valid in other jurisdictions if other municipalities regulate Designated Driving Services and establish a C.G.L. insurance requirement in their by-law?**

Answer: Yes.

Public Report

To: Corporate Services Committee

From: Jacqueline Long, Interim Commissioner
Corporate Services Department & HR

Report Number: CORP-15-22

Date of Report: April 9, 2015

Date of Meeting: April 13, 2015

Subject: Regulation of Designated Drivers: Summary of Industry Input
and Policy Options

File: D-2300

1.0 Purpose

This report presents feedback received from two industry stakeholder consultation sessions; staff analysis respecting the issue of regulating the Designated Driver (D.D.) Industry; and recommends establishing a system of licensing for D.D.s.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That staff prepare a by-law to amend Licensing By-law 120-2005, as amended, General Fees and Charges By-law 13-2003, as amended, and Taxicab By-law 50-2003, as amended in the form consistent with Option "C" in Report CORP-15-22 to establish a system of licensing for Designated Driver Service Providers and report back.

3.0 Executive Summary

An extensive industry consultation process and research has been undertaken pertaining to the regulation of Designated Drivers at the direction of City Council. Through the process, a number of regulatory issues, for instance health and safety concerns, were identified which support establishing a D.D. licensing regime. Based on the assessment in this report, staff are of the opinion that Option "C" best addresses the regulatory issues by providing a balanced approach to regulating the D.D. Industry.

4.0 Input From Other Sources

The City conducted separate industry consultation meetings with the Taxicab Industry in May 2014 and with the Designated Driver Industry in August 2014. Summaries of input

from the Taxicab Industry and the Designated Driver Industry were respectively provided in Reports CORP-14-75 and CORP-14-93.

Finance Services and Legal Services were consulted in the preparation of this report.

5.0 Analysis

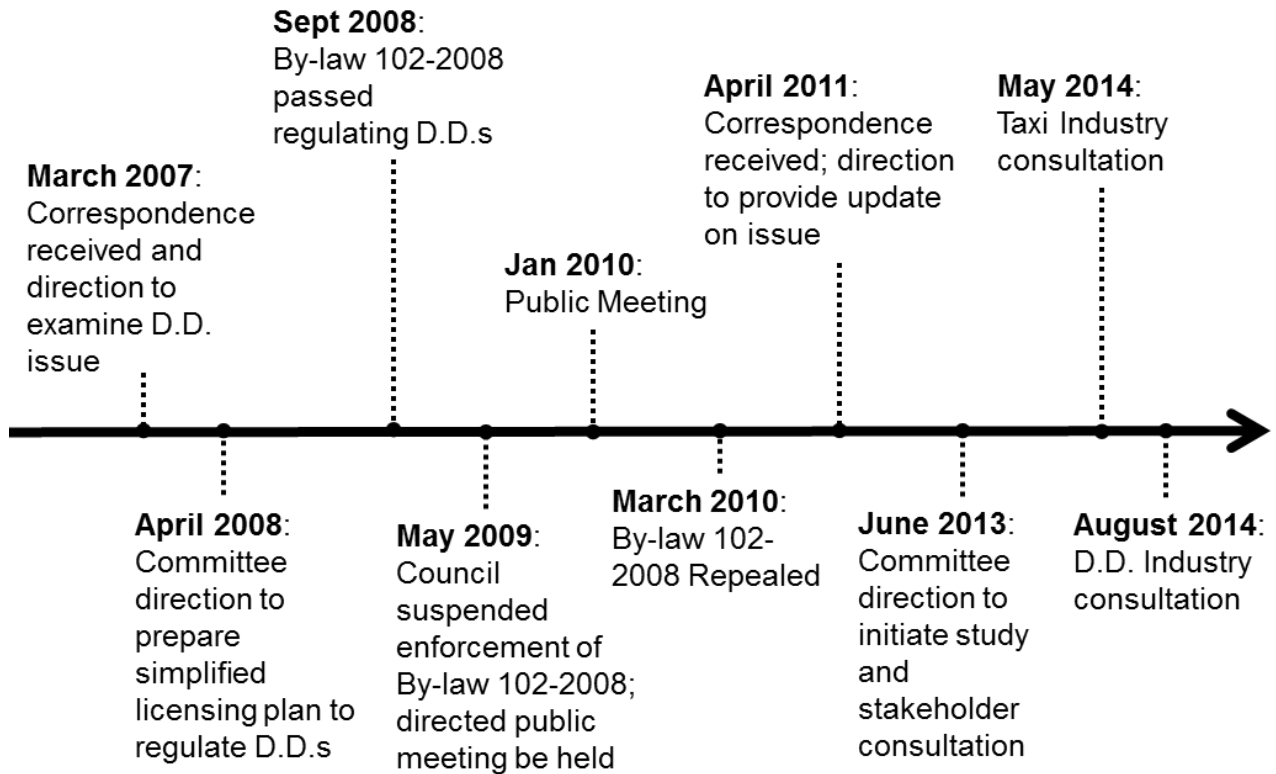
5.1 Background

The actual operating model of a Designated Driver (D.D.) service involves a driver being hired to drive a customer's vehicle with the customer and their passengers in it, from one location to at least one other destination. Prior to providing the service, the D.D. Driver is delivered to the customer by a second D.D. Driver in a "chase vehicle". One D.D. Driver drives the customer and passengers to their final destination while the chase vehicle follows. The chase vehicle picks up the D.D. Driver at the final destination once the service has been provided. A complete overview of the D.D. Industry and its comparison with the Taxi Industry is provided in Report CORP-13-98-CM (Attachment 1).

The central issue this report attempts to address is that both the D.D. and Taxi industries provide similar but different services. Specifically, both industries are similar in that they both convey passengers, but they differ in how passengers are conveyed and the fact that D.D. services involves transporting the customer's vehicle from one destination to another. The D.D. Industry has no regulations governing its business, but the Taxi industry, in contrast to the D.D. Industry, is significantly regulated for the purposes of ensuring consumer protection and protecting the health and safety of the passengers. This situation is referred to in this report as the "policy gap".

D.D.s have been operating in Oshawa and in other Canadian municipalities for a number of years. In 2007, the Audit, Budget and Corporate Services Committee (now referred to as the Corporate Services Committee) considered a request for the City to regulate the fees of D.D.s. Since 2007, there have been periodic and repeated requests to establish a system of licensing for D.D. services. A timeline of notable events is provided in Figure 1, and Attachment 2 provides a chronological account of all events on the issue of regulating D.D.s.

Figure 1 D.D. Timeline of Notable Events



A D.D. licensing regime was established in Oshawa in 2008 but was temporarily suspended by Council in 2009 pending a public meeting to gather input from all stakeholders. The D.D. by-law was subsequently repealed in March 2010.

While a number of municipalities in Ontario are currently examining the regulation of D.D. services, staff are not aware of any D.D. licensing regimes in Ontario or in other areas of Canada. Notwithstanding this, an environmental scan has revealed one jurisdiction within the United States that licenses D.D. services.

At its June 24, 2014 meeting, Council directed staff to undertake a study and initiate consultation with the Taxi and D.D. industries and to report back to the Corporate Services Committee (“Committee”) with recommendations. This report responds to Council’s direction.

5.1.1 Consultation Process

Staff held two industry consultation sessions and submitted two interim summary reports to Committee in the second and third quarters of 2014. The consultation framework is highlighted below in Table 1.

Table 1 Stakeholder Consultation Framework

	Date	Status
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report (CORP-14-75)	May 26, 2014	Complete
Designated Driver Industry Consultation	August 20, 2014	Complete
Second Industry Consultation Status Report (CORP-14-93)	September 8, 2014	Complete
Summary of Input and Policy Recommendations Report	April 13, 2015	Complete

During the consultation session, staff provided an overview of the regulatory issues surrounding D.D. services; explained the licensing framework of the Taxi Industry, a different but similar service; detailed the need to regulate the D.D. Industry in Oshawa; provided potential regulatory options to initiate discussion; and received feedback. The major themes that emerged from both consultation sessions are as follows:

- General acknowledgement of the presence of the “policy gap” between the two services.
- The Taxi Industry generally does not support the presence of D.D. services but recognizes that if the service is not prohibited, it should at least be regulated.
- General consensus that some form of regulation of the D.D. services is necessary.
- General concern from the D.D. Industry that costs associated with regulation may be prohibitive for their current business model.
- Greater enforcement of Taxicab Licensing By-law 50-2003 (“Taxicab By-law”) is required. This theme was expressed primarily by the Taxi Industry.

Input from both industries is summarized in Attachment 3.

5.1.2 Regulatory Issues

Staff have thoroughly assessed the regulation of D.D.s and have identified a number of issues which indicate that establishing a D.D. licensing regime is beneficial to proceed with at this time. Some of these issues are similar to those that justify the existence of the licensing regime for the Taxi Industry. The issues are as follows:

- (a) **Need to address the Policy Gap:** There is a policy gap between the regulation of the Taxicab Industry and the non-regulation of the D.D. Industry. Both industries

provide a similar service in that they are involved in the transportation of people for a fee.

- (b) **Need to address D.D. Service Model and By-law Contravention:** D.D.s provide services that overlap with those provided by the regulated Taxi Industry. Specifically, they convey passengers but in the customer's vehicle. The City's Taxicab By-law defines "Taxicab" as including "[...] any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area [...]". The Taxicab definition excludes certain vehicles such as an ambulance or a funeral hearse but does not exclude a vehicle that used in the provision of a D.D. service. Therefore, when providing D.D. services, D.D.s are effectively providing a driver to drive the customers which is considered to be operating a Taxicab, contrary to the Taxicab By-law, by conveying the customer (and their passengers) in a vehicle for a fee. The Taxi Industry argues that D.D. clients should only be using taxicabs and should plan their travels/social/medical functions/appointments beforehand so that they do not require the use of their own vehicle.
- (c) **Need to address Consumer Protection and Health and Safety Concerns:** The City regulates the Taxi Industry to address consumer protection and health and safety concerns. As part of the taxi licensing process, taxicab drivers are required to complete a series of courses and provide supporting documentation such as a criminal information report. In addition, taxicab vehicles are regularly inspected for mechanical deficiencies and are required to have adequate vehicle insurance. This is in contrast to the unregulated D.D. Industry. A comprehensive list of taxi licensing requirements is detailed in Attachment 1. It is important to note that many taxicab licensing requirements are not applicable to the D.D. Industry because the D.D. Industry operates differently by driving the client's vehicle.
- (d) **Need to preserve a version of the D.D. Service Model:** D.D.s provide services to a broad range of clients from individuals requiring the transport of their vehicle after visiting a licensed establishment to others who require the transport of their vehicle following a medical procedure. It is apparent that D.D.s provide a unique service which the public values because they can have their vehicle returned home.

An assessment matrix has been created in section 5.3.4 to assist in the evaluation of each regulatory option discussed in section 5.2.

5.2 Regulatory Options

Staff presented regulatory options for consideration by the stakeholder groups. These options establish certain licensing conditions/requirements in the following three (3) areas:

- 1) **D.D. Driver Licensing Regulations** – refers to licensing requirements for any *person* who operates a vehicle in the provision of a D.D. service.
- 2) **D.D. Broker Licensing Regulations** – Similar to Taxicab Broker regulations, these licensing requirements are applicable to any person/company who accepts orders for D.D. services and dispatches drivers or themselves.

- 3) **D.D. Operating Regulations** – refers to licensing conditions D.D. Drivers and Brokers must fulfill. These conditions vary between administrative requirements, for example, ensuring that the customer has a valid driver’s licence to requiring the D.D. chase vehicle to display markings of their affiliated D.D. Broker.

Sections 5.2.1 to 5.2.3 provide descriptions of each type of condition/requirement. Option “A” proposes to exempt D.D.s from the Taxicab By-law whereas Options “B” and “C” propose different systems of licensing. Under Options “B” and “C”, any D.D. service who picks up customers and their vehicles at a location within Oshawa’s City limits will be required to obtain a licence from the City of Oshawa.

Option “A”: Exempt D.D.s from Taxicab By-law: This option attempts to address the inherent contravention to the Taxicab By-law by exempting D.D. services from the definition of “Taxicab”. Option “A” does not provide any form of consumer protection or address health and safety issues; it does, however, preserve the D.D. service model. Option “A” is not recommended considering D.D.s continue to provide a taxi-like service.

Option “B”: Reinstate D.D. By-law 102-2008: D.D.s were previously regulated under By-law 102-2008, but Council repealed the By-law in 2010 over concerns respecting insurance and the restrictions on conveying passengers. This proposed option would reinstate the licensing conditions/requirements of By-law 102-2008. Option “B” is not recommended based on the updated assessment forming part of this report.

Option “C”: Pass a by-law similar to D.D. By-law 102-2008: Option “C” proposes modifying the licensing conditions/requirements of By-law 102-2008 such as permitting the registered vehicle owner **or** an authorized operator¹ and the registered vehicle owner’s vehicle to be transported to a destination and including additional requirements which would mostly harmonize D.D. regulations with those of the Taxi Industry. Option “C” would establish two classes of D.D. licences:

- D.D. Driver Licence
- D.D. Broker Licence

Staff are of the opinion that Option “C” provides a balanced approach to regulating the D.D. Industry and presents the best option to closing the policy gap between the Taxi Industry and the D.D. Industry.

5.2.1 D.D. Driver Licensing Regulations

It is recommended that D.D. Drivers be responsible for complying with specific standards if Council determines that D.D. services should be regulated and permitted to operate within the City. There are five licensing requirements being considered for D.D. Drivers who operate vehicles in the provision of D.D. services. The intent of these standards is to ensure a minimum level of consumer protection and health and safety. All five standards

¹ Refers to an individual who has received the registered vehicle owner’s consent to operate the registered vehicle owner’s vehicle.

are mandatory requirements for the licensing of taxicab drivers. Taxi drivers, on the other hand, must additionally complete a taxicab driver training program and undertake Standard First Aid and C.P.R. level C training.

- **Criminal Information Report (with Vulnerable Sector Screening):** This document must be obtained at the applicant’s local police service and includes a list of all criminal convictions for which a pardon has not been received.
- **Driver’s Abstract:** Also referred to as a driver’s record, this document provides driver and licence details; lists conviction information and any applicable demerit points; and suspensions for a three-year period.
- **Proof of Valid “G” Class (minimum) Driver’s Licence:** Applicants would be required to provide a copy of their valid “G” Class Provincial driver’s licence verifying that they are permitted to operate a car in the Province of Ontario.
- **Proof of Driver’s affiliation with a Licensed D.D. Broker:** Applicants for a D.D. Driver’s licence must be associated with a D.D. Broker licensed in Oshawa. A letter from the D.D. Broker will be required.
- **Medical Clearance Letter:** This document attests as to whether or not the D.D. Driver is physically and mentally able to operate a vehicle in the provision of a D.D. service and is free from communicable diseases and must be prepared by a qualified medical practitioner.

Table 2 details the various licensing requirements D.D. Drivers would need to complete for each proposed option. The approximate cost of fulfilling each requirement is detailed in section 5.4.1.

Table 2 D.D. Driver Licensing Requirements for Proposed Regulatory Options

Options	Criminal Information Report	Driver’s Abstract	Proof of “G” (minimum) Driver Licence	Proof of Affiliation with Licensed D.D. Broker	Medical Clearance Letter
Option A: Exempt D.D.s from Taxicab By-law					
Option B: Reinstate D.D. By-law 102-2008	✓	✓	✓		
Option C: Pass a by-law similar to By-law 102-2008	✓	✓	✓	✓	✓

5.2.2 D.D. Broker Licensing Regulations




D.D. Brokers are akin to Taxicab Brokers in that they accept orders for D.D. services and dispatch D.D. Drivers. The intent of the prescribed standards for licensing D.D. Brokers is to provide a minimum level of protection for the public, customers, D.D. Drivers and D.D. Brokers. Table 3 details the various licensing requirements D.D. Brokers would need to fulfill for each proposed option.

- **Commercial General Liability (C.G.L.) Insurance in an amount specified by the City:** While insurance coverage varies depending on level of coverage purchased, C.G.L. insurance typically protects the insured from liability as a result of third party bodily injury; property damage or loss; personal injury; and non-owned automobile liability. The C.G.L. insurance policy required by D.D. Brokers shall include, but shall not be limited to:
 - i. have a limit of liability in an amount of at least \$2 million or an amount specified by the City;
 - ii. name the D.D. Broker and owner(s) of the D.D. Broker as Named Insured(s);
 - iii. name all D.D. Drivers affiliated with the D.D. Broker as Additional Insured(s); and
 - iv. include non-owned automobile liability coverage

Note: Despite the insurance provisions detailed above, Section 5.5 outlines limitations with respect to insurance coverage.

- **Ontario Master Business Licence and/or Articles of Incorporation:** This documentation confirms that the business is registered to conduct business in Ontario.

Table 3 D.D. Broker Licensing Requirements for Proposed Regulatory Options

Options	C.G.L. Insurance in an amount specified by the City	Ontario Master Business Licence/Articles of Incorporation
Option A: Exempt D.D.'s from Taxicab By-law		
Option B: Reinstate D.D. By-law 102-2008		
Option C: Pass a by-law similar to By-law 102-2008		

5.2.3 D.D. Operating Regulations

Options “B” and “C” contemplate the establishment of D.D. operating standards which D.D. Drivers and D.D. Brokers must comply with while providing D.D. services. These operating standards can be further broken down further into the following three (3) areas:

- (a) The calculation of fares
- (b) Conveyance of passengers
- (c) Other requirements

(a) The Calculation of Fares

Table 4 details the methods of fee regulation for D.D.s for each proposed option.

- **Negotiated Fare/Rate:** fares are negotiated between the customer and the D.D. Driver and are typically established as a flat rate. Negotiated fares are easy to administer and provide greater flexibility for D.D. Brokers to make business decisions. Negotiated fares/rates do not offer consumer protection but is the most viable option in that there is no meter in the customer’s vehicle. This is presently the approach used by D.D.’s.
- **Fixed Price/Rate:** fares are established based on distance by a regulatory authority, the municipality, in consultation with the Industry. The distance and corresponding fare can be measured either by using an electronic meter or by establishing fare zones within the municipality. Fixed rates provide a form of consumer protection but are quite difficult to implement in the D.D. Industry.

Table 4 D.D.s and the Calculation of Fares

Options	Negotiated Fare	Fixed Fare/Rate
Option A: Exempt D.D.s from Taxicab By-law		
Option B: Reinstate D.D. By-law 102-2008		
Option C: Pass a by-law similar to By-law 102-2008		

(b) The Conveyance of Passengers

All options prohibit D.D. service providers from conveying customers and their passengers in the chase vehicle. Table 5 details how passengers can be conveyed for each proposed option.

- **Cannot convey passengers in Chase Vehicle:** this standard prohibits the conveyance of passengers in the D.D. chase vehicle.
- **Cannot convey passengers:** this standard restricts the conveyance of the customer or passengers in the client’s vehicle.

- **Can only convey registered vehicle owner or authorized operator:** this standard would only permit D.D.s to convey the registered vehicle owner **or** a driver authorized by the registered vehicle owner in the customer’s vehicle. This standard provides a form of consumer protection in that passengers, who have no connection to the condition of the vehicle owner’s automobile nor to the existence or adequacy of insurance, are not subjected to potential risk. The passengers do not require a vehicle to be transported and do not, therefore, require the service of a D.D. Rather, the passengers require an alternative method of transportation such as Durham Region Transit or a taxi. By contrast, the vehicle owner or authorized operator should be familiar with the vehicle’s condition and insurance and can be seen to have voluntarily accepted the risk and responsibility of adequate maintenance and insurance when being conveyed in the owner’s vehicle by a D.D.
- **Can convey driver and passengers:** this standard permits D.D.s to convey the customer and his/her passengers subject to the availability of seat belts in the customer’s vehicle. This is not supported in that the D.D. service becomes a defacto taxicab.

Table 5 D.D.s and the Conveyance of Passengers

Options	Cannot convey passengers in Chase Vehicle	Cannot convey passengers	Can convey registered vehicle owner or authorized operator	Can convey driver and passengers
Option A: Exempt D.D.s from Taxicab By-law	✓			✓
Option B: Reinstate D.D. By-law 102-2008	✓	✓		
Option C: Pass a by-law similar to By-law 102-2008	✓		✓	

(c) **Other Requirements**

These requirements relate to the operation of a D.D. service which cannot be classified in the categories above. Table 6 details the other requirements D.D.s must comply with for each proposed option.

- **D.D. chase vehicle must be insured and have at least minimum limits for automobile liability and accident benefit coverage:** automobile liability and accident benefit coverage will cover the chase vehicle in cases, for example, where the vehicle is involved in an accident resulting in property damage or injury while operating their chase vehicle.
- **Must confirm and obtain (a) valid vehicle permit and insurance, (b) valid driver's licence, and (c) registered vehicle owner's consent:** prior to providing the service, D.D. Drivers are required to confirm that the registered vehicle owner **or** their authorized operator has a valid vehicle permit, adequate insurance coverage for the vehicle and driver's licence in addition to obtaining the registered vehicle owner's consent to operate the vehicle in the provision of a D.D. service.
- **Shall display D.D. Broker Markings and City of Oshawa Licensing information on Chase Vehicle:** D.D. chase vehicles will be required to display their Broker's markings, contact information and City of Oshawa licensing information on the chase vehicle. Identifiable markings inform the public that the D.D. Broker is licensed by the City of Oshawa and assists Municipal Law Enforcement Officers in the enforcement of applicable standards.
- **Prohibited from displaying Roof Lights on D.D. Chase Vehicle:** vehicle roof lights are illuminated signs affixed on the roof of a vehicle and are generally associated with taxicabs. This prohibition will ensure that D.D. chase vehicles are not mistaken as taxicabs.
- **D.D. Drivers must prominently display their D.D. Driver Licence:** Licensed D.D. Drivers will be issued a photo identification card displaying features including their name, the period they are licensed, and their photo. When providing a D.D. service, licensed D.D. Drivers must prominently display their D.D. Driver licence for their customer's inspection.
- **D.D. Drivers must maintain a trip log:** The D.D. Driver must keep and maintain, for a period of three months, a log of all trips made by the D.D. Driver during each period of continuous operation (shift) and shall contain information pertaining to:
 - i) the names of the D.D. Drivers, the date and the Owner Plate number;
 - ii) the time, location and destination of every trip made; and
 - iii) the amount of the fare collected for each trip.

The D.D. Driver must present the trip log for inspection upon request to a Municipal Law Enforcement Officer.

Table 6 D.D.s and Other Operating Requirements

Options	D.D. Chase Vehicle must be insured and have Automobile Liability & Accident Benefit coverage	Must confirm/obtain: (a) Valid permit and insurance (b) Valid driver's licence (c) Registered Vehicle Owner's Consent	Must display D.D. Broker Marking and Contact and Licensing Information on D.D. Chase Vehicle	Prohibited from displaying Roof Lights on D.D. Chase vehicle	D.D. Driver must prominently display D.D. Driver Licence	D.D. Driver must keep trip log
Option A: Exempt D.D.s from Taxicab By-law						
Option B: Reinstate D.D. By-law 102-2008		✓				
Option C: Pass a by-law similar to By-law 102-2008	✓	✓	✓	✓	✓	✓

5.3 Assessment of Regulatory Options

Staff assessed each proposed regulatory option in their ability to address the regulatory issues identified in section 5.1.2. An additional assessment criteria, Enforcement and Administration, was included as part of the assessment. This criteria refers to the effectiveness and efficiency of administering and enforcing the applicable option. The findings are detailed in sections 5.3.1. to 5.3.3 and are summarized in Table 7 in section 5.3.4.

5.3.1 Option “A”: Exempt D.D.s from Taxicab By-law

Option “A” addresses the inherent contravention to the Taxicab By-law by exempting D.D. services from the definition of “Taxicab”. D.D.s would not be regulated under Option “A” and would therefore be permitted to convey the customer and their passengers in the customer’s vehicle. Accordingly, Option “A”, preserves the D.D. service model but does not address the policy gap between the D.D. and Taxicab industries.

Option “A” does not provide any form of consumer protection or address any health and safety issues. D.D. Drivers are not vetted by the City, and the customer, through their automobile insurance, is responsible for all liabilities (i.e., property damage, injuries, and death) which may occur while providing the care, custody and control of their vehicle to the D.D. Driver.

Option “A” does not require the City to license or enforce the Taxicab By-law as it relates to D.D. services as they would be exempt from the By-law under this option. Staff do not recommend the implementation of Option “A”.

5.3.2 Option “B”: Reinstate D.D. By-law 102-2008

Option “B” reinstates the formerly repealed D.D. By-law 102-2008 which established a licensing regime for D.D.s and required them to verify that the customer has a valid driver’s licence, insurance and vehicle ownership. Additionally, the D.D. Driver has to obtain the registered vehicle owner’s consent to operate their vehicle and negotiate a suitable fare. D.D. Drivers are prohibited from transporting passengers (including the customer or registered vehicle owner) while providing the D.D. service. D.D. Brokers are required to carry a minimum of \$2 million C.G.L. insurance.

Option “B” partially addresses the policy gap and health and safety concerns as D.D. Drivers are required to obtain certain approvals applicable to taxicab driver licensing. While Option “B” addresses D.D.s’ contravention of the Taxicab By-law, it does not preserve the D.D. service model in that passengers (including the customer or registered vehicle owner) are not permitted to be transported by a D.D. service.

Administering Option “B” would require additional staff resources including procuring/developing physical licences and potentially tracking software. Similarly, there would be challenges to enforcing certain procedural requirements which would require Municipal Law Enforcement Officers to devote a significant amount of time and resources.

5.3.3 Option “C”: Pass a by-law similar to By-law 102-2008

Option “C” contemplates the creation of two licensing classes; one for D.D. Drivers and the other for D.D. Brokers to which drivers are affiliated. This option harmonizes the licensing standards, where applicable, between D.D. Drivers and Taxicab Drivers with the exception of the requirement for standard first aid training. D.D. Drivers must verify that the registered vehicle owner **or** the authorized operator has a valid driver’s licence, adequate insurance and vehicle ownership. Similar to option “B”, the D.D. Driver has to obtain the registered vehicle owner’s consent to operate their vehicle and negotiate a suitable fare. D.D. Drivers are also required to maintain a trip log and are only permitted to transport the registered vehicle owner **or** the authorized operator in their vehicle. This is because passengers have no connection to the condition of the vehicle owner’s automobile nor to the existence or adequacy of insurance. D.D. Brokers are required to have C.G.L. insurance in an amount specified by the City, and chase vehicles affiliated with the Broker must possess an insurance policy with automobile liability and accident benefit coverage; bear the Broker’s markings; and are prohibited from mounting roof lights.

Option “C” addresses the policy gap and health and safety concerns by harmonizing D.D. Driver standards with those applicable to taxicab drivers. It also resolves the issue of D.D.s’ contravening the Taxicab By-law by exempting them from the definition of “taxicab”. Finally, the D.D. service model is partially preserved by permitting the registered vehicle owner **or** an authorized operator to be transported in the registered vehicle owner’s vehicle to their destination.

The administration and enforcement of Option “C” would be similar to Option “B”.

Staff recommend implementing Option “C” given that it achieves balance by recognizing the realities of D.D. Industry operations and addresses the four regulatory issues identified in section 5.1.2.

5.3.4 Regulatory Option Assessment Matrix

Staff created an assessment matrix (Table 7) to rank each proposed option based on the regulatory issues identified in section 5.1.2.

Table 7 Assessment of Proposed Regulatory Options

Options	Addresses Policy Gap	Addresses Health and Safety Concerns	Addresses D.D. Service Model By-law Contravention	Preserves D.D. Service Model	Enforcement & Administration	Total Score (out of 20)
	Option A: Exempt D.D.s from Taxicab By-law					
Option B: Reinstate D.D. By-law 102-2008						12
Option C: Pass a by-law similar to By-law 102-2008						15
Legend		Does not address issue				
		Modestly addresses issue				
		Partially addresses issue				
		Mostly addresses issue				
		Fully addresses issue				

5.4 D.D. Regulation Advantages v. Disadvantages

There are a number of advantages and disadvantages to regulating D.D.s under Options “B” and “C”. Table 8 provides a summary for consideration.

Table 8 Advantages and Disadvantages of D.D. Regulation

Advantages	Disadvantages
<ul style="list-style-type: none"> • Provides a minimum level of public safety • Provides a minimum level of consumer protection • Addresses the policy gap to various degrees depending on the option selected • Ability to impose minimum standards, similar to those imposed on taxi drivers 	<ul style="list-style-type: none"> • Difficult to determine if there is an appropriate or adequate level of insurance coverage for D.D. and their customers; determinations must occur on a case-by-case basis • D.D. standards may be difficult to enforce • Residents have not expressed a need for D.D. licensing at this time • D.D. licensing may require additional staff resources • The model being proposed by the City differs from what actually exists in respect to the transportation of passengers

5.5 Limitations of Regulating D.D.s

While each option presented in this report addresses the regulatory issues to varying degrees, there are a number of inherent limitations to regulating D.D.s, represented in Options “B” and “C”, which are noteworthy and important for consideration. These limitations relate to insurance concerns, D.D. operating requirements, and enforcing potential D.D. regulations.

(a) Insurance Concerns:

- i. **Insurance for the D.D. Industry:** staff consulted with representatives from the insurance industry who indicated that they were not aware of an insurance policy that would specifically cover a D.D. service. Section 5.2.2. presents recommendations on the minimum insurance coverage required to provide a basic level of consumer protection. It is important to note that there may be unidentified risk to the customer despite a D.D. service being insured with coverage as detailed in section 5.2.2.
- ii. **Potential impact on D.D. customer’s auto insurance policy:** An accident that occurs while a D.D. Driver is operating a customer vehicle may result in a claim against the customer vehicle owner’s auto insurance policy and not the D.D. Broker’s insurance. While basic automobile insurance policies are standardized to a certain extent, they differ in the terms and amounts of coverage. Therefore, it is difficult to ensure whether or not there is an appropriate level of coverage on the customer’s vehicle, or, whether coverage exists at all.

- (b) **D.D. Driver operating requirements:** Options “B” and “C” require that the D.D. Driver confirm, among other items, that the registered owner of the customer vehicle **or** authorized operator has a valid automobile insurance policy. It may be challenging in certain instances for D.D. Drivers to confirm that the registered vehicle owner’s automobile insurance policy provides appropriate insurance coverage.
- (c) **Enforcement:** The enforcement of a D.D. licensing system presents two significant challenges. First, enforcement would be limited to conducting proactive operations. Second, the enforcement of certain procedural requirements such as ensuring the D.D. Driver confirmed the customer has valid automobile insurance would require the City’s Municipal Law Enforcement Officers to devote a significant amount of time and resources.

5.6 Costs of D.D. Licensing

One of the principal concerns expressed by the D.D. industry was the potential for licensing costs to become prohibitive. Furthermore, the D.D. industry contends that licensing costs may increase as surrounding municipalities adopt licensing regimes within their jurisdictions.

Staff have compiled an approximate cost assessment for the licensing of D.D. Drivers. A cost assessment for D.D. Brokers was not completed as the costs of C.G.L. insurance varies depending on a number of factors. Nevertheless, it is proposed that an annual licensing fee of \$250 be established for a D.D. Broker licence. The cost assessment for D.D. Driver licensing has determined that licensing costs for each of the proposed regulatory options are reasonable for three reasons. First, taxicab drivers are subject to similar licensing costs. Second, some of the supporting documentation required for licensing is valid for more than one year and may reduce the costs of licensing renewal during the period the document is valid. Third, all documentation is transferable and may be used in other municipalities to fulfill similar licensing requirements.

5.6.1 Two-Year Cost of Driver Licensing Requirements

The approximate two-year costs for D.D. Driver licensing are detailed in Table 9; costs are based on current fee information from Durham Region agencies and organizations. All costs are approximate and may vary amongst administering agencies and organizations based in other municipalities.

Table 9 Approximate Two-Year Costs of D.D. Driver Licensing Requirements

Options	Criminal Information Report	Driver's Abstract	Proof of "G" Driver Licence	Medical Clearance Letter	Proposed Licensing Fee	Initial Total Cost
Option "A"						\$0
Option "B"	\$55	\$12	\$0		\$150	\$217
Option "C"	\$55	\$12	\$0	\$30	\$150	\$247

5.7 Education and Enforcement Proposed D.D. Standards

The effectiveness of a D.D. licensing regime is dependent on complementary efforts to enforce the by-law and educate the D.D. Industry of the standards. Additional enforcement resources in the form of staff overtime costs will be required if Council approves a system of licensing for D.D. services. Enforcement/education activities must be undertaken primarily on a proactive basis.

5.8 Conclusion

An extensive study informed by a comprehensive stakeholder consultation process has been completed. Based on the findings, staff have determined that regulating the D.D. Industry is appropriate for addressing the policy gap; consumer protection and health and safety concerns; the inherent contravention to the Taxicab By-law; and the need to preserve a version of the D.D. service model. Staff are of the opinion that Option "C", as proposed in section 5.2, best addresses the aforementioned issues by providing a balanced approach to regulating the D.D. industry. A by-law regulating D.D.s will be challenging, but not impossible to enforce. For both Taxi's and D.D.'s to coexist, there is a need to understand the purpose of the by-law and its limitations and opportunities. The purpose of the staff recommendation is to provide the most realistic approach to establishing a balanced regulatory framework for the Taxi and D.D. industries.

6.0 Financial Implications

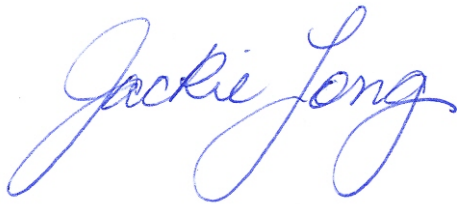
Options "B" and "C" propose the creation of different systems of licensing for D.D. service providers. As such, there are varying administrative and enforcement costs associated with implementing each option. A more accurate cost assessment can be provided once a specific option is scoped and approved.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.

A handwritten signature in black ink, appearing to read "Jerry Conlin".

Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services

A handwritten signature in blue ink, appearing to read "Jackie Long".

Jacqueline Long, Interim Commissioner,
Corporate Services Department & HR

Attachments



Public Report

To: Corporate Services Committee

From: Beverly Hendry, Commissioner,
Corporate Services

Report Number: CORP-14-93

Date of Report: September 3, 2014

Date of Meeting: September 8, 2014

Subject: Regulation of Designated Drivers and Industry Consultation
Second Update

File: D-2300

1.0 Purpose

The purpose of this report is to provide an update on the industry consultation process regarding the regulation of the Designated Driver (D.D.) Industry.

2.0 Recommendation

That the Corporate Services Committee recommends to City Council:

That Report CORP-14-93 "Regulation of Designated Drivers and Industry Consultation Second Update" be received for information.

3.0 Executive Summary

Not applicable

4.0 Input From Other Sources

The City conducted a second consultation meeting with the D.D. Industry on August 20, 2014 to present staff's findings and options respecting the regulation of D.D.'s and to obtain feedback from the D.D. Industry. A separate City of Oshawa Taxicab Industry consultation meeting was previously held on May 7, 2014.

5.0 Analysis

5.1 Background

At its June 24, 2013 meeting, City Council directed staff to conduct a study and initiate consultation with stakeholders from Oshawa's Taxicab and Designated Driver industries and to report back to the Corporate Services Committee with recommendations.

Staff completed the first of two industry consultation meetings on May 7, 2014 and an initial report (CORP-14-75) summarizing the feedback received from the Taxicab Industry was considered by the Corporate Services Committee at its May 26, 2014 meeting. Attachment 1 is a copy of Report CORP-14-75 which includes an additional report (CORP-13-98-CM) providing an overview of the issues regarding D.D.'s and a number of policy options for consideration.

5.2 Industry Consultation Framework and Update

Table 1 is a consultation framework developed by staff. The consultation process is currently underway and a final staff report presenting a summary of input and policy recommendations will be prepared for the first quarter (Q1) of 2015.

Table 1 Industry Consultation Framework and Progress

	Date	Status
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report	May 26, 2014	Complete
Designated Driver Industry Consultation	August 20, 2014	Complete
Second Industry Consultation Status Report	September 8, 2014	Complete
Summary of Input and Policy Recommendations Report	Q1 2015	Pending

5.3 Designated Driver Industry Consultation

Staff conducted the second consultation meeting with the Designated Driver Industry on August 20, 2014. Approximately 25 D.D. Industry participants from across Durham Region attended the consultation meeting.

Notification of the meeting was provided through various sources including:

- Notifications in the local newspapers
- A posting of the notice on the City's website
- Email notification and phone calls to the D.D. companies within Durham Region

At the meeting, staff overviewed the issues, presented potential regulatory options, and received feedback from the D.D. Industry.

5.3.1 Designated Driver Industry Feedback

Below is a general summary of input received at the meeting. A more comprehensive account of the Designated Driver Industry's input will be provided in the final report.

- Participants acknowledged that there is a policy gap between the regulated Taxi Industry and the D.D. Industry but certain taxi regulations were not relevant to D.D. services.
- There was consensus that the regulation of D.D. services is necessary. However, companies noted that the D.D. Industry was a fragile Industry and expressed concerns that overregulation and its associated costs could be prohibitive to the extent that the provision of D.D. services may become financially unviable.
- In addition, participants were concerned that costs associated with licensing would impact the affordability of the service as D.D. companies would be compelled to charge higher fares. The increase in fares could potentially discourage impaired drivers from using their services.
- Considering that many D.D. companies operate throughout Durham Region, companies were concerned that licensing costs would be compounded as other neighbouring municipalities could potentially adopt similar regulations.
- Some D.D. companies are insured for \$2 million for general liabilities and have implemented employee screening practices such as requiring D.D. drivers to submit driver abstracts and proof of insurance for their personal vehicles.
- Participants reiterated that they provide services primarily to impaired individuals and that their impairment could result from a variety of instances such as being recently released from a hospital following surgery to clients who patronized a licensed establishment.
- Many D.D. companies have a strong relationship with the Durham Regional Police Service. Some D.D. drivers report cases of impaired driving and others have conducted presentations for police officers.

5.4 Next Steps: Final Report

The scheduled portion of the industry consultation process has been completed. Staff will continue to receive input from all participants in preparation of the final report to City Council in Q1 2015. The final report will present the recommended approach to addressing the issue of regulating D.D. services based on feedback received from all parties and research conducted by staff.

6.0 Financial Implications

There are no financial implications directly related to this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



Beverly Hendry, Commissioner,
Corporate Services

Attachment



Public Report

To: Corporate Services Committee

From: David J. Potts, City Solicitor and Head,
Legislative and Regulatory Directorate

Report Number: CORP-14-75

Date of Report: May 22, 2014

Date of Meeting: May 26, 2014

Subject: Regulation of Designated Drivers and Industry Consultation
Initial Update

File: D-2300

1.0 Purpose

The purpose of this report is to provide an update on the industry consultation process regarding the regulation of the Designated Driver (D.D.) Industry.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That report CORP-14-75 "Regulation of Designated Drivers and Industry Consultation Initial Update" be received for information.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

A City of Oshawa Taxicab Industry consultation meeting was held on May 7, 2014 to present staff's findings and options respecting the regulation of D.D.'s and to obtain feedback from the Taxicab Industry. A separate City of Oshawa D.D. Industry consultation meeting will be scheduled in the third quarter of 2014.

5.0 Analysis

5.1 Background

At its June 24, 2013 meeting, City Council directed staff to conduct a study and initiate consultation with stakeholders from Oshawa's Taxicab and Designated Driver industries and to report back to the Corporate Services Committee with recommendations.

Attachment 1 is a copy of staff report CORP-13-98 which provides an overview of the issues regarding D.D.'s and identifies a number of policy options for consideration.

5.2 Industry Consultation Framework and Update

Table 1 is a consultation framework developed by staff. The consultation process is currently underway and a final staff report presenting a summary of input and policy recommendations will be prepared for the first quarter of 2015.

Table 1 Industry Consultation Framework and Progress

	Date	Status
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report	May 26, 2014	Complete
Designated Driver Industry Consultation	Q3 2014	Pending
Second Industry Consultation Status Report	Q3 2014	Pending
Summary of Input and Policy Recommendations Report	Q1 2015	Pending

5.3 Taxi Industry Consultation

Staff conducted the first consultation meeting with the Taxi Industry on May 7, 2014. Approximately 50 City of Oshawa licensed taxicab drivers, owners, and brokers attended the consultation meeting. A number of participants from the taxi industries of neighbouring municipalities were also in attendance.

Notification of the meeting was provided through various sources including:

- Notifications in the local newspapers
- A posting of the notice on the City's website
- Notification to the City's taxi brokerages to post the notice at their respective offices

At the meeting, staff overviewed the issues, presented several potential regulatory options, and received feedback from the Taxi Industry summarized in the next section.

5.3.1 Taxi Industry Feedback

Below is a general summary of input received at the meeting. A more comprehensive account of the Taxi Industry's input will be provided in the final report.

- There was consensus that the regulation of D.D. services is necessary on the basis of addressing public safety concerns including: the need to ensure that D.D.'s are operating with adequate insurance coverage and that D.D. service drivers had appropriate training and were subject to criminal records checks. A number of participants were of the opinion that the D.D.'s should be prohibited from operating in the City.

- Participants expressed their concerns regarding the policy gap between the heavily regulated Taxi Industry and the lack of regulations in the D.D. Industry.
- Participants have observed a sizeable number of D.D.'s operating in the City some of which are based in surrounding municipalities. A number of D.D. services are operating as taxicabs transporting individuals in their "chase" vehicles and certain D.D. service vehicles have been outfitted with top lights making such vehicles resemble taxicabs. These D.D. services have been observed soliciting rides/customers at local entertainment establishments and at shopping centres.
- D.D. services that are operating as taxicabs are "stealing" business from the heavily regulated Taxicab Industry and there are concerns that the continuation of such actions may destabilize the Taxicab Industry.
- More enforcement of the Taxicab By-law 50-2003 is necessary.

5.4 Next Steps: Designated Driver Industry Consultation

A second consultation meeting will be scheduled with the City's D.D. Industry in the third quarter of 2014. Notification of the meeting will be posted in the local media and on the City's website.

6.0 Financial Implications

There are no financial implications directly related to this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



David J. Potts, City Solicitor and Head,
Legislative and Regulatory Directorate

To: Corporate Services Committee	Item: CORP-13-98-CM	Date of Report: June 13, 2013
From: David J. Potts, City Solicitor & Head Legislative and Regulatory Directorate	File: D-2300	Date of Meeting: June 20, 2013
Subject: <i>Designated Driver Service Providers</i>		PUBLIC REPORT

1.0 PURPOSE

This report overviews issues regarding designated driver services, identifies policy options and seeks Council's instruction to study, consult and to report back.

2.0 RECOMMENDATION

That the Corporate Services Committee recommends to Council:

That staff be directed to conduct a study and initiate consultation with stakeholders including the taxi industry and designated driver service providers and report back to Corporate Services Committee with recommendations.

3.0 EXECUTIVE SUMMARY

Customers of Designated Driver Services pay a fee in return for which a Designated Driver drives the customer, the customer's vehicle and sometimes the customer's passengers to at least one destination. Designated Driver Services were regulated but are currently unregulated in Oshawa. Designated Driver Services overlap with services provided by the taxicab industry to the extent that Designated Driver Services includes the conveyance of the customer (and the customer's passengers). The result is a policy gap. Further study and consultation is recommended.

4.0 INPUT FROM OTHER SOURCES

4.1 General

➤ Legal Services

4.2 Auditor General

➤ Not applicable.

5.0 ANALYSIS

5.1 Background

- For a fee, designated driving service providers (“Designated Drivers”) drive a vehicle, usually its driver and sometimes the driver’s passengers from one location (most often a licensed establishment) to at least one destination. The Designated Driver is accompanied by a second person in a “chase vehicle” who picks up the Designated Driver at the destination (“Designated Driver Services”).
- Designated Driver Services are unregulated in Oshawa.
- The Taxicab By-law comprehensively regulates the taxicab industry for the purposes of health and safety, consumer protection and nuisance control. It seeks to achieve these objectives by regulating:
 - tariff rates;
 - mechanical safety of taxis;
 - insurance coverage; and
 - Taxicab Drivers and Brokers
- The Taxicab By-law requires Taxicab Brokers and Taxicab Drivers to be licensed. Taxicab Drivers must:
 - complete and pass a driver training course;
 - attend refresher and accessible driver training;
 - complete and pass first aid/CPR training;
 - submit a criminal information report (background check); and
 - submit a medical clearance letter.
- There is a policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services to the extent that elements of Designated Driver Services overlap with services provided by the taxicab industry. Specifically, the Taxicab By-law defines “Taxicab” as including “[...] any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area [...]”. The Taxicab definition excludes certain vehicles such as an ambulance or a funeral hearse but does not exclude a vehicle that is used in relation to Designated Driver Services. *Accordingly, when providing Designated Driver Services, Designated Drivers are effectively operating a Taxicab contrary to the Taxicab By-law by conveying the driver (and passengers) in a vehicle.*
- For a period, the City sought to address the policy gap including by regulating Designated Driver Services. **Attachment 1** is a chronology.

- In 2008, the Finance and Administration Committee recommended a licensing system for Designated Drivers. On Sep 22/08, Council passed by-law 102-2008 to establish the system (“2008 DD By-law” **Attachment 2**).
- In 2009, members of the Designated Driver Services industry expressed concerns related to licensing and insurance costs and that the 2008 DD By-law would not permit a Designated Driver to transport passengers in a client’s vehicle. Council directed staff to hold a public meeting to solicit feedback from all stakeholders.
- On Mar 4/10, the Committee considered report FA-10-41 summarizing input from the public meeting. Committee recommended to Council that the 2008 DD By-law be repealed. On Mar 8/10, Council repealed the 2008 DD By-law.
- On Jun 23/11, Committee considered report FA-11-168 which responded to a May 12/11 Committee direction to provide an overview of reports and public input respecting initiatives to license and regulate Designated Driver Services. Committee and Council adopted the report’s recommendation to receive it for information.
- On Mar 29/12, Committee considered a request to set up a committee of representatives from the taxi industry, designated driving service providers and City staff to clearly define the roles of each industry and referred it to staff to report back.

5.2 Issues

- As noted, the principal issue continues to be the policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services. When providing Designated Driver Services, Designated Drivers are effectively operating a Taxicab contrary to the Taxicab By-law to the extent that Designated Driver Services include the conveyance of the driver and, as applicable, the driver’s passengers.

5.2.1 Taxicab Industry Concerns

- The following is a general summary of concerns expressed by the taxicab industry:
 - There is a policy gap, as noted, resulting from the regulation of the taxicab industry and the non-regulation of Designated Driver Services.
 - Designated Driver Services are also directly competing with the taxicab industry by conveying customers who have no vehicles at fares that are lower than those prescribed for the taxicab industry.
 - The competition is doubly unfair to the extent that the taxicab industry operates within a highly regulated licensing system with a correspondingly higher cost structure.

- There is no consumer protection for customers of Designated Driver Services. (To date, staff has not received complaints from Designated Driver Service customers).
- Designated Driver Services should be subject to regulations that are similar to the taxi industry respecting fares, minimum driver standards, insurance and business/driver licensing.

5.2.2 Designated Drivers Concerns

- Designated Driver Services are not currently regulated so it is not possible to accurately assess the number of Designated Driver Services currently operating in Oshawa. MLELS is familiar with three main Designated Driver Services and is aware of several smaller operations. Following is a general summary of concerns expressed by Designated Driver Services:
 - Designated Driver Services contribute to keeping impaired drivers from driving their vehicles. They charge very little and cannot absorb the costs of licensing, insurance, training and other costs resulting from regulation.
 - Designated Driver Services provide a service that is not provided by the taxi industry: driving a person's vehicle home. Again, the costs of regulation may impede service delivery.
 - There is a lack of consensus among Designated Driver Services respecting regulation. Some support licensing of Designated Driver Services. Others do not.
 - Any regulation of Designated Driver Services should be undertaken at the Regional level to ensure a level regulatory playing field between lower tier municipalities.

5.3 Options

- The various options that could be considered moving forward have been summarized in the chart provided as Attachment 3. The options are additionally listed below for reference purposes:
 - **Option 1:** Status quo – no regulation of Designated Driver Services.
 - **Option 2:** Relax current regulations for taxi drivers in the Taxicab By-law 50-2003.
 - **Option 3:** Exempt Designated Driver Services from the definition of Taxicab in the Taxicab By-law.
 - **Option 4:** Re-introduce a system to license Designated Driver Services substantially in the form originally established by By-law 102-2008.

- **Option 5:** Undertake further study and consultation with stakeholders including from the taxicab industry and Designated Driver Services and report back to Committee with recommendations.
- Staff recommends option 5 and would endeavor to report by the 4th quarter of 2013.

6.0 FINANCIAL IMPLICATIONS

- There are no financial implications associated with this report.

7.0 RELATIONSHIP TO THE OSHAWA STRATEGIC PLAN

- The recommendation in this report is consistent with Goal 4.5, Accountable Leadership, by seeking feedback from stakeholders with a view to addressing policy issues respecting the taxicab industry and Designated Driver Services.



Jerry Conlin, Director,
Municipal Law Enforcement & Licensing Services



David J. Potts, City Solicitor & Head
Legislative and Regulatory Directorate

Attachments

Chronological Count of the Designated Driver Issue (2007 to date)

Date	Details
March 12, 2007	➤ Committee considered a written request to regulate fees for Designated Driving Services and staff were directed to report back to Committee.
September 17, 2007	➤ Correspondence suggesting regulation of Designated Driver Services providers was received and considered by Committee and staff were directed to report on the advantages and disadvantages of regulating these services.
April 29, 2008	➤ Committee considered report FA-08-45 which overviewed the advantages and disadvantages of regulating Designated Driver Services. The report was referred back to staff with direction to prepare a simplified licensing plan requiring a criminal check and insurance coverage and to outline the associated costs.
September 9, 2008	➤ Committee considered report FA-08-171 which included a simplified licensing plan to regulate Designated Driver Services.
September 22, 2008	➤ Council passed By-law 102-2008 introducing a regulatory regime for Designated Driver Services. The By-law regulated drivers and business owners and was consistent with the Taxicab By-law by making it unlawful to convey passengers in the client's vehicle or the chase vehicle.
May 19, 2009	➤ Council suspended the enforcement of By-law 102-2008 over concerns brought forward by stakeholders in the Designated Driver Services industry regarding insurance costs and the restrictions on conveying passengers. Staff were directed to conduct a public meeting to solicit views from all stakeholders.
January 25, 2010	➤ A public meeting was held to obtain input regarding the regulation of Designated Driver Services.
March 4, 2010	➤ Committee considered report FA-10-41 which summarized the issues raised at the public meeting. Committee recommended that, "Designated Driving Service Providers By-law 102-2008 be repealed" to Council.
March 8, 2010	➤ Council adopted the recommendation to repeal By-law 102-2008.
April 21, 2011	➤ Committee considered a delegation from a taxi driver requesting that Council reconsider its decision to repeal By-law 120-2008 and directed staff to prepare a report on the developments related to licensing and regulating Designated Driver Services.
June 23, 2011	➤ Staff reported back to Committee with report FA-11-168 which provided an update as directed.
March 29, 2012	➤ Corporate Services Committee considered a request to set up a committee of representatives from the taxi industry, Designated Driving Services and City staff to clearly define the roles of each industry and referred it to staff to report back to Committee.



Being a By-law to further amend Licensing By-law 120-2005 to provide for the licensing, regulating and governing of designated driving service providers.

WHEREAS:

1. Council of The Corporation of the City of Oshawa considers it desirable and necessary to license, regulate and govern designated driving service providers for social well-being, for the health, safety and well-being of persons and for the protection of persons and property.

NOW THEREFORE the Council of The Corporation of the City of Oshawa enacts as follows:

1. Section 2 of By-law 120-2005, as amended, ("Licensing By-law") is further amended by adding each of the following definitions:
 - (a) "Designated Driving Service Provider" means each Person who, for payment of a salary, a fee or for any other consideration, operates a Motor Vehicle owned by another Registered Motor Vehicle Owner for the purpose of moving or causing to be moved the Motor Vehicle from a location within Oshawa or to a destination within Oshawa but does not include a "Driver" while operating a "Taxicab" as those two terms are defined by the City's Taxicab Licensing By-law.
 - (b) "Motor Vehicle" includes an automobile or any other device for the transportation of Persons or goods propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act*.

(c) “Registered Motor Vehicle Owner” means the person shown to be the owner of a Motor Vehicle according to the records maintained by the Registrar of Motor Vehicles for the Province of Ontario and includes a lessee of a Motor Vehicle pursuant to a written lease contract.

2. Schedule “A” to the Licensing By-law is further amended by adding after the row, “Carnival”, the following row:

Designated Driving Service Provider	\$125 per annum	see Schedule “N”
----------------------------------------	-----------------	------------------

3. The Licensing By-law is further amended by adding Schedule “A” to this By-law as Schedule “N” to the Licensing By-law.
4. The General Fees and Charges By-law 13-2003, as amended, is further amended by adding to its Schedule “A” within the table entitled, “Licensing – Annual Fee Unless Otherwise Noted”, the following row:

Designated Driving Service Provider	\$125
----------------------------------------	-------

5. This By-law shall be effective on May 1, 2009.

By-law passed this twenty-second day of September, 2008.

Mayor

City Clerk

Schedule "A" to By-law 102-2008

Schedule "N" to By-law 120-2005

Licence Application

1. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence unless the application is submitted on forms approved by the Director and includes the following respecting the Designated Driving Service Provider:
 - (a) a Criminal Investigation Report issued within the thirty-day period immediately preceding the date on which the application is submitted;
 - (b) an Ontario Driver's Record from the Ministry of Transportation (Driver's Abstract) issued within the thirty-day period immediately preceding the date on which the application is submitted;
 - (c) proof of, minimally, a current class "G" driver's licence issued by the Province of Ontario which is in good standing; and
 - (d) proof of Commercial General Liability insurance that:
 - i) includes a limit of liability of not less than \$2,000,000.00 (two million dollars) per occurrence for property damage and bodily injury; and that
 - ii) requires that the Director be notified of any intended cancellation by the insurer no fewer than fifteen (15) days prior to such cancellation.

Licence Conditions

2. In addition to other requirements of the Licensing By-law, no Person shall act as a Designated Driving Service Provider except pursuant to a licence issued pursuant to this

Licensing By-law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence:

- (a) The Designated Driving Service Provider's driver's licence is maintained in good standing at all times;
- (b) The Designated Driving Service Provider is, at no time, charged with or convicted of an offence contrary to the *Highway Traffic Act* (Ontario) or the *Criminal Code* (Canada);
- (c) The Commercial General Liability insurance required by paragraph 1(d) of this Schedule is maintained at all times;
- (d) The Designated Driving Service Provider is in possession at all times of the licence issued pursuant to this Licensing By-law and forthwith produces it for inspection when requested to do so by a Registered Motor Vehicle Owner or by an Officer;
- (e) Immediately prior to each occasion on which it is proposed to operate a Registered Motor Vehicle Owner's Motor Vehicle, the Designated Driving Service Provider shall have:
 - i) verified that there exists a currently validated permit for the Motor Vehicle pursuant to the Highway Traffic Act (Ontario) including by reviewing a copy of the permit;
 - ii) verified the Registered Motor Vehicle Owner's identity and ownership of the Motor Vehicle including by reviewing the Registered Motor Vehicle Owner's current driver's licence issued by the Province of Ontario and the Motor Vehicle's permit referenced in the preceding clause 2(e)i) of this Schedule;
 - iii) verified that the Motor Vehicle is insured under a contract of automobile insurance including by reviewing a current insurance card for the Motor Vehicle issued pursuant to the *Compulsory Automobile Insurance Act* (Ontario);

- iv) secured the Registered Motor Vehicle Owner's consent to operate the Motor Vehicle;
 - v) secured the Registered Motor Vehicle Owner's instructions respecting the operation of the Motor Vehicle including, minimally, the destination to which the Motor Vehicle is to be moved; and shall have
 - vi) struck an agreement with the Registered Motor Vehicle Owner respecting the Designated Driving Service Provider's fee or other consideration for operating the Motor Vehicle.
- (f) The Designated Driving Service Provider shall not operate a Motor Vehicle except:
- i) without any passengers;
 - ii) in accordance with all applicable law; and
 - iii) subject to the preceding clauses 2(f)i) and ii) of this Schedule, pursuant to the Registered Motor Vehicle Owner's instructions provided pursuant to clause 2(e)v) of this Schedule;
- (g) The Designated Driving Service Provider shall not charge any fee or other consideration for operating a Motor Vehicle that exceeds that to which is agreed pursuant to clause 2(e)vi) of this Schedule.
3. No Person shall permit the advertising or promotion of the services of a Designated Driving Service Provider except a Person licensed as a Designated Driving Service Provider pursuant to this Licensing By-law.

Potential Options for Consideration	Benefits	Challenges
1) Status quo	<ul style="list-style-type: none"> To date, MLELS has not received any complaints from citizens/customers regarding Designated Driver Services. 	<ul style="list-style-type: none"> Policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services Unfair competition between Designated Driver Services and taxicab industry because the taxicab industry's tariffs are regulated (allowing undercutting by Designated Driver Services) and regulation results in higher costs in the taxicab industry No consumer protection for customers of Designated Driver Services
2) Relax current regulations for taxi drivers in the Taxicab By-law	<ul style="list-style-type: none"> Reduces policy gap 	<ul style="list-style-type: none"> Less consumer protection in the taxicab industry
3) Exempt designated driver services from the definition of Taxicab in By-law 50-2003	<ul style="list-style-type: none"> Eliminates legal gap by simply deeming Designated Driver Services to not constitute operation of a taxicab 	<ul style="list-style-type: none"> Does not address policy gap and other challenges associated with option 1) Status quo
4) Pass a by-law substantially in the form of the 2008 DD By-law to regulate designated drivers in the Licensing By-law 120-2005	<ul style="list-style-type: none"> Eliminates legal and policy gaps Consumer protection re Designated Driver Services 	<ul style="list-style-type: none"> Costs of regulation may impede Designated Driver Services Does not address cross-border Designated Driver Services
5) Study, consult with stakeholders and report back to Corporate Services Committee	<ul style="list-style-type: none"> Possibility that further study and consultation will yield better information. 	<ul style="list-style-type: none"> Risk that the resources allocated to further study and consultation will not yield better information.

Chronological Account of the Designated Driver Issue (2007 to date)

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September 17, 2007: Correspondence suggesting regulation of Designated Driver Services providers was received and considered by Committee and staff were directed to report on the advantages and disadvantages of regulating these services.

April 29, 2008: Committee considered report FA-08-45 which overviewed the advantages and disadvantages of regulating Designated Driver Services. The report was referred back to staff with direction to prepare a simplified licensing plan requiring a criminal check and insurance coverage and to outline the associated costs.

September 9, 2008: Committee considered report FA-08-171 which included a simplified licensing plan to regulate Designated Driver Services.

September 22, 2008: Council passed By-law 102-2008 introducing a regulatory regime for Designated Driver Services. The By-law regulated drivers and business owners and was consistent with the Taxicab By-law by making it unlawful to convey passengers in the client's vehicle or the chase vehicle.

May 19, 2009: Council suspended the enforcement of By-law 102-2008 over concerns brought forward by stakeholders in the Designated Driver Services industry regarding insurance costs and the restrictions on conveying passengers. Staff were directed to conduct a public meeting to solicit views from all stakeholders.

January 25, 2010: A public meeting was held to obtain input regarding the regulation of Designated Driver Services.

March 4, 2010: Committee considered report FA-10-41 which summarized the issues raised at the public meeting. Committee recommended that, "Designated Driving Service Providers By-law 102-2008 be repealed" to Council.

March 8, 2010: Council adopted the recommendation to repeal By-law 102-2008.

April 21, 2011: Committee considered a delegation from a taxi driver requesting that Council reconsider its decision to repeal By-law 120-2008 and directed staff to prepare a report on the developments related to licensing and regulating Designated Driver Services.

June 23, 2011: Staff reported back to Committee with report FA-11-168 which provided an update as directed.

March 29, 2012: Corporate Services Committee considered a request to set up a committee of representatives from the taxi industry, Designated Driving Services and City

staff to clearly define the roles of each industry and referred it to staff to report back to Committee.

June 24, 2013: Council directs staff to conduct a study and initiate consultation with stakeholders including the taxi industry and designated driver service providers and to report back to Corporate Services Committee with recommendations.

May 7, 2014: Staff conduct a consultation session with the Taxi Industry regarding regulating Designated Drivers.

May 26, 2014: First Industry Consultation Status Report considered by the Corporate Services Committee.

August 20, 2014: Second Industry Consultation Session conducted with Designated Driver Industry.

September 8, 2014: Second Industry Consultation Status Report considered by the Corporate Services Committee.

Input Received from Stakeholder Consultation Sessions

Taxi Industry Concerns (Consultation Session: May 7, 2014)	Designated Driver Industry Concerns (Consultation Session: August 20, 2014)
<ul style="list-style-type: none"> • There was consensus that the regulation of D.D. services is necessary on the basis of addressing public safety concerns including: the need to ensure that D.D.'s are operating with adequate insurance coverage and that D.D. service drivers had appropriate training and were subject to criminal records checks. A number of participants were of the opinion that the D.D.'s should be prohibited from operating in the City. • Participants expressed their concerns regarding the policy gap between the heavily regulated Taxi Industry and the lack of regulations in the D.D. Industry. • Participants have observed a sizeable number of D.D.'s operating in the City some of which are based in surrounding municipalities. A number of D.D. services are operating as taxicabs transporting individuals in their "chase" vehicles and certain D.D. service vehicles have been outfitted with top lights making such vehicles resemble taxicabs. These D.D. services have been observed soliciting rides/customers at local entertainment establishments and at shopping centres. • D.D. services that are operating as taxicabs are "stealing" business from the heavily regulated Taxicab Industry and there are concerns that the continuation of such actions may destabilize the Taxicab Industry. • More enforcement of the Taxicab By-law 50-2003 is necessary. 	<ul style="list-style-type: none"> • Participants acknowledged that there is a policy gap between the regulated Taxi Industry and the D.D. Industry but certain taxi regulations were not relevant to D.D. services. • There was consensus that the regulation of D.D. services is necessary. However, companies noted that the D.D. Industry was a fragile Industry and expressed concerns that overregulation and its associated costs could be prohibitive to the extent that the provision of D.D. services may become financially unviable. • Participants were concerned that costs associated with licensing would impact the affordability of the service as D.D. companies would be compelled to charge higher fares. The increase in fares could potentially discourage impaired drivers from using their services. • Considering that many D.D. companies operate throughout Durham Region, companies were concerned that licensing costs would be compounded as other neighbouring municipalities could potentially adopt similar regulations. • Some D.D. companies are insured for \$2 million for general liabilities and have implemented employee screening practices such as requiring D.D. drivers to submit driver abstracts and proof of insurance for their personal vehicles. • Participants reiterated that they provide services primarily to impaired individuals and that their impairment could result from a variety of instances such as being recently released from a hospital following surgery to clients who patronized a licensed establishment. • Many D.D. companies have a strong relationship with the Durham Regional Police Service. Some D.D. drivers report cases of impaired driving and others have conducted presentations for police officers.



Public Report

To: Corporate Services Committee

From: Jacqueline Long, Interim Commissioner,
Corporate Services Department and H.R.

Report Number: CORP-15-74

Date of Report: June 10, 2015

Date of Meeting: June 19, 2015

Subject: Regulation of Designated Drivers Follow-Up Report

File: D-2300

1.0 Purpose

This report responds to the following April 23, 2015 Corporate Services Committee direction:

“That Report CORP-15-22 concerning regulation of designated drivers, be referred to staff to update, taking into account information and questions presented by delegations and Committee members, with a subsequent report back to Committee to be prepared on a priority basis.”

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That staff prepare a by-law to amend Licensing By-law 120-2005, as amended, General Fees and Charges By-law 13-2003, as amended, and Taxicab By-law 50-2003, as amended in a form consistent with Option “C” in Report CORP-15-22 and Attachment 4 of CORP-15-74 to establish a system of licensing for Designated Driver Service Providers and report back.

3.0 Executive Summary

At its April 23, 2015 meeting, the Corporate Services Committee (“Committee”) received additional information from the Designated Driver (D.D.) Industry expressing a number of concerns with Option “C” of report CORP-15-22, a proposed regulatory framework for the D.D. Industry. Committee subsequently directed staff to assess these concerns and to report back. This report responds to Committee’s direction and proposes a number of policy amendments to the regulatory framework as proposed in Option “C”.

4.0 Input From Other Sources

This report considers input provided by the following stakeholders:

- The Insurance Bureau of Canada (I.B.C.)
- The Designated Driver Industry
- The Taxicab Industry

Finance Services and Legal Services were consulted in the preparation of this report.

5.0 Analysis

5.1 Background

The Corporate Services Committee considered Report CORP-15-22 'Regulation of Designated Drivers: Summary of Industry Input and Policy Options' at a special meeting on April 23, 2015. The report reviewed industry feedback, presented an analysis of various options and recommended a balanced approach to regulating the D.D. Industry. The report is appended as Attachment 2 for reference purposes.

Committee received new information from the D.D. Industry in deputations and correspondence from Luke Bazely of Driverseat Inc. (Attachment 3) and John and Patricia Bandiera of D.D. S.O.S. Driving Services. The delegations were generally supportive of the regulatory framework as proposed in Report CORP-15-22; however, a number of concerns were raised with respect to the following:

- Insurance requirements
- Requiring D.D. Drivers to be licensed by the City
- Requiring D.D. Drivers to submit medical clearance letters
- Impact of proposed regulations on other models of D.D. services
- Requiring D.D. Drivers to confirm and obtain a valid driver's licence from the client prior to providing the D.D. service
- Requiring D.D. chase vehicles to display City of Oshawa licensing information
- Prohibiting the use of "roof lights" or "car toppers" by D.D. chase vehicles
- Limits on the conveyance of passengers

Committee subsequently directed staff to address the issues in a follow-up report.

5.2 Analysis of Concerns

Staff have considered the various concerns brought forward by members of the Committee and the D.D. Industry and have detailed the findings below. A summary of recommendations respecting the concerns raised by various stakeholders is appended as Attachment 4. Attachment 1 provides a summary of the recommended regulatory framework being proposed by staff.

(a) Insurance Requirement

It has been suggested that the insurance requirements for D.D. Brokers, as detailed in Section 5.2.2 of report CORP-15-22, should not be a requirement for licensing as insurance specific to D.D. services does not exist.

Recommendation: Staff recommend that D.D. Brokers be required to fulfill insurance requirements as proposed in Option “C” of report CORP-15-22 and detailed as follows:

- **Commercial General Liability (C.G.L.) Insurance in an amount of not less than \$2 million per accident or occurrence:** While insurance coverage varies, C.G.L. insurance typically protects the insured from liability that arises out of the operations of their business as a result of third party bodily injury; property damage or loss; personal injury; and non-owned automobile liability. The C.G.L. insurance policy required by D.D. Brokers, shall not be limited to, but shall include:
 - i. a liability limit of not less than \$2 million per accident or occurrence;
 - ii. the D.D. Broker and owner(s) of the D.D. Broker named as Named Insured(s);
 - iii. all D.D. Drivers affiliated with the D.D. Broker named as Additional Insured(s); and
 - iv. include Non-owned Automobile liability coverage.
- Staff further recommend that the D.D. chase vehicle be insured for commercial purposes.

Staff contacted the Insurance Bureau of Canada, the national industry association representing Canada’s private home, auto and business insurers. The I.B.C. reviewed the D.D. service model and concurred with the City’s proposed insurance requirements. Furthermore, the I.B.C. recommended that D.D. chase vehicles be insured for commercial purposes.

It is important to emphasize that despite the insurance provisions detailed above, stakeholders (D.D. Brokers, D.D. Drivers, and Clients) should be aware of a number of limitations with respect to insurance coverage. These limitations are outlined in Section 5.5 of report CORP-15-22. It is incumbent on all stakeholders to ensure that they are properly insured.

(b) Requiring D.D. Drivers to be Licensed by the City

Staff assessed concerns brought forward by Keys to Us D.D. and Driverseat regarding the requirement for D.D. Drivers to be licensed by the City. Specifically, Driverseat contends that it would not be feasible for D.D. Drivers to attend City Hall and apply for a proposed D.D. Driver Licence as most of its drivers work part-time and that many of their D.D. Drivers only work when there are specific opportunities such as weddings and corporate parties. Driverseat and Keys to Us D.D. recommend allowing the D.D. Broker to regulate its own drivers.

Recommendation: Staff do not recommend permitting D.D. Brokers to regulate their D.D. Drivers given that it would:

- result in a patchwork of D.D. Driver screening requirements among the myriad D.D. Brokerages operating in the City of Oshawa;
- diminish the City's ability to enforce a D.D. regulatory regime as many D.D. Brokerage Offices and their D.D. Driver licensing documentation are located in other municipalities; and,
- potentially result in an inconsistent D.D. Driver screening process.

The proposed D.D. Driver licence is valid for a two-year period at an estimated cost of \$247 (including the costs of: Criminal Information Report, Driver's Abstract, Medical Clearance Letter, and Proposed Licensing Fee). The requirement for D.D. Drivers to be licensed by the City does not present a significant barrier for individuals interested in providing D.D. services on a part-time basis; indeed, this is supported by the City's experience with licensing Taxicab Drivers, some of whom drive on an occasional basis.

(c) Requiring D.D. Drivers to Submit Medical Clearance Letters

Driverseat expressed a concern that the requirement for D.D. Drivers to submit a medical clearance letter as part of the required documentation would present a barrier which would result in the delaying of hiring a driver for weeks. Furthermore, they assert that Section 203 of the Highway Traffic Act is sufficient to ensure that individuals who are unfit to drive would have their driver's licence assessed by the Ministry of Transportation (M.T.O.). Section 203 requires qualified medical practitioners to report individuals to the M.T.O., who, in the opinion of the medical practitioner, are suffering from a condition that may make it dangerous for such persons to operate a motor vehicle. It has also been suggested that a medical self-assessment form be used for the purposes of licensing a D.D. Driver in lieu of a medical clearance letter.

Recommendation: Staff recommend maintaining the requirement for D.D. Drivers to submit a medical clearance letter for the purposes of D.D. Driver licensing. A medical clearance letter is essential for verifying that the D.D. Driver is physically and mentally capable of performing the duties of a D.D. Driver and that they are free from communicable diseases such as tuberculosis. The requirement for an applicant to undertake medical screening by qualified medical professionals is common in the transportation industry. The City of Oshawa requires all applicants for taxicab driver licences to submit a medical clearance letter, and Durham Region Transit operators are required to provide the M.T.O. with a medical report for licensing purposes. Staff recommend that D.D. Drivers be required to submit a medical clearance letter.

Despite Section 203 of the Highway Traffic Act, qualified medical practitioners may not be able to advise M.T.O. that an applicant for a D.D. Driver licence is unfit to operate a vehicle in a timely manner. For example, an applicant may visit their family doctor infrequently and as such, the doctor may be unable to assess the applicant in a timely manner. Additionally, in cases where the applicant does not have a family doctor, another qualified medical practitioner may not be aware that the applicant possesses a driver's licence or is interested in providing D.D. services.

Staff do not recommend implementing a medical self-assessment form for the purposes of licensing D.D. Drivers for two reasons. First, applicants for D.D. Driver licences are unlikely to be trained as qualified medical professionals and be capable of providing an accurate assessment. Second, there may be a propensity for an applicant to misrepresent their medical condition.

The requirement for applicants of D.D. Driver licences to submit a medical clearance letter does not present a significant barrier to licensing and enhances the City's ability to ensure public health and safety.

(d) Impact of Regulations on Other Models of D.D. Services

Staff's study of D.D. services has focused on their provision of the traditional D.D. service model which involves transporting an impaired client in their vehicle, and in some cases their passengers, from a licensed establishment or social engagement to another destination, typically their residence. It is important to note that the traditional D.D. service model does not contemplate the "round-trip" transportation of a client and their passengers in the client's vehicle. Instead, the traditional model involves the "one-way" transportation of the impaired client and their passengers in the client's vehicle.

At the April 23, 2015 Committee meeting, Driverseat informed Committee that their company provides an assortment of services which are akin to the traditional D.D. services. Staff are aware of other D.D. companies which provide various iterations of the traditional D.D. service. The following are the services Driverseat provides:

- **Designated Driver Service:** Driverseat provides the traditional D.D. service to individual customers or larger groups of customers attending special events such as weddings and corporate parties.
- **Airport Drop-off:** A D.D. Driver transports the client and their passenger(s) in the client's vehicle to the airport and picks up the client in their vehicle upon their return. Clients may or may not have a valid driver's licence.
- **Elderly Accompaniment:** A D.D. Driver chauffeurs an elderly client in the client's vehicle to a variety of appointments including medical appointments and picking up groceries. Clients may or may not have a valid driver's licence.
- **Chauffeur Service:** A D.D. Driver transports the client in the client's vehicle to various appointments. Clients may or may not have a valid driver's licence.
- **Valet Service:** A D.D. Driver transports the client in the client's vehicle to a destination. Clients may or may not have a valid driver's licence.
- **Medical Service:** A D.D. Driver transports the client in the client's vehicle to and/or from medical appointments. Clients may or may not have a valid driver's licence.
- **Fleet Service:** A D.D. Driver transports the client's vehicle to and from automobile servicing facilities; no passengers are transported.

Committee requested staff to assess how the proposed regulatory standards would apply to each of these service models.

Recommendation: Staff recommend limiting the provision of D.D. services to its traditional model which involves transporting an impaired client and their passengers, where applicable, in the client's vehicle from a licensed establishment or social engagement (e.g., wedding, corporate party, and private party) to one (1) destination.

Staff assessed the different D.D. service models as proposed by Driverseat and have determined that while the purposes for transportation and destinations vary, there are only two (2) distinct models being proposed:

1. A D.D. Driver transports the client, and their passengers where applicable, in the client's vehicle to and from a location or from a location; and
2. A D.D. Driver transports only the client's vehicle to and from a location. No passengers are transported.

The various D.D. service models proposed by Driverseat differs primarily in their purpose for transportation to the extent that clients are being transported in the client's vehicle to the following destinations and/or reasons: medical appointments, grocery shopping, to the airport, prescription pick-up, social appointments, places of employment, etc. Staff are of the opinion that such services may destabilize the Taxi Industry in Oshawa as they significantly encroach on the Taxi Industry's service area. Staff do not recommend permitting D.D. services to operate in these areas at this time; rather, staff recommend permitting D.D. services to provide the traditional model of D.D. services which the majority of D.D. companies provide as their sole service.

(e) Requiring D.D. Drivers to Confirm and Obtain a Valid Driver's Licence from the Client Prior to providing the D.D. Service

Driverseat asserts that the requirement for D.D. Drivers to confirm and obtain the registered vehicle owner's valid driver's licence prior to providing the service would prevent D.D. companies from offering the D.D. service to individuals who do not have a licence or those who have a suspended licence.

Recommendation: Staff recommend removing the requirement for D.D. Drivers to confirm and obtain a valid driver's licence from the client prior to providing the D.D. service. Notwithstanding this, staff are not recommending that D.D. companies be permitted to provide other services outside of the traditional D.D. service model for the reasons detailed above.

(f) Requiring the D.D. Chase Vehicle to Display City of Oshawa Licensing Information

Driverseat expressed concerns respecting the requirement for the D.D. chase vehicle to display City of Oshawa licensing information considering some D.D. services do not use chase vehicles and, in cases where D.D. Drivers are a team of family members, different cars may be used as a chase vehicle.

Recommendation: Staff recommend maintaining the requirement for City of Oshawa licensing information to be displayed on D.D. chase vehicles. This requirement informs

clients and Municipal Law Enforcement Officers that the D.D. Broker has fulfilled all the licensing requirements including possessing appropriate insurance. Staff are aware that D.D. chase vehicles may be used interchangeably and are exploring the use of various types of transferable signs including magnetic signs. D.D. Brokers would be required to obtain signs displaying licensing information from the City.

(g) Prohibiting the Use of “Roof Lights or “Car Toppers” by D.D. Chase Vehicles

Some D.D.s use “roof lights” or “car toppers” to assist their customers in identifying their company when responding to calls-for-service. The concern expressed by Driverseat is that by prohibiting D.D. chase vehicles from displaying roof lights/car toppers, clients and Municipal Law Enforcement Officers will be unable to quickly identify the D.D. company. Instead, Driverseat proposes that the City prohibit the use of the words “Taxi” or “Cab” on the D.D. chase vehicle’s roof lights.

Recommendation: Staff recommend maintaining the prohibition on the use of roof lights or car toppers by D.D. chase vehicles. During the industry consultation sessions, participants informed staff of numerous instances where D.D. chase vehicles with roof lights, which did not have words “taxi” or “cab”, were mistaken as taxicabs. In some cases, these chase vehicles were being used to transport passengers who did not have a car and did not require a D.D. service.

(h) Limits on the Conveyance of Passengers

The D.D. Industry is generally concerned about proposed limitations on the conveyance of passengers in the client’s vehicle as it is integral to their service model. Under Option “C”, the proposed regulatory model, the D.D. Driver would be limited to conveying the registered vehicle owner or an individual authorized by the registered vehicle owner in the registered owner’s vehicle.

Recommendation: Based on input received from various stakeholders, staff have reassessed the proposed recommendation on limits on the conveyance of passengers as proposed in report CORP-15-22 and are recommending that the City’s Taxicab By-law 50-2003 as amended, be further amended to permit licensed D.D. Drivers to convey passengers subject to the following conditions:

- D.D. Drivers are prohibited from transporting passengers in the D.D. chase vehicle;
- only passengers that arrived to a destination in the client’s vehicle are to be transported by the D.D. Driver in the client’s vehicle;
- the D.D. Driver is prohibited from transporting passengers and the client’s vehicle to more than one (1) location; and
- the D.D. Driver is permitted to convey passengers subject to the availability of seat belts in the client’s vehicle and in compliance with applicable law.

This recommendation is premised on the following considerations detailed in Table 1.

Table 1 Benefits and Challenges of Conveying Passengers in the Client's Vehicle

Passenger Options	Benefits	Challenges
No Passengers Permitted	<ul style="list-style-type: none"> Provision of D.D. service does not contravene Taxicab By-law 50-2003 	<ul style="list-style-type: none"> Client is not present to witness potential damages to their vehicle should they occur Does not preserve traditional D.D. model
Only Registered Vehicle Owner or Authorized Operator Permitted	<ul style="list-style-type: none"> Client is present to witness potential damage to their vehicle while D.D. service is provided Partially preserves traditional D.D. model 	<ul style="list-style-type: none"> Service is somewhat related to services provided by the Taxi Industry Does not allow individuals to travel to a location with each other Provision of D.D. service contravenes Taxicab By-law 50-2003
Passengers Permitted	<ul style="list-style-type: none"> Client is present to witness potential damage to their vehicle while D.D. service is provided Preserves traditional D.D. model Allows individuals to travel to a location with each other 	<ul style="list-style-type: none"> Service is closely related to services provided by the Taxi Industry Provision of D.D. service contravenes Taxicab By-law 50-2003
Passengers in the Client's Vehicle are Permitted to be conveyed to one (1) location	<ul style="list-style-type: none"> Client is present to witness potential damage to their vehicle while D.D. service is provided Mostly preserves traditional D.D. model Allows individuals to travel to a location with each other 	<ul style="list-style-type: none"> Service is closely related to services provided by the Taxi Industry Provision of D.D. service contravenes Taxicab By-law 50-2003

5.3 Conclusion

Staff reviewed the additional concerns brought forward by various stakeholders at the Corporate Services Committee meetings of April 13 and 23 and are proposing a number of policy amendments to regulating the D.D. Industry under Option “C” as outlined in report CORP-15-22. A consolidation of these recommendations is appended as Attachment 4 for reference purposes. Staff are of the opinion that the proposed regulatory framework will best address the policy gap; consumer protection and health and safety concerns; D.D. services’ inherent contravention of the Taxicab By-law 50-2003; and a need to preserve a version of the D.D. service model. Notwithstanding this, it is important to reiterate two limitations to regulating the D.D. Industry. First, a by-law regulating the D.D. Industry will be challenging to enforce. Second, it is incumbent on all stakeholders (D.D. Brokers, D.D.

Drivers, and Clients) to ensure that they are properly insured when using or providing a D.D. service.

6.0 Financial Implications

The recommendation in this report present a number of financial implications related to administration and enforcement of a regulatory regime for the Designated Driver Industry. A more accurate cost assessment can be provided once a specific option is scoped and approved.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab and the Designated Driver Services Industries.

A handwritten signature in black ink, appearing to read "Jerry Conlin".

Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services

A handwritten signature in blue ink, appearing to read "Jackie Long".

Jacqueline Long, Interim Commissioner,
Corporate Services Department and H.R.

Attachments

Summary of Proposed D.D. Regulatory Framework

Note: Attachment 1 provides a consolidated list of recommended licensing and operating requirements for the D.D. Industry in the City of Oshawa. The proposed regulatory framework is a modification of Option “C”, the recommended regulatory framework proposed in report CORP-15-22. This summary is for reference purposes only and is not intended to provide an exhaustive or inclusive list of licensing and operating requirements.

D.D. Driver Licensing Requirements

- Criminal Information Report with Vulnerable Sector Screening
- Driver’s Abstract
- Proof of “G” (minimum) Driver Licence
- Proof of Affiliation with Licensed D.D. Broker
- Medical Clearance Letter

D.D. Broker Licensing Requirements

- Proof of Commercial General Liability (C.G.L.) Insurance in an amount of not less than \$2 million per accident or occurrence. The C.G.L. insurance policy required by D.D. Brokers, shall not be limited to, but shall include:
 - i. a liability limit of not less than \$2 million per accident or occurrence;
 - ii. the D.D. Broker and owner(s) of the D.D. Broker named as Named Insured(s);
 - iii. all D.D. Drivers affiliated with the D.D. Broker named as Additional Insured(s); and
 - iv. include Non-owned Automobile liability coverage.
- Ontario Master Business Licence or Articles of Incorporation

D.D.s and the Calculation of Fares

- Fare is negotiated between D.D. Driver and Client

D.D.s and the Conveyance of Passengers

- D.D. Driver is prohibited from conveying passengers in their chase vehicle
- D.D. Drivers may convey the registered vehicle owner or authorized operator and their passengers subject to the following conditions:
 - only passengers that arrived to a destination in the client’s vehicle are to be transported by the D.D. Driver in the client’s vehicle;
 - the D.D. Driver is prohibited from transporting passengers and the client’s vehicle to more than one (1) location; and
 - the D.D. Driver is permitted to convey passengers subject to the availability of seat belts in the client’s vehicle and in compliance with applicable law.

D.D. Chase Vehicle Standards

- D.D. chase vehicle must be insured for commercial purposes
- Must display D.D. Broker Markings, Contact, and Licensing information on D.D. chase vehicle
- D.D. chase vehicle are prohibited from displaying 'roof lights" or "car toppers'

D.D. Driver Operating Requirements

- Must confirm/obtain: Valid permit and insurance and registered vehicle owner's consent
- D.D. Driver must prominently display D.D. Driver Licence
- D.D. Driver must maintain trip log

Public Report

To: Corporate Services Committee

From: Jacqueline Long, Interim Commissioner
Corporate Services Department & HR

Report Number: CORP-15-22

Date of Report: April 9, 2015

Date of Meeting: April 13, 2015

Subject: Regulation of Designated Drivers: Summary of Industry Input
and Policy Options

File: D-2300

1.0 Purpose

This report presents feedback received from two industry stakeholder consultation sessions; staff analysis respecting the issue of regulating the Designated Driver (D.D.) Industry; and recommends establishing a system of licensing for D.D.s.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That staff prepare a by-law to amend Licensing By-law 120-2005, as amended, General Fees and Charges By-law 13-2003, as amended, and Taxicab By-law 50-2003, as amended in the form consistent with Option "C" in Report CORP-15-22 to establish a system of licensing for Designated Driver Service Providers and report back.

3.0 Executive Summary

An extensive industry consultation process and research has been undertaken pertaining to the regulation of Designated Drivers at the direction of City Council. Through the process, a number of regulatory issues, for instance health and safety concerns, were identified which support establishing a D.D. licensing regime. Based on the assessment in this report, staff are of the opinion that Option "C" best addresses the regulatory issues by providing a balanced approach to regulating the D.D. Industry.

4.0 Input From Other Sources

The City conducted separate industry consultation meetings with the Taxicab Industry in May 2014 and with the Designated Driver Industry in August 2014. Summaries of input

from the Taxicab Industry and the Designated Driver Industry were respectively provided in Reports CORP-14-75 and CORP-14-93.

Finance Services and Legal Services were consulted in the preparation of this report.

5.0 Analysis

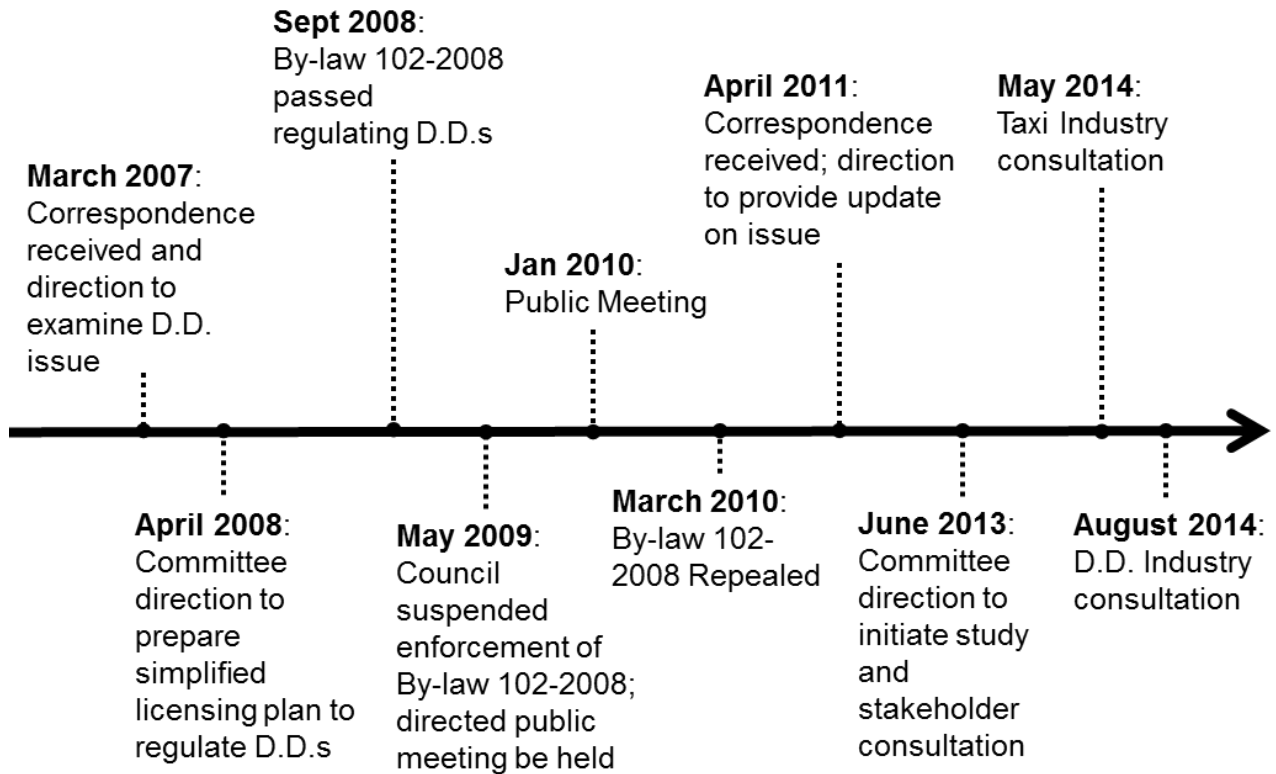
5.1 Background

The actual operating model of a Designated Driver (D.D.) service involves a driver being hired to drive a customer's vehicle with the customer and their passengers in it, from one location to at least one other destination. Prior to providing the service, the D.D. Driver is delivered to the customer by a second D.D. Driver in a "chase vehicle". One D.D. Driver drives the customer and passengers to their final destination while the chase vehicle follows. The chase vehicle picks up the D.D. Driver at the final destination once the service has been provided. A complete overview of the D.D. Industry and its comparison with the Taxi Industry is provided in Report CORP-13-98-CM (Attachment 1).

The central issue this report attempts to address is that both the D.D. and Taxi industries provide similar but different services. Specifically, both industries are similar in that they both convey passengers, but they differ in how passengers are conveyed and the fact that D.D. services involves transporting the customer's vehicle from one destination to another. The D.D. Industry has no regulations governing its business, but the Taxi industry, in contrast to the D.D. Industry, is significantly regulated for the purposes of ensuring consumer protection and protecting the health and safety of the passengers. This situation is referred to in this report as the "policy gap".

D.D.s have been operating in Oshawa and in other Canadian municipalities for a number of years. In 2007, the Audit, Budget and Corporate Services Committee (now referred to as the Corporate Services Committee) considered a request for the City to regulate the fees of D.D.s. Since 2007, there have been periodic and repeated requests to establish a system of licensing for D.D. services. A timeline of notable events is provided in Figure 1, and Attachment 2 provides a chronological account of all events on the issue of regulating D.D.s.

Figure 1 D.D. Timeline of Notable Events



A D.D. licensing regime was established in Oshawa in 2008 but was temporarily suspended by Council in 2009 pending a public meeting to gather input from all stakeholders. The D.D. by-law was subsequently repealed in March 2010.

While a number of municipalities in Ontario are currently examining the regulation of D.D. services, staff are not aware of any D.D. licensing regimes in Ontario or in other areas of Canada. Notwithstanding this, an environmental scan has revealed one jurisdiction within the United States that licenses D.D. services.

At its June 24, 2014 meeting, Council directed staff to undertake a study and initiate consultation with the Taxi and D.D. industries and to report back to the Corporate Services Committee (“Committee”) with recommendations. This report responds to Council’s direction.

5.1.1 Consultation Process

Staff held two industry consultation sessions and submitted two interim summary reports to Committee in the second and third quarters of 2014. The consultation framework is highlighted below in Table 1.

Table 1 Stakeholder Consultation Framework

	Date	Status
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report (CORP-14-75)	May 26, 2014	Complete
Designated Driver Industry Consultation	August 20, 2014	Complete
Second Industry Consultation Status Report (CORP-14-93)	September 8, 2014	Complete
Summary of Input and Policy Recommendations Report	April 13, 2015	Complete

During the consultation session, staff provided an overview of the regulatory issues surrounding D.D. services; explained the licensing framework of the Taxi Industry, a different but similar service; detailed the need to regulate the D.D. Industry in Oshawa; provided potential regulatory options to initiate discussion; and received feedback. The major themes that emerged from both consultation sessions are as follows:

- General acknowledgement of the presence of the “policy gap” between the two services.
- The Taxi Industry generally does not support the presence of D.D. services but recognizes that if the service is not prohibited, it should at least be regulated.
- General consensus that some form of regulation of the D.D. services is necessary.
- General concern from the D.D. Industry that costs associated with regulation may be prohibitive for their current business model.
- Greater enforcement of Taxicab Licensing By-law 50-2003 (“Taxicab By-law”) is required. This theme was expressed primarily by the Taxi Industry.

Input from both industries is summarized in Attachment 3.

5.1.2 Regulatory Issues

Staff have thoroughly assessed the regulation of D.D.s and have identified a number of issues which indicate that establishing a D.D. licensing regime is beneficial to proceed with at this time. Some of these issues are similar to those that justify the existence of the licensing regime for the Taxi Industry. The issues are as follows:

- (a) **Need to address the Policy Gap:** There is a policy gap between the regulation of the Taxicab Industry and the non-regulation of the D.D. Industry. Both industries

provide a similar service in that they are involved in the transportation of people for a fee.

- (b) **Need to address D.D. Service Model and By-law Contravention:** D.D.s provide services that overlap with those provided by the regulated Taxi Industry. Specifically, they convey passengers but in the customer's vehicle. The City's Taxicab By-law defines "Taxicab" as including "[...] any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area [...]". The Taxicab definition excludes certain vehicles such as an ambulance or a funeral hearse but does not exclude a vehicle that used in the provision of a D.D. service. Therefore, when providing D.D. services, D.D.s are effectively providing a driver to drive the customers which is considered to be operating a Taxicab, contrary to the Taxicab By-law, by conveying the customer (and their passengers) in a vehicle for a fee. The Taxi Industry argues that D.D. clients should only be using taxicabs and should plan their travels/social/medical functions/appointments beforehand so that they do not require the use of their own vehicle.
- (c) **Need to address Consumer Protection and Health and Safety Concerns:** The City regulates the Taxi Industry to address consumer protection and health and safety concerns. As part of the taxi licensing process, taxicab drivers are required to complete a series of courses and provide supporting documentation such as a criminal information report. In addition, taxicab vehicles are regularly inspected for mechanical deficiencies and are required to have adequate vehicle insurance. This is in contrast to the unregulated D.D. Industry. A comprehensive list of taxi licensing requirements is detailed in Attachment 1. It is important to note that many taxicab licensing requirements are not applicable to the D.D. Industry because the D.D. Industry operates differently by driving the client's vehicle.
- (d) **Need to preserve a version of the D.D. Service Model:** D.D.s provide services to a broad range of clients from individuals requiring the transport of their vehicle after visiting a licensed establishment to others who require the transport of their vehicle following a medical procedure. It is apparent that D.D.s provide a unique service which the public values because they can have their vehicle returned home.

An assessment matrix has been created in section 5.3.4 to assist in the evaluation of each regulatory option discussed in section 5.2.

5.2 Regulatory Options

Staff presented regulatory options for consideration by the stakeholder groups. These options establish certain licensing conditions/requirements in the following three (3) areas:

- 1) **D.D. Driver Licensing Regulations** – refers to licensing requirements for any *person* who operates a vehicle in the provision of a D.D. service.
- 2) **D.D. Broker Licensing Regulations** – Similar to Taxicab Broker regulations, these licensing requirements are applicable to any person/company who accepts orders for D.D. services and dispatches drivers or themselves.

- 3) **D.D. Operating Regulations** – refers to licensing conditions D.D. Drivers and Brokers must fulfill. These conditions vary between administrative requirements, for example, ensuring that the customer has a valid driver's licence to requiring the D.D. chase vehicle to display markings of their affiliated D.D. Broker.

Sections 5.2.1 to 5.2.3 provide descriptions of each type of condition/requirement. Option "A" proposes to exempt D.D.s from the Taxicab By-law whereas Options "B" and "C" propose different systems of licensing. Under Options "B" and "C", any D.D. service who picks up customers and their vehicles at a location within Oshawa's City limits will be required to obtain a licence from the City of Oshawa.

Option "A": Exempt D.D.s from Taxicab By-law: This option attempts to address the inherent contravention to the Taxicab By-law by exempting D.D. services from the definition of "Taxicab". Option "A" does not provide any form of consumer protection or address health and safety issues; it does, however, preserve the D.D. service model. Option "A" is not recommended considering D.D.s continue to provide a taxi-like service.

Option "B": Reinstate D.D. By-law 102-2008: D.D.s were previously regulated under By-law 102-2008, but Council repealed the By-law in 2010 over concerns respecting insurance and the restrictions on conveying passengers. This proposed option would reinstate the licensing conditions/requirements of By-law 102-2008. Option "B" is not recommended based on the updated assessment forming part of this report.

Option "C": Pass a by-law similar to D.D. By-law 102-2008: Option "C" proposes modifying the licensing conditions/requirements of By-law 102-2008 such as permitting the registered vehicle owner **or** an authorized operator¹ and the registered vehicle owner's vehicle to be transported to a destination and including additional requirements which would mostly harmonize D.D. regulations with those of the Taxi Industry. Option "C" would establish two classes of D.D. licences:

- D.D. Driver Licence
- D.D. Broker Licence

Staff are of the opinion that Option "C" provides a balanced approach to regulating the D.D. Industry and presents the best option to closing the policy gap between the Taxi Industry and the D.D. Industry.

5.2.1 D.D. Driver Licensing Regulations

It is recommended that D.D. Drivers be responsible for complying with specific standards if Council determines that D.D. services should be regulated and permitted to operate within the City. There are five licensing requirements being considered for D.D. Drivers who operate vehicles in the provision of D.D. services. The intent of these standards is to ensure a minimum level of consumer protection and health and safety. All five standards

¹ Refers to an individual who has received the registered vehicle owner's consent to operate the registered vehicle owner's vehicle.

are mandatory requirements for the licensing of taxicab drivers. Taxi drivers, on the other hand, must additionally complete a taxicab driver training program and undertake Standard First Aid and C.P.R. level C training.

- **Criminal Information Report (with Vulnerable Sector Screening):** This document must be obtained at the applicant’s local police service and includes a list of all criminal convictions for which a pardon has not been received.
- **Driver’s Abstract:** Also referred to as a driver’s record, this document provides driver and licence details; lists conviction information and any applicable demerit points; and suspensions for a three-year period.
- **Proof of Valid “G” Class (minimum) Driver’s Licence:** Applicants would be required to provide a copy of their valid “G” Class Provincial driver’s licence verifying that they are permitted to operate a car in the Province of Ontario.
- **Proof of Driver’s affiliation with a Licensed D.D. Broker:** Applicants for a D.D. Driver’s licence must be associated with a D.D. Broker licensed in Oshawa. A letter from the D.D. Broker will be required.
- **Medical Clearance Letter:** This document attests as to whether or not the D.D. Driver is physically and mentally able to operate a vehicle in the provision of a D.D. service and is free from communicable diseases and must be prepared by a qualified medical practitioner.

Table 2 details the various licensing requirements D.D. Drivers would need to complete for each proposed option. The approximate cost of fulfilling each requirement is detailed in section 5.4.1.

Table 2 D.D. Driver Licensing Requirements for Proposed Regulatory Options

Options	Criminal Information Report	Driver’s Abstract	Proof of “G” (minimum) Driver Licence	Proof of Affiliation with Licensed D.D. Broker	Medical Clearance Letter
Option A: Exempt D.D.s from Taxicab By-law					
Option B: Reinstate D.D. By-law 102-2008	✓	✓	✓		
Option C: Pass a by-law similar to By-law 102-2008	✓	✓	✓	✓	✓

5.2.2 D.D. Broker Licensing Regulations




D.D. Brokers are akin to Taxicab Brokers in that they accept orders for D.D. services and dispatch D.D. Drivers. The intent of the prescribed standards for licensing D.D. Brokers is to provide a minimum level of protection for the public, customers, D.D. Drivers and D.D. Brokers. Table 3 details the various licensing requirements D.D. Brokers would need to fulfill for each proposed option.

- **Commercial General Liability (C.G.L.) Insurance in an amount specified by the City:** While insurance coverage varies depending on level of coverage purchased, C.G.L. insurance typically protects the insured from liability as a result of third party bodily injury; property damage or loss; personal injury; and non-owned automobile liability. The C.G.L. insurance policy required by D.D. Brokers shall include, but shall not be limited to:
 - i. have a limit of liability in an amount of at least \$2 million or an amount specified by the City;
 - ii. name the D.D. Broker and owner(s) of the D.D. Broker as Named Insured(s);
 - iii. name all D.D. Drivers affiliated with the D.D. Broker as Additional Insured(s); and
 - iv. include non-owned automobile liability coverage

Note: Despite the insurance provisions detailed above, Section 5.5 outlines limitations with respect to insurance coverage.

- **Ontario Master Business Licence and/or Articles of Incorporation:** This documentation confirms that the business is registered to conduct business in Ontario.

Table 3 D.D. Broker Licensing Requirements for Proposed Regulatory Options

Options	C.G.L. Insurance in an amount specified by the City	Ontario Master Business Licence/Articles of Incorporation
Option A: Exempt D.D.'s from Taxicab By-law		
Option B: Reinstate D.D. By-law 102-2008		
Option C: Pass a by-law similar to By-law 102-2008		

5.2.3 D.D. Operating Regulations

Options “B” and “C” contemplate the establishment of D.D. operating standards which D.D. Drivers and D.D. Brokers must comply with while providing D.D. services. These operating standards can be further broken down further into the following three (3) areas:

- (a) The calculation of fares
- (b) Conveyance of passengers
- (c) Other requirements

(a) The Calculation of Fares

Table 4 details the methods of fee regulation for D.D.s for each proposed option.

- **Negotiated Fare/Rate:** fares are negotiated between the customer and the D.D. Driver and are typically established as a flat rate. Negotiated fares are easy to administer and provide greater flexibility for D.D. Brokers to make business decisions. Negotiated fares/rates do not offer consumer protection but is the most viable option in that there is no meter in the customer’s vehicle. This is presently the approach used by D.D.’s.
- **Fixed Price/Rate:** fares are established based on distance by a regulatory authority, the municipality, in consultation with the Industry. The distance and corresponding fare can be measured either by using an electronic meter or by establishing fare zones within the municipality. Fixed rates provide a form of consumer protection but are quite difficult to implement in the D.D. Industry.

Table 4 D.D.s and the Calculation of Fares

Options	Negotiated Fare	Fixed Fare/Rate
Option A: Exempt D.D.s from Taxicab By-law		
Option B: Reinstate D.D. By-law 102-2008		
Option C: Pass a by-law similar to By-law 102-2008		

(b) The Conveyance of Passengers

All options prohibit D.D. service providers from conveying customers and their passengers in the chase vehicle. Table 5 details how passengers can be conveyed for each proposed option.

- **Cannot convey passengers in Chase Vehicle:** this standard prohibits the conveyance of passengers in the D.D. chase vehicle.
- **Cannot convey passengers:** this standard restricts the conveyance of the customer or passengers in the client’s vehicle.

- Can only convey registered vehicle owner or authorized operator:** this standard would only permit D.D.s to convey the registered vehicle owner **or** a driver authorized by the registered vehicle owner in the customer’s vehicle. This standard provides a form of consumer protection in that passengers, who have no connection to the condition of the vehicle owner’s automobile nor to the existence or adequacy of insurance, are not subjected to potential risk. The passengers do not require a vehicle to be transported and do not, therefore, require the service of a D.D. Rather, the passengers require an alternative method of transportation such as Durham Region Transit or a taxi. By contrast, the vehicle owner or authorized operator should be familiar with the vehicle’s condition and insurance and can be seen to have voluntarily accepted the risk and responsibility of adequate maintenance and insurance when being conveyed in the owner’s vehicle by a D.D.
- Can convey driver and passengers:** this standard permits D.D.s to convey the customer and his/her passengers subject to the availability of seat belts in the customer’s vehicle. This is not supported in that the D.D. service becomes a defacto taxicab.

Table 5 D.D.s and the Conveyance of Passengers

Options	Cannot convey passengers in Chase Vehicle	Cannot convey passengers	Can convey registered vehicle owner or authorized operator	Can convey driver and passengers
Option A: Exempt D.D.s from Taxicab By-law	✓			✓
Option B: Reinstate D.D. By-law 102-2008	✓	✓		
Option C: Pass a by-law similar to By-law 102-2008	✓		✓	

(c) **Other Requirements**

These requirements relate to the operation of a D.D. service which cannot be classified in the categories above. Table 6 details the other requirements D.D.s must comply with for each proposed option.

- **D.D. chase vehicle must be insured and have at least minimum limits for automobile liability and accident benefit coverage:** automobile liability and accident benefit coverage will cover the chase vehicle in cases, for example, where the vehicle is involved in an accident resulting in property damage or injury while operating their chase vehicle.
- **Must confirm and obtain (a) valid vehicle permit and insurance, (b) valid driver's licence, and (c) registered vehicle owner's consent:** prior to providing the service, D.D. Drivers are required to confirm that the registered vehicle owner **or** their authorized operator has a valid vehicle permit, adequate insurance coverage for the vehicle and driver's licence in addition to obtaining the registered vehicle owner's consent to operate the vehicle in the provision of a D.D. service.
- **Shall display D.D. Broker Markings and City of Oshawa Licensing information on Chase Vehicle:** D.D. chase vehicles will be required to display their Broker's markings, contact information and City of Oshawa licensing information on the chase vehicle. Identifiable markings inform the public that the D.D. Broker is licensed by the City of Oshawa and assists Municipal Law Enforcement Officers in the enforcement of applicable standards.
- **Prohibited from displaying Roof Lights on D.D. Chase Vehicle:** vehicle roof lights are illuminated signs affixed on the roof of a vehicle and are generally associated with taxicabs. This prohibition will ensure that D.D. chase vehicles are not mistaken as taxicabs.
- **D.D. Drivers must prominently display their D.D. Driver Licence:** Licensed D.D. Drivers will be issued a photo identification card displaying features including their name, the period they are licensed, and their photo. When providing a D.D. service, licensed D.D. Drivers must prominently display their D.D. Driver licence for their customer's inspection.
- **D.D. Drivers must maintain a trip log:** The D.D. Driver must keep and maintain, for a period of three months, a log of all trips made by the D.D. Driver during each period of continuous operation (shift) and shall contain information pertaining to:
 - i) the names of the D.D. Drivers, the date and the Owner Plate number;
 - ii) the time, location and destination of every trip made; and
 - iii) the amount of the fare collected for each trip.

The D.D. Driver must present the trip log for inspection upon request to a Municipal Law Enforcement Officer.

Table 6 D.D.s and Other Operating Requirements

Options	D.D. Chase Vehicle must be insured and have Automobile Liability & Accident Benefit coverage	Must confirm/obtain: (a) Valid permit and insurance (b) Valid driver's licence (c) Registered Vehicle Owner's Consent	Must display D.D. Broker Marking and Contact and Licensing Information on D.D. Chase Vehicle	Prohibited from displaying Roof Lights on D.D. Chase vehicle	D.D. Driver must prominently display D.D. Driver Licence	D.D. Driver must keep trip log
Option A: Exempt D.D.s from Taxicab By-law						
Option B: Reinstate D.D. By-law 102-2008		✓				
Option C: Pass a by-law similar to By-law 102-2008	✓	✓	✓	✓	✓	✓

5.3 Assessment of Regulatory Options

Staff assessed each proposed regulatory option in their ability to address the regulatory issues identified in section 5.1.2. An additional assessment criteria, Enforcement and Administration, was included as part of the assessment. This criteria refers to the effectiveness and efficiency of administering and enforcing the applicable option. The findings are detailed in sections 5.3.1. to 5.3.3 and are summarized in Table 7 in section 5.3.4.

5.3.1 Option “A”: Exempt D.D.s from Taxicab By-law

Option “A” addresses the inherent contravention to the Taxicab By-law by exempting D.D. services from the definition of “Taxicab”. D.D.s would not be regulated under Option “A” and would therefore be permitted to convey the customer and their passengers in the customer’s vehicle. Accordingly, Option “A”, preserves the D.D. service model but does not address the policy gap between the D.D. and Taxicab industries.

Option “A” does not provide any form of consumer protection or address any health and safety issues. D.D. Drivers are not vetted by the City, and the customer, through their automobile insurance, is responsible for all liabilities (i.e., property damage, injuries, and death) which may occur while providing the care, custody and control of their vehicle to the D.D. Driver.

Option “A” does not require the City to license or enforce the Taxicab By-law as it relates to D.D. services as they would be exempt from the By-law under this option. Staff do not recommend the implementation of Option “A”.

5.3.2 Option “B”: Reinstate D.D. By-law 102-2008

Option “B” reinstates the formerly repealed D.D. By-law 102-2008 which established a licensing regime for D.D.s and required them to verify that the customer has a valid driver’s licence, insurance and vehicle ownership. Additionally, the D.D. Driver has to obtain the registered vehicle owner’s consent to operate their vehicle and negotiate a suitable fare. D.D. Drivers are prohibited from transporting passengers (including the customer or registered vehicle owner) while providing the D.D. service. D.D. Brokers are required to carry a minimum of \$2 million C.G.L. insurance.

Option “B” partially addresses the policy gap and health and safety concerns as D.D. Drivers are required to obtain certain approvals applicable to taxicab driver licensing. While Option “B” addresses D.D.s’ contravention of the Taxicab By-law, it does not preserve the D.D. service model in that passengers (including the customer or registered vehicle owner) are not permitted to be transported by a D.D. service.

Administering Option “B” would require additional staff resources including procuring/developing physical licences and potentially tracking software. Similarly, there would be challenges to enforcing certain procedural requirements which would require Municipal Law Enforcement Officers to devote a significant amount of time and resources.

5.3.3 Option “C”: Pass a by-law similar to By-law 102-2008

Option “C” contemplates the creation of two licensing classes; one for D.D. Drivers and the other for D.D. Brokers to which drivers are affiliated. This option harmonizes the licensing standards, where applicable, between D.D. Drivers and Taxicab Drivers with the exception of the requirement for standard first aid training. D.D. Drivers must verify that the registered vehicle owner **or** the authorized operator has a valid driver’s licence, adequate insurance and vehicle ownership. Similar to option “B”, the D.D. Driver has to obtain the registered vehicle owner’s consent to operate their vehicle and negotiate a suitable fare. D.D. Drivers are also required to maintain a trip log and are only permitted to transport the registered vehicle owner **or** the authorized operator in their vehicle. This is because passengers have no connection to the condition of the vehicle owner’s automobile nor to the existence or adequacy of insurance. D.D. Brokers are required to have C.G.L. insurance in an amount specified by the City, and chase vehicles affiliated with the Broker must possess an insurance policy with automobile liability and accident benefit coverage; bear the Broker’s markings; and are prohibited from mounting roof lights.

Option “C” addresses the policy gap and health and safety concerns by harmonizing D.D. Driver standards with those applicable to taxicab drivers. It also resolves the issue of D.D.s’ contravening the Taxicab By-law by exempting them from the definition of “taxicab”. Finally, the D.D. service model is partially preserved by permitting the registered vehicle owner **or** an authorized operator to be transported in the registered vehicle owner’s vehicle to their destination.

The administration and enforcement of Option “C” would be similar to Option “B”.

Staff recommend implementing Option “C” given that it achieves balance by recognizing the realities of D.D. Industry operations and addresses the four regulatory issues identified in section 5.1.2.

5.3.4 Regulatory Option Assessment Matrix

Staff created an assessment matrix (Table 7) to rank each proposed option based on the regulatory issues identified in section 5.1.2.

Table 7 Assessment of Proposed Regulatory Options

Options	Addresses Policy Gap	Addresses Health and Safety Concerns	Addresses D.D. Service Model By-law Contravention	Preserves D.D. Service Model	Enforcement & Administration	Total Score (out of 20)
	Option A: Exempt D.D.s from Taxicab By-law					
Option B: Reinstate D.D. By-law 102-2008						12
Option C: Pass a by-law similar to By-law 102-2008						15
Legend		Does not address issue				
		Modestly addresses issue				
		Partially addresses issue				
		Mostly addresses issue				
		Fully addresses issue				

5.4 D.D. Regulation Advantages v. Disadvantages

There are a number of advantages and disadvantages to regulating D.D.s under Options “B” and “C”. Table 8 provides a summary for consideration.

Table 8 Advantages and Disadvantages of D.D. Regulation

Advantages	Disadvantages
<ul style="list-style-type: none"> • Provides a minimum level of public safety • Provides a minimum level of consumer protection • Addresses the policy gap to various degrees depending on the option selected • Ability to impose minimum standards, similar to those imposed on taxi drivers 	<ul style="list-style-type: none"> • Difficult to determine if there is an appropriate or adequate level of insurance coverage for D.D. and their customers; determinations must occur on a case-by-case basis • D.D. standards may be difficult to enforce • Residents have not expressed a need for D.D. licensing at this time • D.D. licensing may require additional staff resources • The model being proposed by the City differs from what actually exists in respect to the transportation of passengers

5.5 Limitations of Regulating D.D.s

While each option presented in this report addresses the regulatory issues to varying degrees, there are a number of inherent limitations to regulating D.D.s, represented in Options “B” and “C”, which are noteworthy and important for consideration. These limitations relate to insurance concerns, D.D. operating requirements, and enforcing potential D.D. regulations.

(a) Insurance Concerns:

- i. **Insurance for the D.D. Industry:** staff consulted with representatives from the insurance industry who indicated that they were not aware of an insurance policy that would specifically cover a D.D. service. Section 5.2.2. presents recommendations on the minimum insurance coverage required to provide a basic level of consumer protection. It is important to note that there may be unidentified risk to the customer despite a D.D. service being insured with coverage as detailed in section 5.2.2.
- ii. **Potential impact on D.D. customer’s auto insurance policy:** An accident that occurs while a D.D. Driver is operating a customer vehicle may result in a claim against the customer vehicle owner’s auto insurance policy and not the D.D. Broker’s insurance. While basic automobile insurance policies are standardized to a certain extent, they differ in the terms and amounts of coverage. Therefore, it is difficult to ensure whether or not there is an appropriate level of coverage on the customer’s vehicle, or, whether coverage exists at all.

- (b) **D.D. Driver operating requirements:** Options “B” and “C” require that the D.D. Driver confirm, among other items, that the registered owner of the customer vehicle **or** authorized operator has a valid automobile insurance policy. It may be challenging in certain instances for D.D. Drivers to confirm that the registered vehicle owner’s automobile insurance policy provides appropriate insurance coverage.
- (c) **Enforcement:** The enforcement of a D.D. licensing system presents two significant challenges. First, enforcement would be limited to conducting proactive operations. Second, the enforcement of certain procedural requirements such as ensuring the D.D. Driver confirmed the customer has valid automobile insurance would require the City’s Municipal Law Enforcement Officers to devote a significant amount of time and resources.

5.6 Costs of D.D. Licensing

One of the principal concerns expressed by the D.D. industry was the potential for licensing costs to become prohibitive. Furthermore, the D.D. industry contends that licensing costs may increase as surrounding municipalities adopt licensing regimes within their jurisdictions.

Staff have compiled an approximate cost assessment for the licensing of D.D. Drivers. A cost assessment for D.D. Brokers was not completed as the costs of C.G.L. insurance varies depending on a number of factors. Nevertheless, it is proposed that an annual licensing fee of \$250 be established for a D.D. Broker licence. The cost assessment for D.D. Driver licensing has determined that licensing costs for each of the proposed regulatory options are reasonable for three reasons. First, taxicab drivers are subject to similar licensing costs. Second, some of the supporting documentation required for licensing is valid for more than one year and may reduce the costs of licensing renewal during the period the document is valid. Third, all documentation is transferable and may be used in other municipalities to fulfill similar licensing requirements.

5.6.1 Two-Year Cost of Driver Licensing Requirements

The approximate two-year costs for D.D. Driver licensing are detailed in Table 9; costs are based on current fee information from Durham Region agencies and organizations. All costs are approximate and may vary amongst administering agencies and organizations based in other municipalities.

Table 9 Approximate Two-Year Costs of D.D. Driver Licensing Requirements

Options	Criminal Information Report	Driver's Abstract	Proof of "G" Driver Licence	Medical Clearance Letter	Proposed Licensing Fee	Initial Total Cost
Option "A"						\$0
Option "B"	\$55	\$12	\$0		\$150	\$217
Option "C"	\$55	\$12	\$0	\$30	\$150	\$247

5.7 Education and Enforcement Proposed D.D. Standards

The effectiveness of a D.D. licensing regime is dependent on complementary efforts to enforce the by-law and educate the D.D. Industry of the standards. Additional enforcement resources in the form of staff overtime costs will be required if Council approves a system of licensing for D.D. services. Enforcement/education activities must be undertaken primarily on a proactive basis.

5.8 Conclusion

An extensive study informed by a comprehensive stakeholder consultation process has been completed. Based on the findings, staff have determined that regulating the D.D. Industry is appropriate for addressing the policy gap; consumer protection and health and safety concerns; the inherent contravention to the Taxicab By-law; and the need to preserve a version of the D.D. service model. Staff are of the opinion that Option "C", as proposed in section 5.2, best addresses the aforementioned issues by providing a balanced approach to regulating the D.D. industry. A by-law regulating D.D.s will be challenging, but not impossible to enforce. For both Taxi's and D.D.'s to coexist, there is a need to understand the purpose of the by-law and its limitations and opportunities. The purpose of the staff recommendation is to provide the most realistic approach to establishing a balanced regulatory framework for the Taxi and D.D. industries.

6.0 Financial Implications

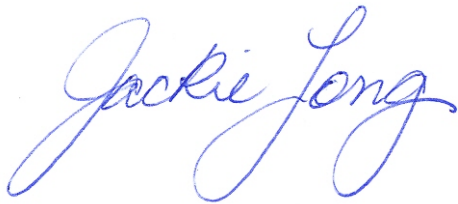
Options "B" and "C" propose the creation of different systems of licensing for D.D. service providers. As such, there are varying administrative and enforcement costs associated with implementing each option. A more accurate cost assessment can be provided once a specific option is scoped and approved.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.

A handwritten signature in black ink, appearing to read "J. Conlin".

Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services

A handwritten signature in blue ink, appearing to read "Jackie Long".

Jacqueline Long, Interim Commissioner,
Corporate Services Department & HR

Attachments



Public Report

To: Corporate Services Committee

From: Beverly Hendry, Commissioner,
Corporate Services

Report Number: CORP-14-93

Date of Report: September 3, 2014

Date of Meeting: September 8, 2014

Subject: Regulation of Designated Drivers and Industry Consultation
Second Update

File: D-2300

1.0 Purpose

The purpose of this report is to provide an update on the industry consultation process regarding the regulation of the Designated Driver (D.D.) Industry.

2.0 Recommendation

That the Corporate Services Committee recommends to City Council:

That Report CORP-14-93 "Regulation of Designated Drivers and Industry Consultation Second Update" be received for information.

3.0 Executive Summary

Not applicable

4.0 Input From Other Sources

The City conducted a second consultation meeting with the D.D. Industry on August 20, 2014 to present staff's findings and options respecting the regulation of D.D.'s and to obtain feedback from the D.D. Industry. A separate City of Oshawa Taxicab Industry consultation meeting was previously held on May 7, 2014.

5.0 Analysis

5.1 Background

At its June 24, 2013 meeting, City Council directed staff to conduct a study and initiate consultation with stakeholders from Oshawa's Taxicab and Designated Driver industries and to report back to the Corporate Services Committee with recommendations.

Staff completed the first of two industry consultation meetings on May 7, 2014 and an initial report (CORP-14-75) summarizing the feedback received from the Taxicab Industry was considered by the Corporate Services Committee at its May 26, 2014 meeting. Attachment 1 is a copy of Report CORP-14-75 which includes an additional report (CORP-13-98-CM) providing an overview of the issues regarding D.D.'s and a number of policy options for consideration.

5.2 Industry Consultation Framework and Update

Table 1 is a consultation framework developed by staff. The consultation process is currently underway and a final staff report presenting a summary of input and policy recommendations will be prepared for the first quarter (Q1) of 2015.

Table 1 Industry Consultation Framework and Progress

	Date	Status
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report	May 26, 2014	Complete
Designated Driver Industry Consultation	August 20, 2014	Complete
Second Industry Consultation Status Report	September 8, 2014	Complete
Summary of Input and Policy Recommendations Report	Q1 2015	Pending

5.3 Designated Driver Industry Consultation

Staff conducted the second consultation meeting with the Designated Driver Industry on August 20, 2014. Approximately 25 D.D. Industry participants from across Durham Region attended the consultation meeting.

Notification of the meeting was provided through various sources including:

- Notifications in the local newspapers
- A posting of the notice on the City's website
- Email notification and phone calls to the D.D. companies within Durham Region

At the meeting, staff overviewed the issues, presented potential regulatory options, and received feedback from the D.D. Industry.

5.3.1 Designated Driver Industry Feedback

Below is a general summary of input received at the meeting. A more comprehensive account of the Designated Driver Industry's input will be provided in the final report.

- Participants acknowledged that there is a policy gap between the regulated Taxi Industry and the D.D. Industry but certain taxi regulations were not relevant to D.D. services.
- There was consensus that the regulation of D.D. services is necessary. However, companies noted that the D.D. Industry was a fragile Industry and expressed concerns that overregulation and its associated costs could be prohibitive to the extent that the provision of D.D. services may become financially unviable.
- In addition, participants were concerned that costs associated with licensing would impact the affordability of the service as D.D. companies would be compelled to charge higher fares. The increase in fares could potentially discourage impaired drivers from using their services.
- Considering that many D.D. companies operate throughout Durham Region, companies were concerned that licensing costs would be compounded as other neighbouring municipalities could potentially adopt similar regulations.
- Some D.D. companies are insured for \$2 million for general liabilities and have implemented employee screening practices such as requiring D.D. drivers to submit driver abstracts and proof of insurance for their personal vehicles.
- Participants reiterated that they provide services primarily to impaired individuals and that their impairment could result from a variety of instances such as being recently released from a hospital following surgery to clients who patronized a licensed establishment.
- Many D.D. companies have a strong relationship with the Durham Regional Police Service. Some D.D. drivers report cases of impaired driving and others have conducted presentations for police officers.

5.4 Next Steps: Final Report

The scheduled portion of the industry consultation process has been completed. Staff will continue to receive input from all participants in preparation of the final report to City Council in Q1 2015. The final report will present the recommended approach to addressing the issue of regulating D.D. services based on feedback received from all parties and research conducted by staff.

6.0 Financial Implications

There are no financial implications directly related to this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



Beverly Hendry, Commissioner,
Corporate Services

Attachment



Public Report

To: Corporate Services Committee

From: David J. Potts, City Solicitor and Head,
Legislative and Regulatory Directorate

Report Number: CORP-14-75

Date of Report: May 22, 2014

Date of Meeting: May 26, 2014

Subject: Regulation of Designated Drivers and Industry Consultation
Initial Update

File: D-2300

1.0 Purpose

The purpose of this report is to provide an update on the industry consultation process regarding the regulation of the Designated Driver (D.D.) Industry.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That report CORP-14-75 "Regulation of Designated Drivers and Industry Consultation Initial Update" be received for information.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

A City of Oshawa Taxicab Industry consultation meeting was held on May 7, 2014 to present staff's findings and options respecting the regulation of D.D.'s and to obtain feedback from the Taxicab Industry. A separate City of Oshawa D.D. Industry consultation meeting will be scheduled in the third quarter of 2014.

5.0 Analysis

5.1 Background

At its June 24, 2013 meeting, City Council directed staff to conduct a study and initiate consultation with stakeholders from Oshawa's Taxicab and Designated Driver industries and to report back to the Corporate Services Committee with recommendations.

Attachment 1 is a copy of staff report CORP-13-98 which provides an overview of the issues regarding D.D.'s and identifies a number of policy options for consideration.

5.2 Industry Consultation Framework and Update

Table 1 is a consultation framework developed by staff. The consultation process is currently underway and a final staff report presenting a summary of input and policy recommendations will be prepared for the first quarter of 2015.

Table 1 Industry Consultation Framework and Progress

	Date	Status
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report	May 26, 2014	Complete
Designated Driver Industry Consultation	Q3 2014	Pending
Second Industry Consultation Status Report	Q3 2014	Pending
Summary of Input and Policy Recommendations Report	Q1 2015	Pending

5.3 Taxi Industry Consultation

Staff conducted the first consultation meeting with the Taxi Industry on May 7, 2014. Approximately 50 City of Oshawa licensed taxicab drivers, owners, and brokers attended the consultation meeting. A number of participants from the taxi industries of neighbouring municipalities were also in attendance.

Notification of the meeting was provided through various sources including:

- Notifications in the local newspapers
- A posting of the notice on the City's website
- Notification to the City's taxi brokerages to post the notice at their respective offices

At the meeting, staff overviewed the issues, presented several potential regulatory options, and received feedback from the Taxi Industry summarized in the next section.

5.3.1 Taxi Industry Feedback

Below is a general summary of input received at the meeting. A more comprehensive account of the Taxi Industry's input will be provided in the final report.

- There was consensus that the regulation of D.D. services is necessary on the basis of addressing public safety concerns including: the need to ensure that D.D.'s are operating with adequate insurance coverage and that D.D. service drivers had appropriate training and were subject to criminal records checks. A number of participants were of the opinion that the D.D.'s should be prohibited from operating in the City.

- Participants expressed their concerns regarding the policy gap between the heavily regulated Taxi Industry and the lack of regulations in the D.D. Industry.
- Participants have observed a sizeable number of D.D.'s operating in the City some of which are based in surrounding municipalities. A number of D.D. services are operating as taxicabs transporting individuals in their "chase" vehicles and certain D.D. service vehicles have been outfitted with top lights making such vehicles resemble taxicabs. These D.D. services have been observed soliciting rides/customers at local entertainment establishments and at shopping centres.
- D.D. services that are operating as taxicabs are "stealing" business from the heavily regulated Taxicab Industry and there are concerns that the continuation of such actions may destabilize the Taxicab Industry.
- More enforcement of the Taxicab By-law 50-2003 is necessary.

5.4 Next Steps: Designated Driver Industry Consultation

A second consultation meeting will be scheduled with the City's D.D. Industry in the third quarter of 2014. Notification of the meeting will be posted in the local media and on the City's website.

6.0 Financial Implications

There are no financial implications directly related to this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



David J. Potts, City Solicitor and Head,
Legislative and Regulatory Directorate

To: Corporate Services Committee	Item: CORP-13-98-CM	Date of Report: June 13, 2013
From: David J. Potts, City Solicitor & Head Legislative and Regulatory Directorate	File: D-2300	Date of Meeting: June 20, 2013
Subject: <i>Designated Driver Service Providers</i>		PUBLIC REPORT

1.0 PURPOSE

This report overviews issues regarding designated driver services, identifies policy options and seeks Council's instruction to study, consult and to report back.

2.0 RECOMMENDATION

That the Corporate Services Committee recommends to Council:

That staff be directed to conduct a study and initiate consultation with stakeholders including the taxi industry and designated driver service providers and report back to Corporate Services Committee with recommendations.

3.0 EXECUTIVE SUMMARY

Customers of Designated Driver Services pay a fee in return for which a Designated Driver drives the customer, the customer's vehicle and sometimes the customer's passengers to at least one destination. Designated Driver Services were regulated but are currently unregulated in Oshawa. Designated Driver Services overlap with services provided by the taxicab industry to the extent that Designated Driver Services includes the conveyance of the customer (and the customer's passengers). The result is a policy gap. Further study and consultation is recommended.

4.0 INPUT FROM OTHER SOURCES

4.1 General

➤ Legal Services

4.2 Auditor General

➤ Not applicable.

5.0 ANALYSIS

5.1 Background

- For a fee, designated driving service providers (“Designated Drivers”) drive a vehicle, usually its driver and sometimes the driver’s passengers from one location (most often a licensed establishment) to at least one destination. The Designated Driver is accompanied by a second person in a “chase vehicle” who picks up the Designated Driver at the destination (“Designated Driver Services”).
- Designated Driver Services are unregulated in Oshawa.
- The Taxicab By-law comprehensively regulates the taxicab industry for the purposes of health and safety, consumer protection and nuisance control. It seeks to achieve these objectives by regulating:
 - tariff rates;
 - mechanical safety of taxis;
 - insurance coverage; and
 - Taxicab Drivers and Brokers
- The Taxicab By-law requires Taxicab Brokers and Taxicab Drivers to be licensed. Taxicab Drivers must:
 - complete and pass a driver training course;
 - attend refresher and accessible driver training;
 - complete and pass first aid/CPR training;
 - submit a criminal information report (background check); and
 - submit a medical clearance letter.
- There is a policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services to the extent that elements of Designated Driver Services overlap with services provided by the taxicab industry. Specifically, the Taxicab By-law defines “Taxicab” as including “[...] any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area [...]”. The Taxicab definition excludes certain vehicles such as an ambulance or a funeral hearse but does not exclude a vehicle that is used in relation to Designated Driver Services. *Accordingly, when providing Designated Driver Services, Designated Drivers are effectively operating a Taxicab contrary to the Taxicab By-law by conveying the driver (and passengers) in a vehicle.*
- For a period, the City sought to address the policy gap including by regulating Designated Driver Services. **Attachment 1** is a chronology.

- In 2008, the Finance and Administration Committee recommended a licensing system for Designated Drivers. On Sep 22/08, Council passed by-law 102-2008 to establish the system (“2008 DD By-law” **Attachment 2**).
- In 2009, members of the Designated Driver Services industry expressed concerns related to licensing and insurance costs and that the 2008 DD By-law would not permit a Designated Driver to transport passengers in a client’s vehicle. Council directed staff to hold a public meeting to solicit feedback from all stakeholders.
- On Mar 4/10, the Committee considered report FA-10-41 summarizing input from the public meeting. Committee recommended to Council that the 2008 DD By-law be repealed. On Mar 8/10, Council repealed the 2008 DD By-law.
- On Jun 23/11, Committee considered report FA-11-168 which responded to a May 12/11 Committee direction to provide an overview of reports and public input respecting initiatives to license and regulate Designated Driver Services. Committee and Council adopted the report’s recommendation to receive it for information.
- On Mar 29/12, Committee considered a request to set up a committee of representatives from the taxi industry, designated driving service providers and City staff to clearly define the roles of each industry and referred it to staff to report back.

5.2 Issues

- As noted, the principal issue continues to be the policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services. When providing Designated Driver Services, Designated Drivers are effectively operating a Taxicab contrary to the Taxicab By-law to the extent that Designated Driver Services include the conveyance of the driver and, as applicable, the driver’s passengers.

5.2.1 Taxicab Industry Concerns

- The following is a general summary of concerns expressed by the taxicab industry:
 - There is a policy gap, as noted, resulting from the regulation of the taxicab industry and the non-regulation of Designated Driver Services.
 - Designated Driver Services are also directly competing with the taxicab industry by conveying customers who have no vehicles at fares that are lower than those prescribed for the taxicab industry.
 - The competition is doubly unfair to the extent that the taxicab industry operates within a highly regulated licensing system with a correspondingly higher cost structure.

- There is no consumer protection for customers of Designated Driver Services. (To date, staff has not received complaints from Designated Driver Service customers).
- Designated Driver Services should be subject to regulations that are similar to the taxi industry respecting fares, minimum driver standards, insurance and business/driver licensing.

5.2.2 Designated Drivers Concerns

- Designated Driver Services are not currently regulated so it is not possible to accurately assess the number of Designated Driver Services currently operating in Oshawa. MLELS is familiar with three main Designated Driver Services and is aware of several smaller operations. Following is a general summary of concerns expressed by Designated Driver Services:
 - Designated Driver Services contribute to keeping impaired drivers from driving their vehicles. They charge very little and cannot absorb the costs of licensing, insurance, training and other costs resulting from regulation.
 - Designated Driver Services provide a service that is not provided by the taxi industry: driving a person's vehicle home. Again, the costs of regulation may impede service delivery.
 - There is a lack of consensus among Designated Driver Services respecting regulation. Some support licensing of Designated Driver Services. Others do not.
 - Any regulation of Designated Driver Services should be undertaken at the Regional level to ensure a level regulatory playing field between lower tier municipalities.

5.3 Options

- The various options that could be considered moving forward have been summarized in the chart provided as Attachment 3. The options are additionally listed below for reference purposes:
 - **Option 1:** Status quo – no regulation of Designated Driver Services.
 - **Option 2:** Relax current regulations for taxi drivers in the Taxicab By-law 50-2003.
 - **Option 3:** Exempt Designated Driver Services from the definition of Taxicab in the Taxicab By-law.
 - **Option 4:** Re-introduce a system to license Designated Driver Services substantially in the form originally established by By-law 102-2008.

- **Option 5:** Undertake further study and consultation with stakeholders including from the taxicab industry and Designated Driver Services and report back to Committee with recommendations.
- Staff recommends option 5 and would endeavor to report by the 4th quarter of 2013.

6.0 FINANCIAL IMPLICATIONS

- There are no financial implications associated with this report.

7.0 RELATIONSHIP TO THE OSHAWA STRATEGIC PLAN

- The recommendation in this report is consistent with Goal 4.5, Accountable Leadership, by seeking feedback from stakeholders with a view to addressing policy issues respecting the taxicab industry and Designated Driver Services.



Jerry Conlin, Director,
Municipal Law Enforcement & Licensing Services



David J. Potts, City Solicitor & Head
Legislative and Regulatory Directorate

Attachments

Chronological Count of the Designated Driver Issue (2007 to date)

Date	Details
March 12, 2007	➤ Committee considered a written request to regulate fees for Designated Driving Services and staff were directed to report back to Committee.
September 17, 2007	➤ Correspondence suggesting regulation of Designated Driver Services providers was received and considered by Committee and staff were directed to report on the advantages and disadvantages of regulating these services.
April 29, 2008	➤ Committee considered report FA-08-45 which overviewed the advantages and disadvantages of regulating Designated Driver Services. The report was referred back to staff with direction to prepare a simplified licensing plan requiring a criminal check and insurance coverage and to outline the associated costs.
September 9, 2008	➤ Committee considered report FA-08-171 which included a simplified licensing plan to regulate Designated Driver Services.
September 22, 2008	➤ Council passed By-law 102-2008 introducing a regulatory regime for Designated Driver Services. The By-law regulated drivers and business owners and was consistent with the Taxicab By-law by making it unlawful to convey passengers in the client's vehicle or the chase vehicle.
May 19, 2009	➤ Council suspended the enforcement of By-law 102-2008 over concerns brought forward by stakeholders in the Designated Driver Services industry regarding insurance costs and the restrictions on conveying passengers. Staff were directed to conduct a public meeting to solicit views from all stakeholders.
January 25, 2010	➤ A public meeting was held to obtain input regarding the regulation of Designated Driver Services.
March 4, 2010	➤ Committee considered report FA-10-41 which summarized the issues raised at the public meeting. Committee recommended that, "Designated Driving Service Providers By-law 102-2008 be repealed" to Council.
March 8, 2010	➤ Council adopted the recommendation to repeal By-law 102-2008.
April 21, 2011	➤ Committee considered a delegation from a taxi driver requesting that Council reconsider its decision to repeal By-law 120-2008 and directed staff to prepare a report on the developments related to licensing and regulating Designated Driver Services.
June 23, 2011	➤ Staff reported back to Committee with report FA-11-168 which provided an update as directed.
March 29, 2012	➤ Corporate Services Committee considered a request to set up a committee of representatives from the taxi industry, Designated Driving Services and City staff to clearly define the roles of each industry and referred it to staff to report back to Committee.



Being a By-law to further amend Licensing By-law 120-2005 to provide for the licensing, regulating and governing of designated driving service providers.

WHEREAS:

1. Council of The Corporation of the City of Oshawa considers it desirable and necessary to license, regulate and govern designated driving service providers for social well-being, for the health, safety and well-being of persons and for the protection of persons and property.

NOW THEREFORE the Council of The Corporation of the City of Oshawa enacts as follows:

1. Section 2 of By-law 120-2005, as amended, ("Licensing By-law") is further amended by adding each of the following definitions:
 - (a) "Designated Driving Service Provider" means each Person who, for payment of a salary, a fee or for any other consideration, operates a Motor Vehicle owned by another Registered Motor Vehicle Owner for the purpose of moving or causing to be moved the Motor Vehicle from a location within Oshawa or to a destination within Oshawa but does not include a "Driver" while operating a "Taxicab" as those two terms are defined by the City's Taxicab Licensing By-law.
 - (b) "Motor Vehicle" includes an automobile or any other device for the transportation of Persons or goods propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act*.

(c) “Registered Motor Vehicle Owner” means the person shown to be the owner of a Motor Vehicle according to the records maintained by the Registrar of Motor Vehicles for the Province of Ontario and includes a lessee of a Motor Vehicle pursuant to a written lease contract.

2. Schedule “A” to the Licensing By-law is further amended by adding after the row, “Carnival”, the following row:

Designated Driving Service Provider	\$125 per annum	see Schedule “N”
----------------------------------------	-----------------	------------------

3. The Licensing By-law is further amended by adding Schedule “A” to this By-law as Schedule “N” to the Licensing By-law.
4. The General Fees and Charges By-law 13-2003, as amended, is further amended by adding to its Schedule “A” within the table entitled, “Licensing – Annual Fee Unless Otherwise Noted”, the following row:

Designated Driving Service Provider	\$125
----------------------------------------	-------

5. This By-law shall be effective on May 1, 2009.

By-law passed this twenty-second day of September, 2008.

Mayor

City Clerk

Schedule "A" to By-law 102-2008

Schedule "N" to By-law 120-2005

Licence Application

1. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence unless the application is submitted on forms approved by the Director and includes the following respecting the Designated Driving Service Provider:
 - (a) a Criminal Investigation Report issued within the thirty-day period immediately preceding the date on which the application is submitted;
 - (b) an Ontario Driver's Record from the Ministry of Transportation (Driver's Abstract) issued within the thirty-day period immediately preceding the date on which the application is submitted;
 - (c) proof of, minimally, a current class "G" driver's licence issued by the Province of Ontario which is in good standing; and
 - (d) proof of Commercial General Liability insurance that:
 - i) includes a limit of liability of not less than \$2,000,000.00 (two million dollars) per occurrence for property damage and bodily injury; and that
 - ii) requires that the Director be notified of any intended cancellation by the insurer no fewer than fifteen (15) days prior to such cancellation.

Licence Conditions

2. In addition to other requirements of the Licensing By-law, no Person shall act as a Designated Driving Service Provider except pursuant to a licence issued pursuant to this

Licensing By-law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence:

- (a) The Designated Driving Service Provider's driver's licence is maintained in good standing at all times;
- (b) The Designated Driving Service Provider is, at no time, charged with or convicted of an offence contrary to the *Highway Traffic Act* (Ontario) or the *Criminal Code* (Canada);
- (c) The Commercial General Liability insurance required by paragraph 1(d) of this Schedule is maintained at all times;
- (d) The Designated Driving Service Provider is in possession at all times of the licence issued pursuant to this Licensing By-law and forthwith produces it for inspection when requested to do so by a Registered Motor Vehicle Owner or by an Officer;
- (e) Immediately prior to each occasion on which it is proposed to operate a Registered Motor Vehicle Owner's Motor Vehicle, the Designated Driving Service Provider shall have:
 - i) verified that there exists a currently validated permit for the Motor Vehicle pursuant to the Highway Traffic Act (Ontario) including by reviewing a copy of the permit;
 - ii) verified the Registered Motor Vehicle Owner's identity and ownership of the Motor Vehicle including by reviewing the Registered Motor Vehicle Owner's current driver's licence issued by the Province of Ontario and the Motor Vehicle's permit referenced in the preceding clause 2(e)i) of this Schedule;
 - iii) verified that the Motor Vehicle is insured under a contract of automobile insurance including by reviewing a current insurance card for the Motor Vehicle issued pursuant to the *Compulsory Automobile Insurance Act* (Ontario);

- iv) secured the Registered Motor Vehicle Owner's consent to operate the Motor Vehicle;
 - v) secured the Registered Motor Vehicle Owner's instructions respecting the operation of the Motor Vehicle including, minimally, the destination to which the Motor Vehicle is to be moved; and shall have
 - vi) struck an agreement with the Registered Motor Vehicle Owner respecting the Designated Driving Service Provider's fee or other consideration for operating the Motor Vehicle.
- (f) The Designated Driving Service Provider shall not operate a Motor Vehicle except:
- i) without any passengers;
 - ii) in accordance with all applicable law; and
 - iii) subject to the preceding clauses 2(f)i) and ii) of this Schedule, pursuant to the Registered Motor Vehicle Owner's instructions provided pursuant to clause 2(e)v) of this Schedule;
- (g) The Designated Driving Service Provider shall not charge any fee or other consideration for operating a Motor Vehicle that exceeds that to which is agreed pursuant to clause 2(e)vi) of this Schedule.

3. No Person shall permit the advertising or promotion of the services of a Designated Driving Service Provider except a Person licensed as a Designated Driving Service Provider pursuant to this Licensing By-law.

Potential Options for Consideration	Benefits	Challenges
1) Status quo	<ul style="list-style-type: none"> To date, MLELS has not received any complaints from citizens/customers regarding Designated Driver Services. 	<ul style="list-style-type: none"> Policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services Unfair competition between Designated Driver Services and taxicab industry because the taxicab industry's tariffs are regulated (allowing undercutting by Designated Driver Services) and regulation results in higher costs in the taxicab industry No consumer protection for customers of Designated Driver Services
2) Relax current regulations for taxi drivers in the Taxicab By-law	<ul style="list-style-type: none"> Reduces policy gap 	<ul style="list-style-type: none"> Less consumer protection in the taxicab industry
3) Exempt designated driver services from the definition of Taxicab in By-law 50-2003	<ul style="list-style-type: none"> Eliminates legal gap by simply deeming Designated Driver Services to not constitute operation of a taxicab 	<ul style="list-style-type: none"> Does not address policy gap and other challenges associated with option 1) Status quo
4) Pass a by-law substantially in the form of the 2008 DD By-law to regulate designated drivers in the Licensing By-law 120-2005	<ul style="list-style-type: none"> Eliminates legal and policy gaps Consumer protection re Designated Driver Services 	<ul style="list-style-type: none"> Costs of regulation may impede Designated Driver Services Does not address cross-border Designated Driver Services
5) Study, consult with stakeholders and report back to Corporate Services Committee	<ul style="list-style-type: none"> Possibility that further study and consultation will yield better information. 	<ul style="list-style-type: none"> Risk that the resources allocated to further study and consultation will not yield better information.

Chronological Account of the Designated Driver Issue (2007 to date)

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March 8, 2010: Council adopted the recommendation to repeal By-law 102-2008.

April 21, 2011: Committee considered a delegation from a taxi driver requesting that Council reconsider its decision to repeal By-law 120-2008 and directed staff to prepare a report on the developments related to licensing and regulating Designated Driver Services.

June 23, 2011: Staff reported back to Committee with report FA-11-168 which provided an update as directed.

March 29, 2012: Corporate Services Committee considered a request to set up a committee of representatives from the taxi industry, Designated Driving Services and City

staff to clearly define the roles of each industry and referred it to staff to report back to Committee.

June 24, 2013: Council directs staff to conduct a study and initiate consultation with stakeholders including the taxi industry and designated driver service providers and to report back to Corporate Services Committee with recommendations.

May 7, 2014: Staff conduct a consultation session with the Taxi Industry regarding regulating Designated Drivers.

May 26, 2014: First Industry Consultation Status Report considered by the Corporate Services Committee.

August 20, 2014: Second Industry Consultation Session conducted with Designated Driver Industry.

September 8, 2014: Second Industry Consultation Status Report considered by the Corporate Services Committee.

Input Received from Stakeholder Consultation Sessions

<p align="center">Taxi Industry Concerns (Consultation Session: May 7, 2014)</p>	<p align="center">Designated Driver Industry Concerns (Consultation Session: August 20, 2014)</p>
<ul style="list-style-type: none"> • There was consensus that the regulation of D.D. services is necessary on the basis of addressing public safety concerns including: the need to ensure that D.D.'s are operating with adequate insurance coverage and that D.D. service drivers had appropriate training and were subject to criminal records checks. A number of participants were of the opinion that the D.D.'s should be prohibited from operating in the City. • Participants expressed their concerns regarding the policy gap between the heavily regulated Taxi Industry and the lack of regulations in the D.D. Industry. • Participants have observed a sizeable number of D.D.'s operating in the City some of which are based in surrounding municipalities. A number of D.D. services are operating as taxicabs transporting individuals in their "chase" vehicles and certain D.D. service vehicles have been outfitted with top lights making such vehicles resemble taxicabs. These D.D. services have been observed soliciting rides/customers at local entertainment establishments and at shopping centres. • D.D. services that are operating as taxicabs are "stealing" business from the heavily regulated Taxicab Industry and there are concerns that the continuation of such actions may destabilize the Taxicab Industry. • More enforcement of the Taxicab By-law 50-2003 is necessary. 	<ul style="list-style-type: none"> • Participants acknowledged that there is a policy gap between the regulated Taxi Industry and the D.D. Industry but certain taxi regulations were not relevant to D.D. services. • There was consensus that the regulation of D.D. services is necessary. However, companies noted that the D.D. Industry was a fragile Industry and expressed concerns that overregulation and its associated costs could be prohibitive to the extent that the provision of D.D. services may become financially unviable. • Participants were concerned that costs associated with licensing would impact the affordability of the service as D.D. companies would be compelled to charge higher fares. The increase in fares could potentially discourage impaired drivers from using their services. • Considering that many D.D. companies operate throughout Durham Region, companies were concerned that licensing costs would be compounded as other neighbouring municipalities could potentially adopt similar regulations. • Some D.D. companies are insured for \$2 million for general liabilities and have implemented employee screening practices such as requiring D.D. drivers to submit driver abstracts and proof of insurance for their personal vehicles. • Participants reiterated that they provide services primarily to impaired individuals and that their impairment could result from a variety of instances such as being recently released from a hospital following surgery to clients who patronized a licensed establishment. • Many D.D. companies have a strong relationship with the Durham Regional Police Service. Some D.D. drivers report cases of impaired driving and others have conducted presentations for police officers.



Corporate Office
259 Gage Ave
Kitchener Ontario N2M 2C9

April 23th, 2015

Oshawa Ontario Canada
Corp-15-22
File D-2300
Regulation of Designated Driving Companies

To: Jacqueline Long, Interim Commissioner Corporate Services Department & HR

Dear Ms. Long,

Following the meeting held in Oshawa Ontario on April 13th 2015, we would like to submit a proposal to the city that would address the "Gap" as noted in the April 9th, 2015 report. As was evident in the review and discussion during the meeting, the proposed bylaw Option C: by-law similar to By-law 102-2008, is not reasonable and goes beyond addressing the Gap, but creates barriers to operating Designated Driving companies in Oshawa. This appears to be in direct contravention to item 5.1.2 (a) in the report which is the "Need to preserve a version of the D.D. Service Model".

For the purpose of this report, the term "we" refers to Driverseat Inc., the largest Canadian D.D company, and Keys to Us, the largest and longest running D.D. business in Oshawa.

For greater clarity on the business Oshawa is working to regulate, Designated Driving is defined as providing a service for a customer who has designated a driver to transport their vehicle for them when they are unable to drive themselves or choose not to drive.

This currently includes car relocation, taking vehicles for oil changes, driving the elderly for appointments, performing valet parking, picking up cars for dealerships at auction, driving for someone who is impaired by drugs or alcohol, providing a driver to someone who has had medical care, driving someone who has had an eye appointment or has undergone a general anesthetic, providing chauffeur services to someone who needs to email or text or to someone who is tired and prefers not to drive.

The report issued on April 9th 2015 noted the following items to be addressed:

5.2.1 - D.D. Driver Licensing Regulations

- Criminal Reference Report with Vulnerable Sector Screening
- Driver's Abstract

- Proof of Valid G
- Proof of Drivers Affiliation with licensed D.D. Broker
- Medical Clearance Letter

5.2.2 - D.D. Broker Licensing Regulations

- Commercial General Liability Insurance
- Ontario Master Business License or Articles of Incorporation

5.2.3 - D.D. Operating Regulations

- Calculation of Fairs
 - Negotiated Fair / Rate
 - or
 - Fixed price / rate
- Conveyance of Passengers
 - Cannot convey passengers in chase vehicle
 - or
 - Cannot convey passengers
 - or
 - Can convey registered vehicle owner or authorized operator
 - or
 - Can convey driver and passengers
- Other Requirements
 - D.D. Chase vehicle must be insured
 - Must confirm and obtain (from customer)
 - Valid vehicle permit and insurance
 - Valid driver's license
 - Registered vehicle owner's consent
 - Shall display D.D. broker markings and city of Oshawa Licensing Information on Chase vehicle
 - Prohibited from displaying roof light on D.D. chase vehicle
 - D.D. drivers must prominently display their D.D. license
 - D.D. drivers must maintain a trip log including:
 - Name of the D.D. driver
 - Date
 - Owner plate number
 - Time, location and destination
 - Amount of fare collected
 - D.D. driver must present the trip log for inspection upon request

We support the idea that the industry would be better suited if moderately regulated. As a result, we have proposed the following that would address all the issues identified in the report.

5.2.1

We recommend the following be required with respect to Driver Licensing:

- Criminal Reference Report with Vulnerable Sector Screening
- Driver's Abstract
- Proof of Valid G
- Proof of Drivers Affiliation with licensed D.D. Broker

The by-law should not include the requirement to have a Medical Clearance Letter as that can delay the hiring for weeks and as a result, may not be feasible. In addition, the Ministry of Transportation should be required to ensure the driver is medically fit in order to have a driver's license.

5.2.2

We would recommend the following:

- Ontario Master Business License or Articles of Incorporation

The by-law should not include the requirement for insurance as noted in the original proposal. This requirement is for insurance that does not exist for the type of service that D.D. companies provide. As a result, requiring this insurance is inherently not preserving the D.D. service model, and will prevent the industry from existing in Oshawa. As a result, there would be no services such as an elderly customer designating a driver for medical appointments.

5.2.3

We would recommend the following:

D.D. Operating Regulations

- Calculation of Fairs
 - Negotiated Fair / Rate

We would agree with the report that a negotiated fair is the only feasible approach. Most D.D. companies are not able to meter their rides consistently in a calibrated manor, and Driverseat, the largest Canadian company, uses a mobile App with consistent pricing Canada wide. In addition, fairs for designated driving of vehicles for relocation purposes, as an example, are calculated based on regional factors and commodity pricing, and are impacted by the cost of the return flight for the driver, gas prices, timing etc.

- Conveyance of Passengers
 - Can convey driver and their passengers

Designated Driving companies must have the ability to convey passengers, as that is the only feasible way for the service to work. With respect to the passenger having voluntarily accepted the risk and responsibility of adequate maintenance and insurance, it is our experience that each passenger has already

travelled to the location in the subject vehicle, and as a result, has already accepted the condition and safety of the vehicle. To limit the passengers based on this factor would require the city to limit passengers traveling to the location prior to the use of the D.D. company. Specific and real examples of how this limitation impacts the service are:

- The father of a 6 year old doing work on a friends deck with him, consumes two beers. Not being legally intoxicated, but being socially responsible, he decides to use a D.D. In this case, he would be forced to send his daughter home alone in a taxi.
 - The 78 year old couple, with the husband undergoing cancer treatment in Toronto. His wife would be forced, if he used a D.D., to not attend the hospital with her husband.
 - Families with small children would be prevented from using a D.D., and thereby force the children to ride on public transit without safety seats, or to ride in a taxi without one of the parents.
-
- Other Requirements
 - D.D. Chase vehicle must be insured - Agreed

 - Must confirm and obtain (from customer)
 - Valid vehicle permit and insurance – The D.D. Driver should check for valid permit, however, checking the insurance is not worthwhile, as even a valid pink slip in a vehicle does not necessarily mean insurance is valid.
 - Valid driver's license – This requirement would prevent D.D. companies from offering any service to an individual who does not have a license, or has a suspended license. There are many times when D.D. services are provided to the following groups:
 - elderly who have lost their license but choose to own and insure their car
 - an individual who has a suspended license, but needs their vehicle for work purposes
 - rental agencies or car lots who hire D.D. companies to move vehicles from auto auctions
 - Registered vehicle owner's consent – Agreed, and should be OK to collect the owner's consent one time if using a mobile app

 - Shall display D.D. broker markings and city of Oshawa Licensing Information on Chase vehicle - The Oshawa Licensing Information should not be required as many D.D. services do not use a Chase vehicle, and furthermore, it is not uncommon for the chase vehicle

to change depending on family situation (in the case where family members team up)

- Prohibited from displaying roof light on D.D. chase vehicle - Chase vehicles, when present (as they are often not part of the equation), must be able to display a lit roof topper. We would recommend that the roof topper not display the word "taxi" or "cab" but must be allowed, similar to pizza delivery vehicles, auto part delivery vehicles, and driving school vehicles. This only assists in promoting designated driving (preserving the D.D. service model) and it only assists in helping law enforcement identify such vehicles.

- D.D. drivers must prominently display their D.D. license – The license must be provided by the broker (not the municipality) and the license must be easy to execute. Most D.D. drivers work part time, some are transient in their approach, and many only work when there are specific opportunities such as weddings and corporate parties. As such, it will not be feasible for most D.D. drivers to attend City Hall to acquire such licenses, and they should not be required to pay for it. D.D. companies have always been self governing, and in this respect, they should continue to be.

- D.D. drivers must maintain a trip log – Agreed with some changes:
 - Name of the D.D. driver - Agreed
 - Date - Agreed
 - Owner plate number – Agreed (where possible, this will not be feasible when using a mobile app)
 - Time, location and destination - Agreed
 - Amount of fare collected - Agreed
 - D.D. driver must present the trip log for inspection upon request – This is not feasible, as it requires a driver to keep a book, or clipboard and paper with them, while writing it out. Some D.D. services are now using mobile apps to track all details, and that would not necessarily provide live up to date data to the driver in the car. We would recommend that the broker be responsible for providing the log for audit. Taxi drivers are not required to keep a log in the car with them.

Summary:

The Designated Driver companies included in this document support the implementation of a reasonable by-law that regulates the industry. However, creating a by-law that severely limits their ability to operate, increases costs or forces closure of the DD companies does not address the issues.

As noted in 5.4

Advantages

- Provides a minimum level of public safety
- Provides a minimum level of consumer protection
- Addresses the policy gap
- Ability to impose minimum standards

Disadvantages

- Difficult to determine if there is an appropriate or adequate level of insurance
- DD standards may be difficult to enforce
- **Residents have not expressed a need for DD licensing at this time – why is this being pursued at all?**
- DD licensing may require additional staff resources
- The model being proposed by the City differs from what actually exists

It is clear that there isn't public concern, but rather competitive concerns from taxi cab companies. As a result, a minimum number of policies to ensure that companies are registered with the city and that drivers have a base standard of governance addresses all concerns outside of competitive ones.

Summary of Concerns and Corresponding Recommendations

Note: Attachment 4 provides a summary of concerns raised at the April 13 and 23 Corporate Services Committee meetings by the D.D. Industry, members of Committee and other stakeholders and presents staff's corresponding recommendations.

(a) Insurance Requirements:

Recommendation: Staff recommend that D.D. Brokers be required to fulfill the following insurance requirements:

- Commercial General Liability (C.G.L.) Insurance in an amount of not less than \$2 million per accident or occurrence. The C.G.L. insurance policy required by D.D. Brokers, shall not be limited to, but shall include:
 - i. a liability limit of not less than \$2 million per accident or occurrence;
 - ii. the D.D. Broker and owner(s) of the D.D. Broker named as Named Insured(s);
 - iii. all D.D. Drivers affiliated with the D.D. Broker named as Additional Insured(s); and
 - iv. include Non-owned Automobile liability coverage.
- Staff further recommend that the D.D. chase vehicle be insured for commercial purposes

(b) Requiring D.D. Drivers to be Licensed by the City

Recommendation: Staff recommend maintaining the requirement for D.D. Drivers to be licensed by the City rather than through their respective D.D. Brokers.

(c) Requiring D.D. Drivers to Submit Medical Clearance Letters

Recommendation: Staff recommend maintaining the requirement for D.D. Drivers to submit a medical clearance letter for the purposes of D.D. Driver licensing.

(d) Impact of Proposed Regulations on Other Models of D.D. Services

Recommendation: Staff recommend limiting the provision of D.D. services to its traditional model which involves transporting an impaired client and their passengers, where applicable, in the client's vehicle from a licensed establishment or social engagement (e.g., wedding, corporate party, and private party) to one (1) destination.

(e) Requiring D.D. Drivers to Confirm and Obtain a Valid Driver’s Licence from the Client Prior to Providing the D.D. Service

Recommendation: Staff recommend removing the requirement for D.D. Drivers to confirm and obtain a valid driver’s licence from the client prior to providing the D.D. service.

(f) Requiring D.D. Chase Vehicles to Display City of Oshawa Licensing Information

Recommendation: Staff recommend maintaining the requirement for City of Oshawa licensing information to be displayed on D.D. chase vehicles.

(g) Prohibiting the Use of “Roof Lights” or “Car Toppers” by D.D. Chase Vehicles

Recommendation: Staff recommend maintaining the prohibition on the use roof lights or car toppers by D.D. chase vehicles.

(h) Limits on the Conveyance of Passengers

Recommendation: staff recommend that the City’s Taxicab By-law 50-2003 as amended, be further amended to permit D.D. Drivers to convey the registered vehicle owner or authorized operator and their passengers subject to the following conditions:

- D.D. Drivers are prohibited from transporting passengers in the D.D. chase vehicle;
- only passengers that arrived to a destination in the client’s vehicle are to be transported by the D.D. Driver in the client’s vehicle;
- the D.D. Driver is prohibited from transporting passengers to more than one (1) location; and

the D.D. Driver is permitted to convey passengers subject to the availability of seat belts in the client’s vehicle and in compliance with applicable law.

Public Report

To: Corporate Services Committee

From: Jacqueline Long, Interim Commissioner,
Corporate Services Department and H.R.

Report Number: CORP-15-160

Date of Report: October 22, 2015

Date of Meeting: October 26, 2015

Subject: Regulating Designated Driving Services: Designated Driver
Support Vehicles and Insurance Requirements

File: D-2300

1.0 Purpose

This report responds to City Council's September 28, 2015 direction to clarify issues with respect to Designated Driver (D.D.) chase cars (referred hereafter as D.D. Support Vehicles) and insurance requirements.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That Council pass a by-law in the form of Attachment 2 to Report CORP-15-160 to establish a licensing system for Designated Driving Services operating within the City of Oshawa.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

Finance Services and Legal Services were consulted in the preparation of this report.

5.0 Analysis

5.1 Background

At its June 29, 2015 meeting, Council directed staff (**Attachment 1**) to prepare a by-law to amend Licensing By-law 12-2005, as amended, General Fees and Charges By-law 13-2003, as amended and Taxicab By-law 50-2003 as amended to establish a system of licensing for Designated Driving Services. Staff prepared amending By-law 111-2015 for

Council's consideration at its September 28, 2015 meeting. Council referred By-law 111-2015 back to staff to provide greater clarification with respect to D.D. Support Vehicles and insurance requirements; this report responds to Council's direction.

5.2 D.D. Support Vehicles

A D.D. Support Vehicle (also commonly known as a chase car) is a motor vehicle used by a D.D. to assist their D.D. colleagues while providing a Designated Driving Service. This assistance typically involves a D.D. operating the Support Vehicle to deliver a D.D. to a customer's vehicle; following the customer's vehicle to the customer's residence; and picking up the D.D. once they have finished providing the Designated Driving Service.

Council directed staff, at its June 29th and September 28th meetings, to establish the following standards respecting D.D. Support Vehicles:

- Standards pertaining to the size, placement and content of roof lights
- Restriction on the conveyance of passengers (with the exception of D.D.'s) in the D.D. Support Vehicle
- Requirement to display D.D. Broker markings, contact and City of Oshawa licensing information
- Requirement to be insured for how the motor vehicle is being used

As per Council's direction, staff reviewed the requirements for D.D. Support Vehicles and have identified a need to regulate the operator of the D.D. Support Vehicle. Staff are recommending that the operator of the D.D. Support Vehicle be licensed as a Designated Driver for the following reasons:

- The City will be able to enforce standards that regulate D.D. Support Vehicles in a more efficient and effective manner
- Ensures that the D.D. Support Vehicle is insured for how the vehicle is being used
- Enhances the safety for the customer and the other D.D.
- Individuals providing Designated Driving Services occasionally interchange between roles as a D.D. operating a customer's vehicle and an as a D.D. operating a Support Vehicle

5.3 Insurance Requirements for Designated Driving Services

Staff have contacted various sources within the Insurance Industry to enquire about applicable insurance coverages for businesses operating as a Designated Driving Service in addition to how such services may affect a customer's personal vehicle insurance.

While the Insurance Industry is presently examining the topic of Designated Driving Services, staff are not aware of any insurance product that is specifically tailored for the D.D. Industry. The insurance requirements proposed by staff, and endorsed by Council, establish a minimum level of protection for customers and the D.D. Industry.

In general terms, automobile insurance provides coverage for the driver and passengers of the vehicle in which they are travelling while the insured vehicle is being operated with the owner's permission. Given that the customer's automobile insurance policy is considered as primary coverage, when using a Designated Driving Service, any claims resulting from an accident with the customer's vehicle caused by the D.D. may affect the customer's insurance record regardless of the fact that the D.D. was operating the customer's vehicle.

It is incumbent on the customer who considers using a Designated Driving Service to contact their automobile insurance provider to ensure that they have appropriate coverage prior to using a Designated Driving Service.

Similarly, it is necessary for the D.D. and Designated Driving Broker to ensure that the D.D. Support Vehicle is appropriately insured for how the vehicle is being used.

5.4 Amendment to Designated Driving Broker Insurance Requirements

City Council and the Corporate Services Committee have received comments from Designated Driving Brokers expressing concerns that a proposed standard requiring all Designated Drivers who have entered into an agreement with the Designated Driving Broker be insured under its Commercial General Liability (C.G.L.) insurance policy presented two (2) significant barriers to compliance. Specifically, because some Designated Drivers are hired as contractors, it may not be feasible:

- a) for the Designated Driving Broker to continually insure its D.D. contractors in a timely manner given their transient nature; and
- b) that it may not be possible to insure contractors under their C.G.L. insurance policy.

Staff have reviewed the aforementioned concern and have identified the following two (2) types of Designated Drivers that require C.G.L. coverage:

- D.D.'s who are **employees**; and
- D.D.'s who operate as **contractors**.

The principal issue is that D.D.'s who operate as contractors may require their own C.G.L. insurance policy as Designated Driving Brokers may not be able to extend their C.G.L. coverage to contractors. To address this issue, Staff are recommending that the original proposed provision in Schedule "A" requiring a Designated Driving Broker's C.G.L. insurance policy to:

3.(a)iii) "[insure] all Designated Drivers who have entered into an agreement with the Designated Driving Broker for dispatch services;"

be amended to:

3.(a)iii) "insure all Designated Drivers who are employees of the Designated Driving Broker;"

This will ensure that the Designated Driving Broker's C.G.L. insurance policy provides coverage for D.D.'s who are **employed** by the Broker.

Additionally, staff are recommending that an additional Designated Driving Broker Licence Condition be included requiring Designated Driving Brokers to ensure that D.D.'s who are affiliated with their Brokerage are appropriately insured. This requires the Designated Driving Broker to ensure that their D.D. **contractors** have appropriate insurance coverage such as C.G.L. insurance.

5.5 Proposed By-law

Attachment 2 is the draft proposed by-law based on Council's June 29, 2015 and September 28, 2015 approved licensing framework and staff's review of Designated Driver Support Vehicle standards and insurance requirements; following are its key features (parenthetical references are to section numbers in the proposed draft by-law):

- a) defines "Designated Driving Services" (1 (a)), "Designated Driving Broker" (1 (b)), "Designated Driver" (1 (c)), "Designated Driver Support Vehicle" (1 (d)) and "Registered Motor Vehicle Owner" (1 (e));
- b) establishes licensing fees for Designated Drivers and Designated Driving Brokers (4);
- c) amends definition of "Taxicab" to exclude licensed Designated Drivers (6);
- d) establishes licensing requirements (Schedule "A" (1)) and licensing conditions (Schedule "A" (2)) for Designated Drivers;
- e) requires Designated Driving Brokers to be appropriately insured (Schedule "A" (3)) and establishes licensing conditions for Designated Driving Brokers (Schedule "A" (4)); and,
- f) establishes standards for Designated Driver Support Vehicles (Schedule "A" (5)).

6.0 Financial Implications

There are no financial implications directly related to the recommendations in this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with the theme “A Safe Community” of the Goal, “Social Equity”, by developing by-laws that address community safety and consumer protection concerns.

A handwritten signature in black ink, appearing to read 'Jerry Conlin', with a stylized, cursive script.

Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services

A handwritten signature in blue ink, appearing to read 'Jackie Long', with a stylized, cursive script.

Jacqueline Long, Interim Commissioner,
Corporate Services Department and H.R.

Attachments

Twelfth Report of the Corporate Services Committee

1. Colleen Monk on Behalf of A Ryde Home Designated Drivers Advising They Do Not Carry Passengers in Their Personal Vehicles (CORP-15-75)

Luke Bazely, DriverSeat Inc., Expressing Concerns Related to Report CORP-15-74 (CORP-15-82)

James Lyle Hie, Peoples Choice Professional Designated Drivers In Support of the Regulation of Designated Driving Services (CORP-15-83)

Regulation of Designated Drivers Follow-Up Report (CORP-15-74)

Recommendation

That staff prepare a by-law to amend Licensing By-law 120-2005, as amended, General Fees and Charges By-law 13-2003, as amended, and Taxicab By-law 50-2003 as amended in a form consistent with Option "C" in Report CORP-15-22 and the following changes be made to Attachment 1 of CORP-15-74 to establish a system of licensing for Designated Driver Service Providers:

D.D. Driver Licensing Requirements

1. Criminal Information Report with Vulnerable Sector Screening;
2. Driver's Abstract;
3. Proof of "G" (minimum) Driver Licence;
4. Proof of Affiliation with Licensed D.D. Broker;
5. Medical Clearance Letter;
6. D.D. Drivers must be 25 years of age and over.

D.D. Broker Licensing Requirements

1. Proof of Commercial General Liability (C.G.L.) Insurance in an amount of not less than \$2 million per accident or occurrence. The C.G.L. insurance policy required by D.D. Brokers, shall not be limited to, but shall include:
 - a) a liability limit of not less than \$2 million per accident or occurrence;
 - b) the D.D. Broker and owner(s) of the D.D. Broker named as Named Insured(s);
 - c) all D.D. Drivers affiliated with the D.D. Broker are insured; and,
 - d) include Non-owned Automobile liability coverage.

2. That the D.D. Broker Licensing Requirements include an Ontario Master Business Licence or Articles of Incorporation.

D.D.s and the Calculation of Fares

1. Fare is negotiated between D.D. Driver and Client.

D.D.s and the Conveyance of Passengers

1. D.D. Driver is prohibited from conveying passengers in their chase vehicle.
2. D.D. Drivers may convey the registered vehicle owner or authorized operator and their passengers subject to the following conditions:
 - a) only passengers that arrived to a destination in the client's vehicle are to be transported by the D.D. Driver in the client's vehicle;
 - b) the D.D. Driver is permitted to convey passengers subject to the availability of seat belts in the client's vehicle and in compliance with applicable law.
3. D.D. Driver is allowed to transport passengers and the client's vehicle to more than one (1) residence.

D.D. Chase Vehicle Standards

1. D.D. chase vehicle must be insured for how the vehicle is being used.
2. Must display D.D. Broker Markings, Contact, and Licensing information on D.D. chase vehicle.

D.D. Driver Operating Requirements

1. Must confirm/obtain: Ownership and insurance and registered vehicle owner's or authorized user's consent.
2. D.D. Driver must prominently display D.D. Driver Licence.
3. D.D. Driver must maintain a paper or electronic trip log.

Attention: Corporate Services Department, Municipal Law Enforcement and Licensing Services

Action Taken: Carried as amended



**By-law -2015
of The Corporation of the City of Oshawa**

Being a By-law to further amend Licensing By-law 120-2005, as amended, General Fees and Charges By-law 13-2003, as amended and Taxicab Licensing By-law 50-2003, as amended to provide for the licensing, regulating and governing of Designated Driving Services.

WHEREAS:

1. Council of The Corporation of the City of Oshawa considers it desirable and necessary to license, regulate and govern Designated Driving Services for social well-being, for the health, safety and well-being of persons and for the protection of persons and property.

NOW THEREFORE the Council of The Corporation of the City of Oshawa enacts as follows:

1. Section 2 of By-law 120-2005, as amended, ("Licensing By-law") is further amended by adding each of the following definitions:

(a) "Designated Driving Services" means the transportation of an impaired Registered Motor Vehicle Owner and their passengers, where applicable, in the Registered Motor Vehicle Owner's vehicle from a licensed establishment or social engagement within the City to one or more residences for payment of a salary, a fee or for any other consideration;

(b) "Designated Driving Broker" means any Person who accepts or communicates orders or information in any way related to the provision of Designated Driving Services by a Designated Driver to another Person ("dispatch services");

(c) "Designated Driver" means:

i) any Person who operates a Motor Vehicle owned by another Registered Motor Vehicle Owner for the purposes of providing Designated Driving Services; or

ii) any Person who operates a Designated Driver Support Vehicle,

but does not include a "Driver" while operating a "Taxicab" as those two terms are defined by the City's Taxicab Licensing By-law.

(d) “Designated Driver Support Vehicle” means a Motor Vehicle operated by a Designated Driver for the purposes of assisting another Designated Driver in the provision of Designated Driving Services.

(e) “Registered Motor Vehicle Owner” means the person shown to be the owner of a Motor Vehicle according to the records maintained by the Registrar of Motor Vehicles for the Province of Ontario and includes a lessee of a Motor Vehicle pursuant to a written lease contract or an authorized operator of a Motor Vehicle.

2. Schedule “A” to the Licensing By-law is further amended by adding after the row, “Carnival”, the following row:

Designated Driving Services	See Schedule “N”
-----------------------------	------------------

3. The Licensing By-law is further amended by adding Schedule “A” to this By-law as Schedule “N” to the Licensing By-law.
4. The General Fees and Charges By-law 13-2003, as amended, is further amended by adding to its Schedule “A” within the table entitled, “Licensing – annual fee unless otherwise noted”, the following rows:

Designated Driver	\$150 (valid for two years)
Designated Driving Broker	\$250

5. The Taxicab Licensing By-law 50-2003, as amended, is further amended by adding to section 3.1 in the definition of “Driver” the words at the end of the sentence “but does not include a licensed Designated Driver as defined in the Licensing By-law 120-2005”.
6. The Taxicab Licensing By-law 50-2003, as amended, is further amended by replacing in section 3.1 the definition of “Taxicab” with the following:

“**Taxicab**” includes any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area, but does not include a bus operated by Oshawa Transit Commission or under licence under The Public Vehicles Act, an ambulance, a funeral hearse, a Motor Vehicle operated by Handi Transit

Incorporated, a Motor Vehicle operated by a licensed Designated Driver pursuant to the Licensing By-law 120-2005, as amended, or a Limousine or a Motor Vehicle used for hire in the conveyance of Persons from within the City to an airport owned and operated by the Crown in right of Canada situate outside that area if the Motor Vehicle bears a valid and subsisting plate issued in respect of such airport under The Government Airport Concession Operations Regulations made under the Department of Transport Act (Canada);

- 7. The Taxicab Licensing By-law 50-2003, as amended, is further amended by adding to section 3.1 in the definition of "Taxicab Broker" the words at the end of the sentence "but does not include a licensed Designated Driving Broker as defined in the Licensing By-law 120-2005".
- 8. This By-law shall be effective on April 4, 2016.

By-law passed this day of , 2015.

Mayor

City Clerk

Schedule "A" to By-law -2015

Schedule "N" to By-law 120-2005

Designated Driver Licence Requirements

1. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence unless the application is submitted on forms approved by the Director and includes the following respecting the Designated Driver:
 - (a) a Criminal Information Report containing the results of a search of the Canadian Police Information Centre which includes a list of all criminal convictions for which a pardon has not been received, all outstanding criminal charges, and the results of a Vulnerable Sector Check, issued within the thirty (30) day period immediately preceding the date on which the application is submitted;
 - (b) an Ontario Driver's Record from the Ministry of Transportation (Driver's Abstract) issued within the thirty (30) day period immediately preceding the date on which the application is submitted;
 - (c) proof of, minimally, a current class "G" driver's licence issued by the Province of Ontario which is in good standing according to the records of the Ministry of Transportation;
 - (d) proof of having entered into an agreement with a licensed Designated Driving Broker for the provision of dispatch services;
 - (e) proof that the Applicant is an individual who is at least twenty-five (25) years of age;
and
 - (f) a City-prescribed certificate prepared by a duly qualified medical practitioner which states that the Applicant is physically and mentally capable of performing the duties of a Designated Driver and is free from communicable diseases.

Designated Driver Licence Conditions

2. In addition to other requirements of the Licensing By-law, no Person shall act as a Designated Driver except pursuant to a licence issued pursuant to this Licensing By-law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence:
- (a) the Designated Driver's driver's licence is maintained in good standing at all times;
 - (b) the Designated Driver is, at no time, convicted of an offence, for which a pardon has not been granted, pursuant to any one or more of Parts V (Sexual Offences), VIII (Offences Against Persons) or IX (Offences Against Property) of the Criminal Code of Canada, R.S.C. 1985 c. C-46, as amended;
 - (c) the Designated Driver maintains an agreement with a licensed Designated Driving Broker;
 - (d) the Designated Driver prominently displays their licence, issued pursuant to Licensing By-law 120-2005, at all times when providing Designated Driving Services and produces it for inspection when requested to do so by a Registered Motor Vehicle Owner or by an Officer;
 - (e) immediately prior to each occasion on which they propose to operate a Registered Motor Vehicle Owner's Motor Vehicle, the Designated Driver shall have:
 - i) reviewed the necessary documents to satisfy themselves that the Motor Vehicle has a currently valid permit and is insured under a contract for automobile insurance;
 - ii) secured the Registered Motor Vehicle Owner's consent to operate the Motor Vehicle;
 - iii) ensured that only the Registered Motor Vehicle Owner and any passengers who arrived in the Registered Motor Vehicle Owner's Motor Vehicle at the location from which it is proposed to provide Designated Driving Services are to be conveyed in that Motor Vehicle;

- iv) ensured that the number of individuals to be transported in the Registered Motor Vehicle Owner's Motor Vehicle does not exceed the number of available seatbelts and will otherwise be in compliance with applicable safety and highway traffic laws;
 - v) secured the Registered Motor Vehicle Owner's instructions respecting the operation of the Motor Vehicle including, minimally, the residence(s) to which the Motor Vehicle is to be moved and the residence(s) to which the Registered Motor Vehicle Owner and any passengers are to be conveyed; and shall have
 - vi) struck an agreement with the Registered Motor Vehicle Owner respecting the Designated Driver's fee or other consideration for operating the Motor Vehicle;
- (f) the Designated Driver shall not operate a Motor Vehicle in the provision of any Designated Driving Services under this By-law except:
- i) without any passengers, except in the case of passengers that may be permitted pursuant to clauses 2(e)(iii) and (iv) of this Schedule;
 - ii) in accordance with all applicable law, including the provisions of this By-law; and
 - iii) subject to the preceding clauses 2(f)i) and ii) of this Schedule, pursuant to the Registered Motor Vehicle Owner's instructions provided pursuant to clause 2(e)v) of this Schedule;
 - iv) the Designated Driver must maintain, for a minimum of three (3) months, a paper or electronic trip log respecting all Designated Driving Services provided pursuant to this By-law; and
 - v) the Designated Driver shall not charge any fee or other consideration for operating a Motor Vehicle that exceeds that to which is agreed pursuant to clause 2(e)vi) of this Schedule.

Designated Driving Broker Licence Requirements

3. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence, unless the application is submitted on forms approved by the Director and includes the following respecting the Designated Driving Broker:

- (a) proof of a Commercial General Liability insurance policy that:
 - i) includes a limit of liability of not less than two million dollars (\$2,000,000.00) per accident or occurrence;
 - ii) names the Designated Driving Broker and/or owner(s) as Named Insured(s);
 - iii) insures all Designated Drivers who are employees of the Designated Driving Broker;
 - iv) includes Non-owned Automobile Liability and Legal Liability for Damage to Automobiles in the Care, Custody or Control of the Insured coverage; and that
 - v) requires that the Director be notified of any intended cancellation by the insurer no fewer than fifteen (15) days prior to such cancellation; and
- (b) proof of an Ontario Master Business Licence and/or Articles of Incorporation.

Designated Driving Broker Licence Conditions

4. In addition to other requirements of the Licensing By-law, no Person shall act as a Designated Driving Broker except pursuant to a licence issued pursuant to this Licensing By-law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence:

- (a) ensures all Designated Drivers who are affiliated with the Designated Driving Broker for dispatch services:
 - i) are appropriately insured; and
 - ii) operate in accordance with the provisions established in this By-law.

Designated Driver Support Vehicle

5. Every Designated Driver licensed as such under this By-law shall cause the Designated Driver Support Vehicle used in the provision of any services under this By-law to, at all times:
 - (a) be insured for how the Motor Vehicle is being used;
 - (b) display markings, contact, and licensing information for the Designated Driving Broker with whom the Designated Driver is affiliated on the exterior of the Motor Vehicle in an area approved by the Director; and
 - (c) be well maintained and in good repair, and meet the standards for the issue of a Safety Standard Certificate of mechanical fitness.

6. Every Designated Driver employing the use of a roof light or roof sign ("roof light") on their Designated Driver Support Vehicle shall at all times ensure:
 - (a) that the length and width of the roof light is no greater than the length and width of the roof of the Designated Driver Support Vehicle the roof light is affixed to;
 - (b) that the roof light does not encroach on any part of the vehicle outside the area of the roof of the Designated Driver Support Vehicle;
 - (c) that the roof light complies with City of Oshawa Sign By-law 72-96 and all applicable highway traffic laws;
 - (d) that the roof light shall not display the words "Taxi", "Cab", "Taxicab" and/or any other words that may indicate the vehicle is providing a licensed taxicab service pursuant to Taxicab By-law 50-2003; and,
 - (e) that the roof light is not displayed on the Designated Driver Support Vehicle when the Motor vehicle is not being used to support a Designated Driver providing a Designated Driving Service.

7. The Designated Driver is prohibited from conveying passengers, with the exception of other Designated Drivers, in the Designated Driver Support Vehicle.

Advertising Requirements

8. No Person shall advertise or promote themselves as providing Designated Driving Services, or as a Designated Driver or Designated Driving Broker unless they are licensed pursuant to this Licensing By-law.



Public Report

To: Corporate Services Committee

From: Jacqueline Long, Interim Commissioner,
Corporate Services Department and H.R.

Report Number: CORP-15-87

Date of Report: September 10, 2015

Date of Meeting: September 14, 2015

Subject: Regulating Roof Lights for the Designated Driver Industry

File: D-2300

1.0 Purpose

This report responds to the Corporate Services Committee's June 19, 2015 direction to consider establishing size and placement standards for 'roof lights' or 'car toppers' and report back.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That Council approve an amendment in a final form acceptable to the City Solicitor to amend Licensing By-law 120-2005 as amended, to regulate the size, placement and content of roof lights or toppers on designated driver chase vehicles subject to conditions summarized in Section 5.2.2 of report CORP-15-87 "Regulating Roof Lights for the Designated Driver Industry".

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

Legal Services was consulted in the preparation of this report.

5.0 Analysis

5.1 Background

At its June 19, 2015 special meeting, the Corporate Services Committee ("Committee") considered report CORP-15-74 "Regulation of Designated Drivers Follow-Up Report" addressing the D.D. Industry's concerns relating to a proposed framework to regulate the

D.D. Industry in the City of Oshawa. Committee approved the proposed regulatory framework with some minor amendments and provided the following direction to staff:

“That Part 3 of the motion concerning prohibiting the D.D. Chase vehicles from displaying ‘roof lights’ or ‘car toppers’ be referred to staff for further consideration with regard to size and placement on the chase vehicles, with specific consideration to not facilitating any confusion with taxi designation.”

Council approved the amended regulatory framework for Designated Driver Services at its June 29, 2015 meeting with the exception of standards pertaining to roof lights.

5.2 Roof Lights

Roof lights, also referred to as car toppers or roof signs, are generally illuminated signs affixed to the roof of a motor vehicle advertising a specific service. The use of roof lights is ubiquitous in the Taxicab Industry; however, roof lights are also widely used in other industries including driving schools and delivery services.

The following sections in the City’s Taxicab By-law 50-2003 (“Taxicab By-law”) regulate roof lights for taxicabs in the following areas:

- **6.5.1 (n) iv):** No Taxicab Driver shall operate a Taxicab without a properly functioning roof light.
- **7.3.1 (h) v):** Every Taxicab Owner shall have a roof light which is securely attached to the top of the Taxicab.
- **7.7.1 (g):** No Taxicab Owner shall display a roof light with the same colour or have similar markings of any Taxicab Broker with whom they are not affiliated.
- **7.7.1 (k):** No Taxicab Owner shall put any Taxicab into service without a roof light that is properly affixed.
- **8.1.1 (b):** Every Taxicab Broker shall require all Taxicab Owners who have entered into an affiliation with him/her to use the same design and colour scheme of roof light which shall include the name of the Taxicab Broker or the business name under which the Taxicab Broker operates, and shall produce and file a sample of the roof light with the City Clerk.

Standards for roof lights are common in many municipalities’ taxicab by-laws. Roof lights distinguish taxicabs from other vehicles and allow customers to quickly identify and flag/hail cruising taxicabs¹ or taxicabs parked at taxicab stands or other known locations where taxicabs congregate. Given that roof lights are a prominent indicator that a taxicab is on-duty, some municipalities require taxicabs to remove their roof light if taxi drivers are off-duty or using their vehicle for purposes other than a taxicab.

¹Typically refers to a taxicab driving on streets or public places in search of, or soliciting, prospective passengers for hire.

5.2.1 Concerns with D.D. Chase Vehicle Roof Lights

The principal concern regarding D.D. chase vehicles operating roof lights is that they could potentially resemble taxicabs. Such a resemblance can cause confusion for prospective taxi clients, and in particular, visitors from outside of Oshawa, who are not familiar with the City's licensed taxicab brokerages. Indeed, this confusion was expressed by participants at the stakeholder industry consultation sessions who observed certain D.D. chase vehicles with roof lights being hailed/flagged on the street to provide taxi services. Participants further expressed that a number of these D.D. chase vehicles were providing taxi services -- an activity they are not licensed to provide.

5.2.2 Regulating the Size, Placement and Content of Roof Lights

As per Committee's direction, staff considered regulating the size, placement and content of roof lights on D.D. chase vehicles in an effort to limit the confusion between D.D. chase vehicles and taxicabs and to address health and safety concerns. Staff recommend establishing the following basic standards:

- a) restricting the length and width of roof lights to no greater than the length and width of the roof of the chase vehicle the roof light is affixed to;
- b) prohibiting roof lights from encroaching on any part of the vehicle outside the area of the roof of the chase vehicle;
- c) that the roof lights comply with City of Oshawa Sign By-law 72-96 and all applicable highway traffic laws;
- d) prohibiting D.D. roof lights from displaying the words "Taxi", "Cab", "Taxicab", and/or any other words that may indicate the vehicle is providing a licensed taxicab service pursuant to Taxicab By-law 50-2003; and
- e) prohibiting D.D. roof lights from being displayed on the chase vehicle when the vehicle is not being used for the purposes of providing a designated driving service.

Notwithstanding the proposed standards, staff do not recommend establishing specific size and placement standards for D.D. roof lights for the following reasons:

- the specific dimensions of roof lights would be difficult to regulate as they are produced and sold by a multitude of vendors in varying shapes and sizes;
- establishing a uniform standard for sizes and placement of roof lights is further complicated by the diversity of vehicle types used as chase vehicles;
- standards may limit the ability of D.D. Brokers to distinguish their services from other D.D. Brokers;
- there are limited options for regulating the placement of roof lights on chase vehicles; and

- establishing standards for sizes and placement would present challenges for enforcement (i.e., measuring the exact size of a roof light while it is affixed to a chase vehicle).

6.0 Financial Implications

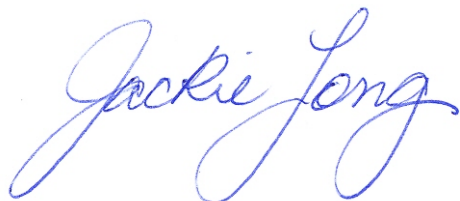
There are no financial implications directly related to the recommendations of this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab and the Designated Driver Industries.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



Jacqueline Long, Interim Commissioner,
Corporate Services Department and H.R.



**By-law -2016
of The Corporation of the City of Oshawa**

Being a By-law to amend By-law 111-2015, and to further amend Licensing By-law 120-2005, as amended (the "Licensing By-law"), to provide for the licensing, regulating and governing of Designated Driving Services.

WHEREAS:

1. Council of The Corporation of the City of Oshawa considers it appropriate to further amend the Licensing By-law, as amended.

NOW THEREFORE the Council of the Corporation of the City of Oshawa ENACTS AS FOLLOWS:

1. Schedule "N" to the Licensing By-law is amended as follows:
 - 1.1 By deleting subsection 3(a)iv) in its entirety; and
 - 1.2 By renumbering the remaining subsections under subsection 3(a) accordingly.
2. By-law 111-2015 is amended as follows:
 - 2.1 By deleting the effective date "June 1, 2016" at the end of section 8 and replacing it with the new effective date of "January 2, 2017".
3. This By-law is effective on the date of its passing.

By-law passed this day of , 2016.

Mayor

City Clerk

Public and Industry Stakeholder Consultation Process

Staff undertook a two (2) month public and industry stakeholder consultation process beginning on June 14, 2017 concluding on August 16, 2017 to engage stakeholders (detailed in **Table 1**) and community members on Transportation Network Companies.

The consultation process was comprised of various engagement initiatives that included the use of Connect Oshawa (www.connectoshawa.ca), the City's online engagement platform. Engagement opportunities included:

- surveys available online on Connect Oshawa, on paper at Service Oshawa and on laptops at consultation sessions; and,
- three facilitated meetings and two community engagement tables, each addressing a specific stakeholder group.

Table 1 Public and Industry Stakeholder Consultation Process Schedule

Stakeholder	Type of Consultation	Number of Meetings	Date(s)
All	Online and In-Person Survey	Not applicable	June 14 to August 16
Taxi Industry	Facilitated Meeting	2	June 20
Designated Driving Industry	Facilitated Meeting	1	June 26
Public	Community Engagement Table	2	June 28
T.N.C.	Meeting	1	August 3

The public consultation was promoted to the community and stakeholders through various mediums, including media materials, social media, as well as print, radio and digital promotional material.

Public Response

In total:

- 495 completed the survey; and,
- 90 attended a facilitated meeting or community engagement table.

Note:

- Standardized questions were used in the online and paper surveys to ensure consistency.
- The Connect Oshawa online survey required site registration or a temporary screen name and email address for each submission. The system only allows one (1) response per person using a particular email address.

Findings and Key Issues for Stakeholders

Staff engaged four (4) stakeholder groups to gather the unique perspectives of each group on the issue of T.N.C.s. The key findings are detailed in the sections below. **Note:** Percentages referenced in this section are rounded to the nearest whole number.

a) Public - members of the public were engaged through use of an online/in-person survey and through two (2) Community Engagement Tables where the public could directly engage staff. One Community Engagement Table was held in the North end of Oshawa (Delpark Homes Centre) and the other in the South (Civic Recreation Complex). The following are the key points that were gathered from the members of the public:

- **93%** of all respondents reporting being a resident in Oshawa
- The majority of respondents (**90%**) reported being either very familiar, familiar, or somewhat familiar with T.N.C.s
- The majority of respondents (**85%**) reported having used T.N.C.s in Oshawa once or more in a year
- Almost all respondents (**99%**) were satisfied with the T.N.C. services in Oshawa with approximately:
 - **74%** expressing they were **very satisfied**
 - **22%** expressing they were **satisfied**
 - **3%** expressing they were **somewhat satisfied**
 - **1%** express they were **not at all satisfied**
- The majority of respondents expressed a desire for the City to regulate the vehicle-for-hire industry (which includes Taxis, D.D.s and T.N.C.s).¹ Approximately **77%** of respondents reported that felt the City should establish driver screening and insurance regulations for the vehicle-for-hire industry.
- More respondents reported using T.N.C.s than Taxis
- Respondents use Taxis and T.N.C.s for the same reasons
- There does not appear to be a correlation between age groups and the use of T.N.C.s as opposed to Taxis. In other words, age does not appear to determine the respondent's propensity to use one vehicle-for-hire service over the other.

b) Taxi Industry - the Taxi Industry is comprised of a number of groups including: Brokers², Taxicab Plate Owners, and Taxicab Drivers. City staff engaged the Taxi Industry through the use of an online/in-person survey and through two (2) facilitated meetings, one for brokers and plate owners, and the other for taxicab drivers. The following are the key points that were gathered from the Taxi Industry:

- The Taxi Industry has been impacted financially (loss of income) since Uber entered Oshawa
- There is a high level of anger, stress, and frustration

¹ Despite more respondents stating that the City **should not** regulate the vehicle-for-hire industry, a significant percentage reported that the City should establish safety driver screening (approximately **75%**) and insurance regulations (approximately **77%**) for the vehicle-for-hire industry. This would suggest that the respondents favour regulation.

² Brokers provide dispatch services to taxicab drivers and also operate as fleet managers for some vehicles and hold many of the City issued taxicab plates.

- There is a desire for the City to more effectively enforce the T.L.B.
- It is difficult to attract and hire new taxicab drivers
- The most important issues for the Taxi Industry are:
 - There is a desire to prohibit T.N.C.s from operating in the City of Oshawa
 - If T.N.C.s are regulated, they should be regulated with identical standards
- Taxi drivers reported that other than accessible training, taxicab driver training provided very little value. If the training requirement is kept, the City should extend the training renewal period for every ten (10) years.
- The Taxi Industry is satisfied with the current tariff/meter rate. Some respondents requested that the industry be permitted to offer discounts
- The majority of participants reported that the City should regulate the vehicle-for-hire industry

c) D.D. Industry - the Designated Driver Industry is comprised of two (2) groups: Brokers and Drivers. Brokers dispatch calls to drivers whereas drivers provide the designated driving services to clients. Individuals can be licensed as both Brokers and Drivers. City staff engaged the D.D. Industry through the use of an online/in-person survey and through one (1) facilitated meeting. The following are the key points that were gathered from the D.D. Industry:

- Participants stated that T.N.C.s had no impact on the D.D. Industry
- There has been a change in customer expectations; customers want to access D.D. services through a mobile application (“app”)
- Some D.D. Brokers/companies expressed interest in permitting T.N.C.s to operate in Oshawa as they are potentially interested in providing T.N.C. services
- There is a general desire to harmonize the regulations i.e. provide a “level playing field” between T.N.C.s, Taxis and D.D.s in an equitable manner.
- The majority of participants reported that the City should regulate the vehicle-for-hire industry.

d) T.N.C.s – There are presently two (2) T.N.C.s operating within the City of Oshawa: Uber and Lyft. The City engaged both T.N.C.s and the following are the key points that were gathered:

- **Uber:** Staff met with representatives from Uber Canada (“Uber”) on August 3, 2017 and have been in regular contact since. The following are the key points articulated by representatives from Uber:
 - Uber operates on a regional basis predominantly in that Uber drivers offer rides across the Greater Toronto Area (G.T.A.).
 - While the number of drivers driving on Uber’s app can fluctuate, there were about 1,100 Uber drivers who completed 10 or more trips within the City of Oshawa in March 2019.
 - Of those drivers, 90+% are currently licensed by the City of Toronto and regularly do trips in the City of Toronto.

Uber is recommending the following standards be established in a proposed regulatory framework for T.N.C.s:

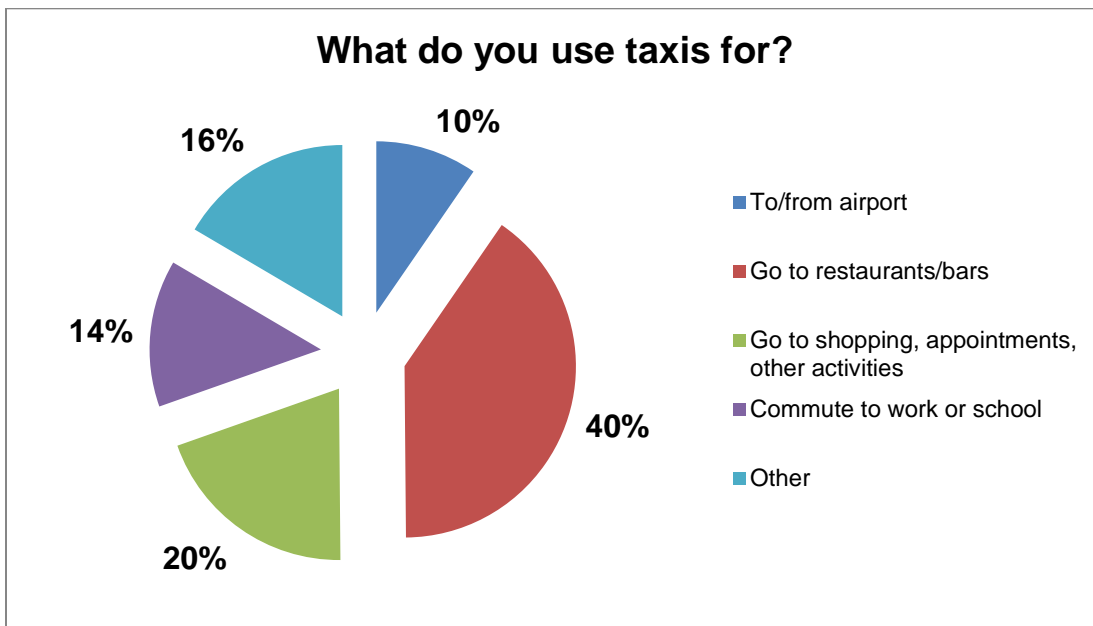
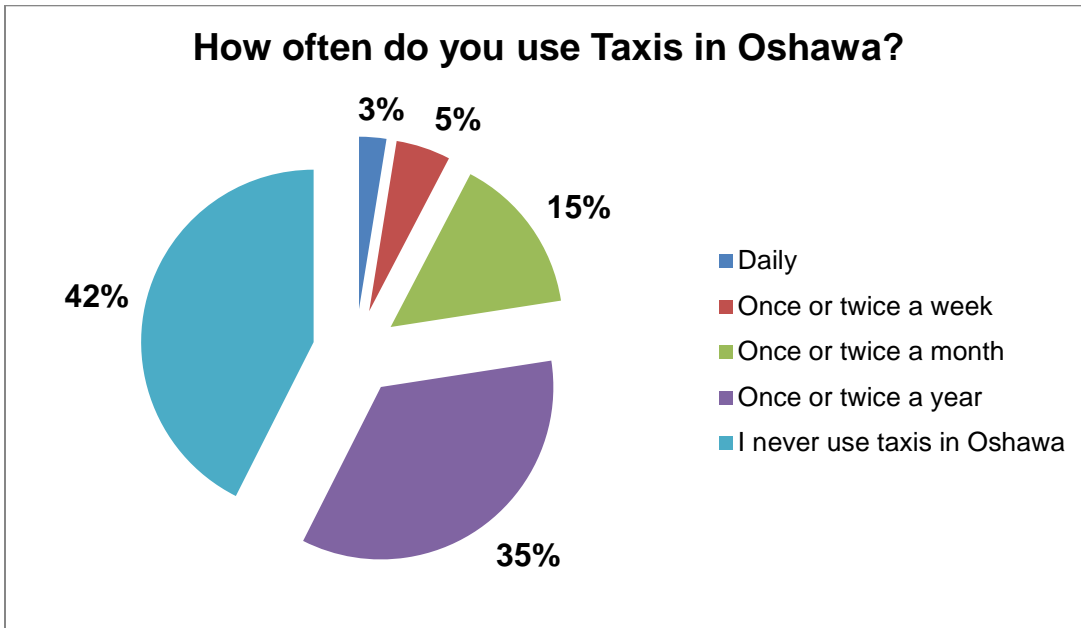
- **Driver screening:** we recommend the City of Hamilton's driver screening practices as detailed in their by-law³. Under this structure, Uber manages the robust background check and driver abstract processes as outlined above, and supports the City in its audits.
- **Vehicle inspection and requirements:** we recommend allowing vehicles that are 10 years old or newer, as long as they pass annual vehicle inspections.
- **Data sharing/reporting:** we are happy to provide trip counts on a quarterly basis. In the interest of protecting the privacy of our riders and drivers, we do not share individual trip-level data.
- **Service quality:** we recommend against requirements that relate to service quality such as the ability of the driver to speak English and regulating company branding or trade dress. Uber's app utilizes a two-way rating system along with 24/7 customer support to ensure service quality.

³ A comprehensive list of applicable municipal standards is appended in Attachment 1 of CORP-17-24. Despite being conducted in 2017, an updated review of T.N.C. standards found that the standards had mostly remained the same.

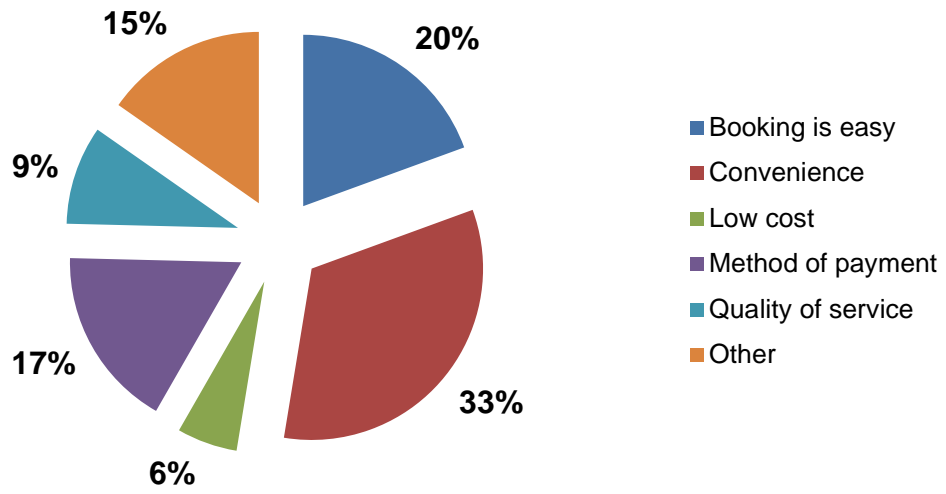
Survey Reponses: General Public

Sample Size: 470 Respondents

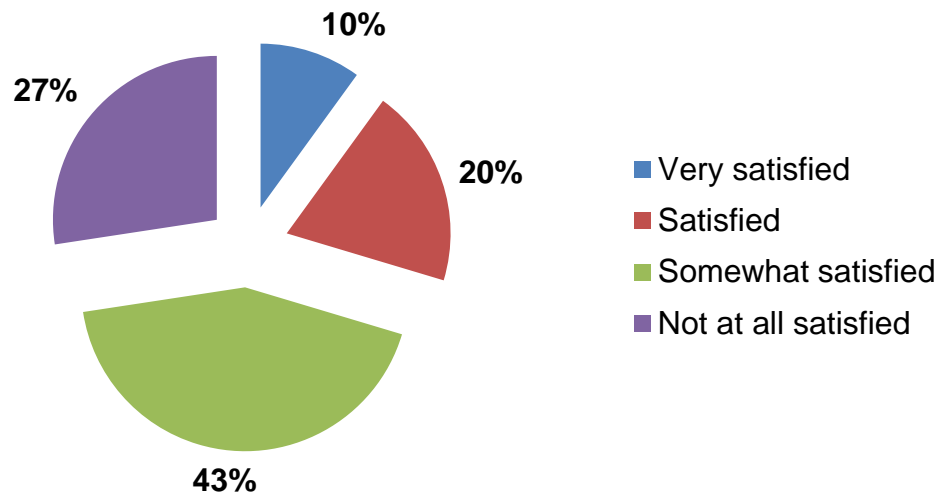
Note: percentages are rounded to the nearest whole number.



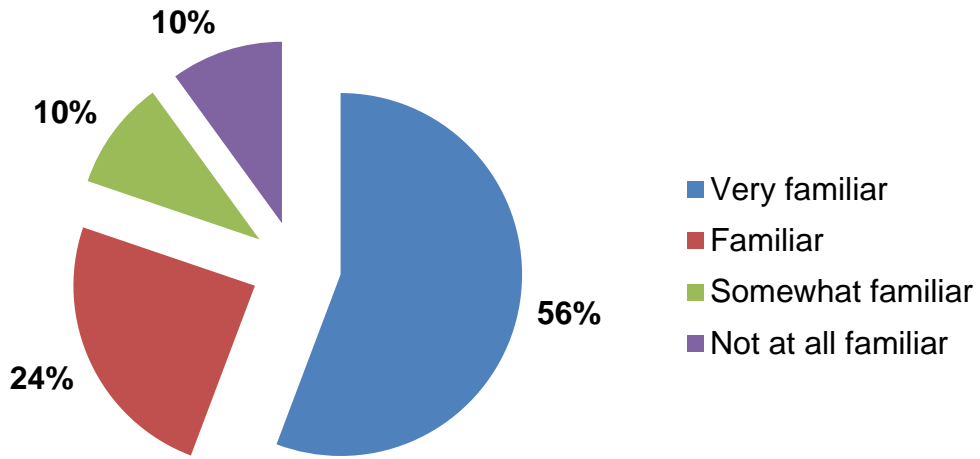
What do you like about taxis?



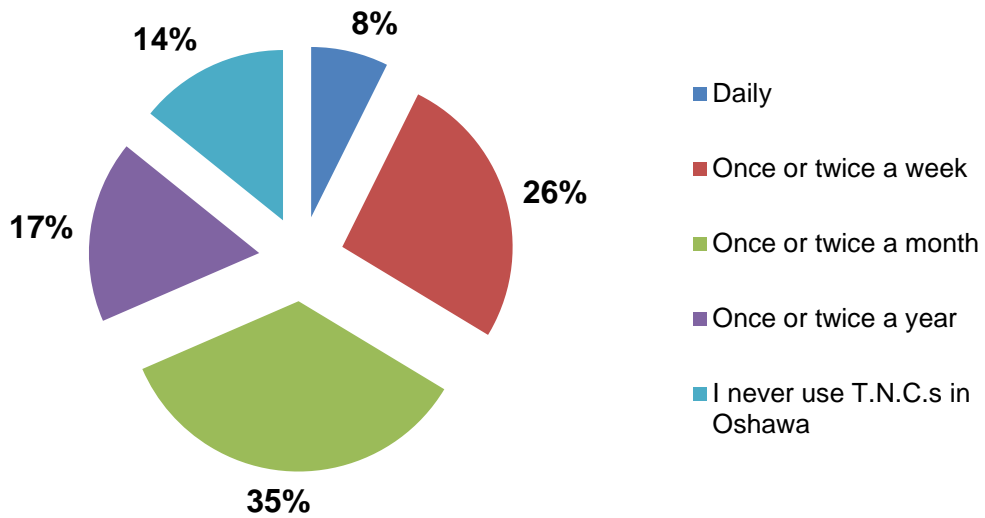
How satisfied are you with the taxi services in Oshawa?



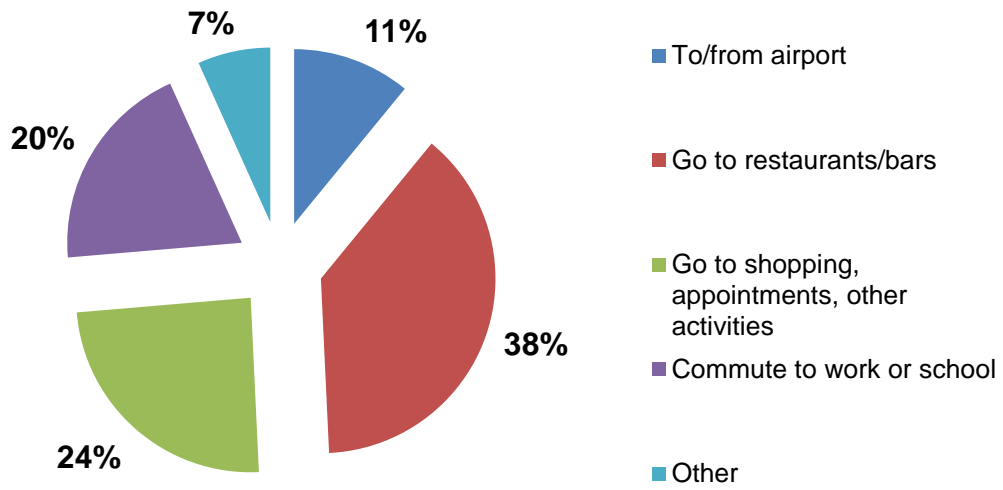
How familiar are you with T.N.C.s?



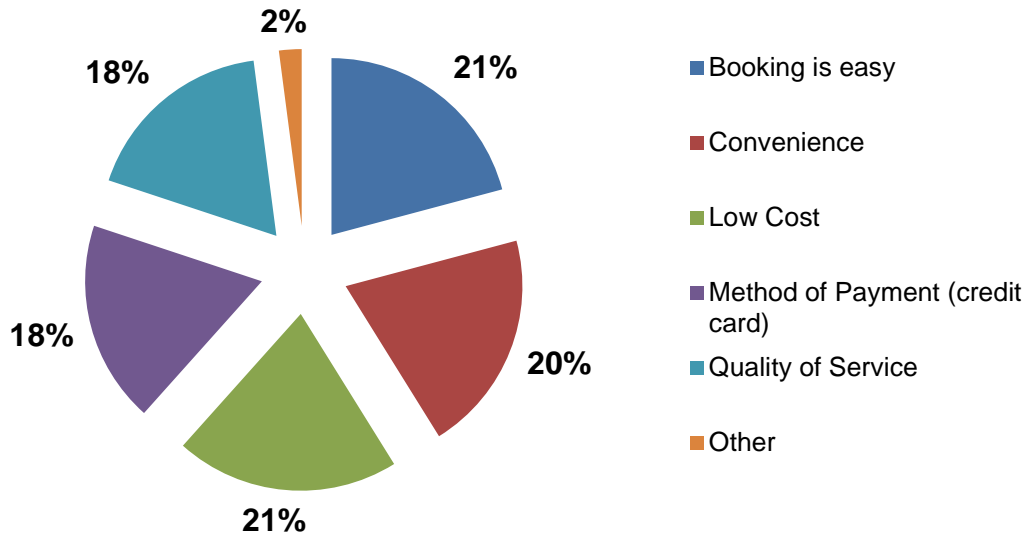
How often do you use T.N.C.s in Oshawa?



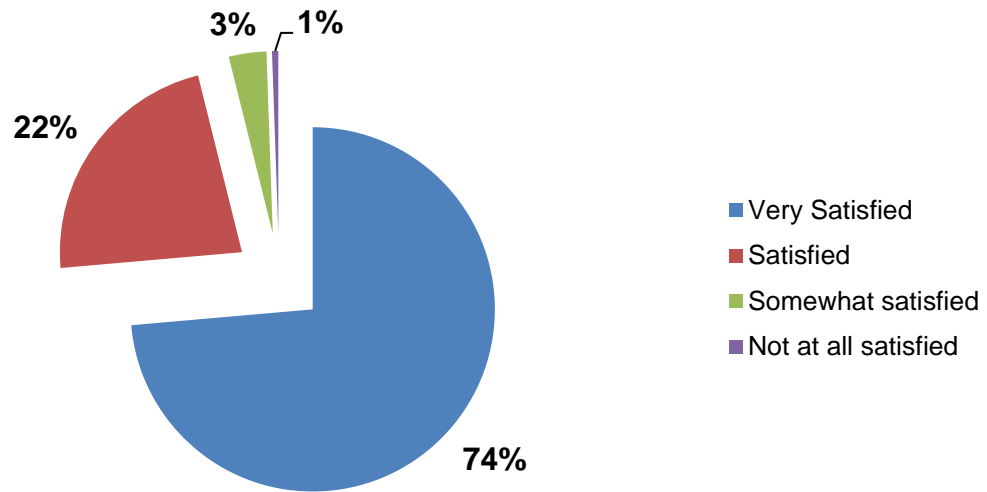
What do you use T.N.C.s for?



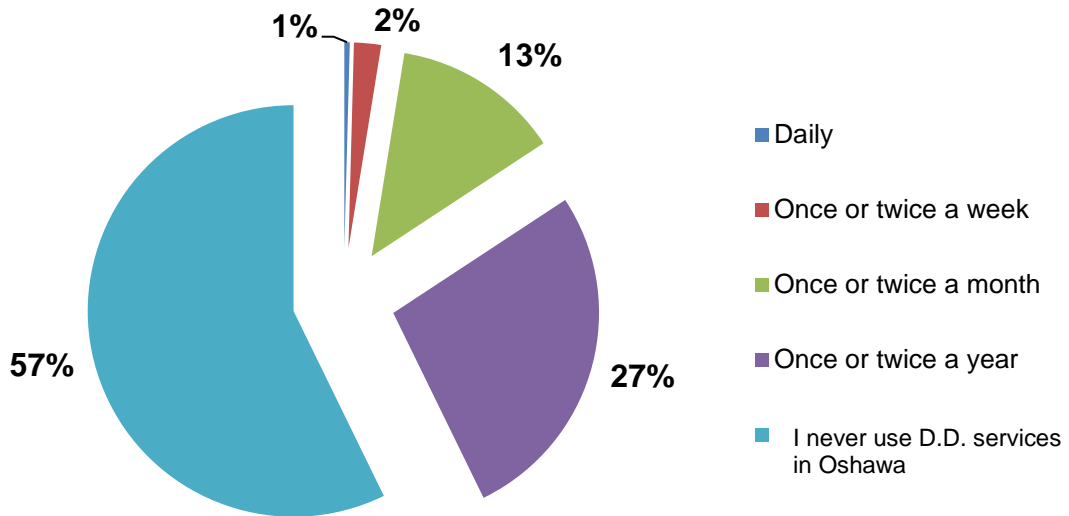
What do you like about T.N.C.s?



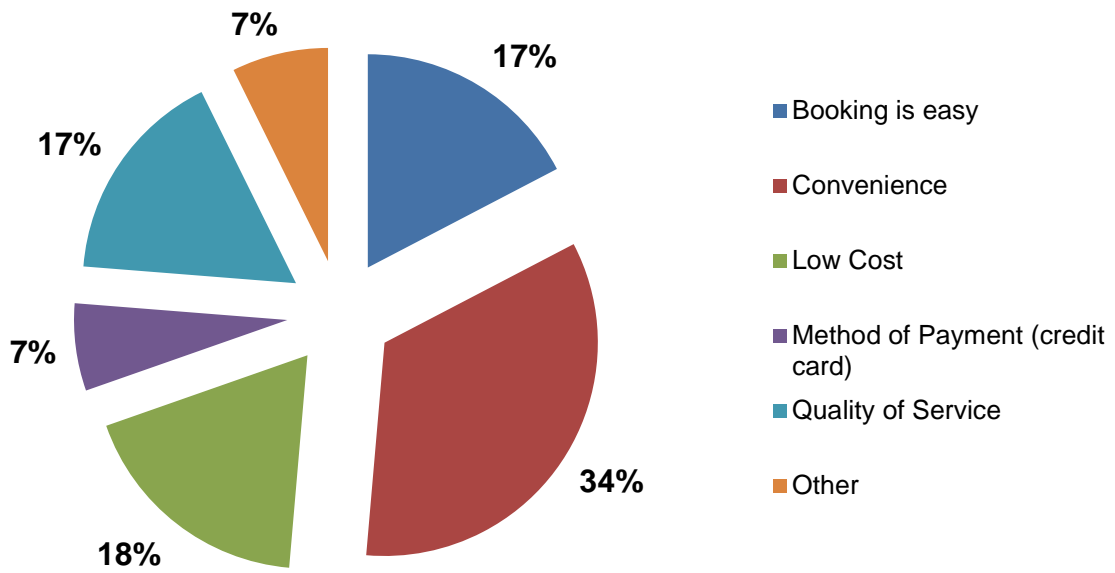
How satisfied are you with T.N.C. service in Oshawa?



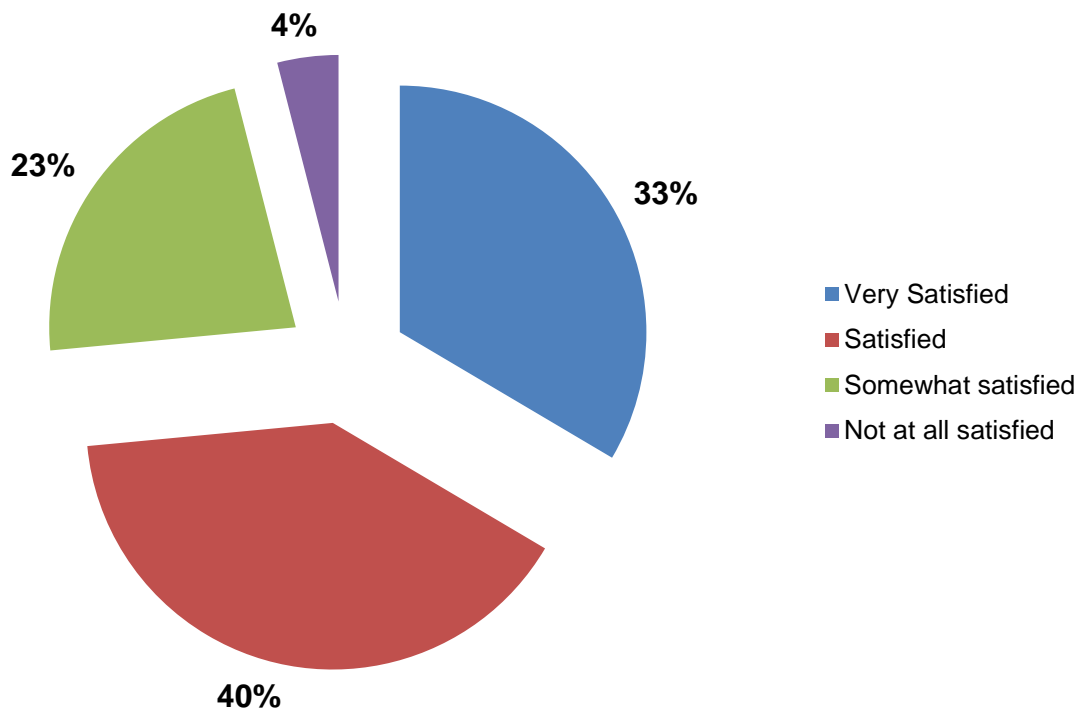
How often do you use D.D. services in Oshawa?

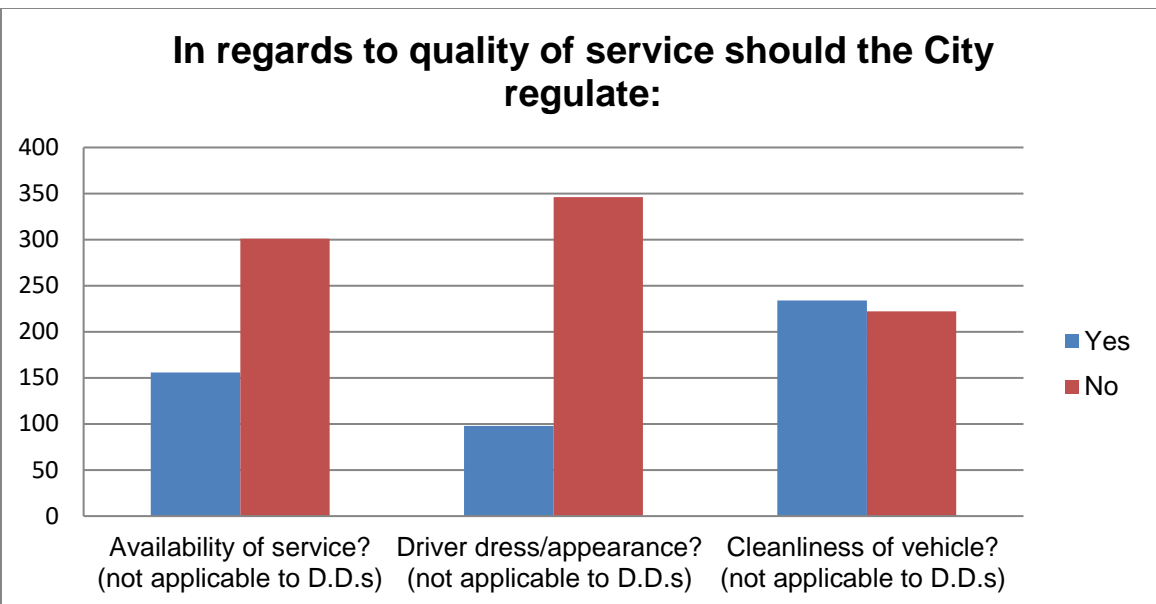
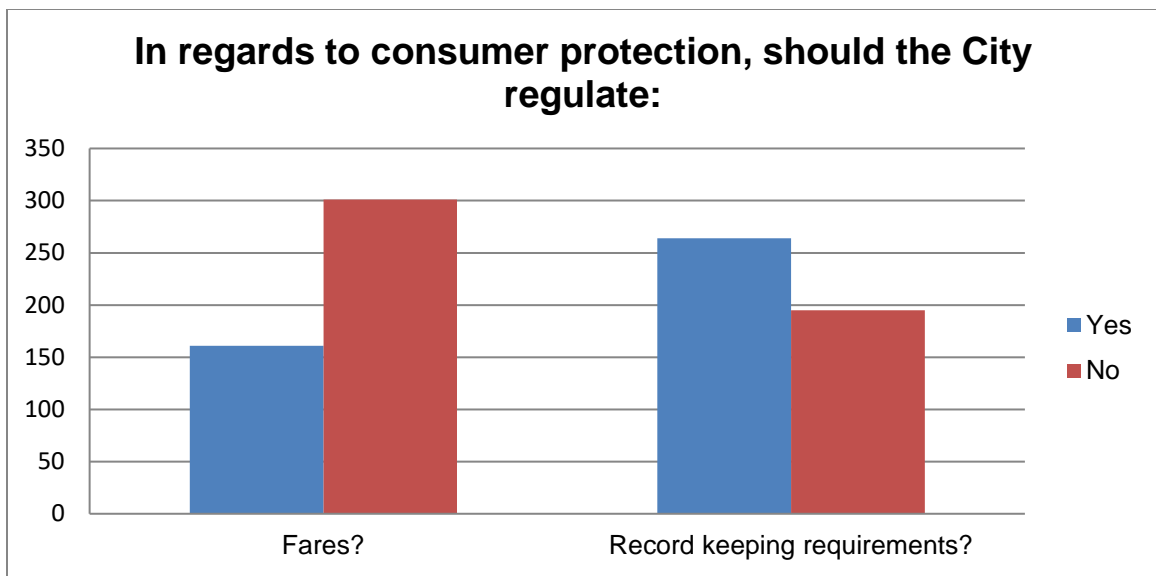
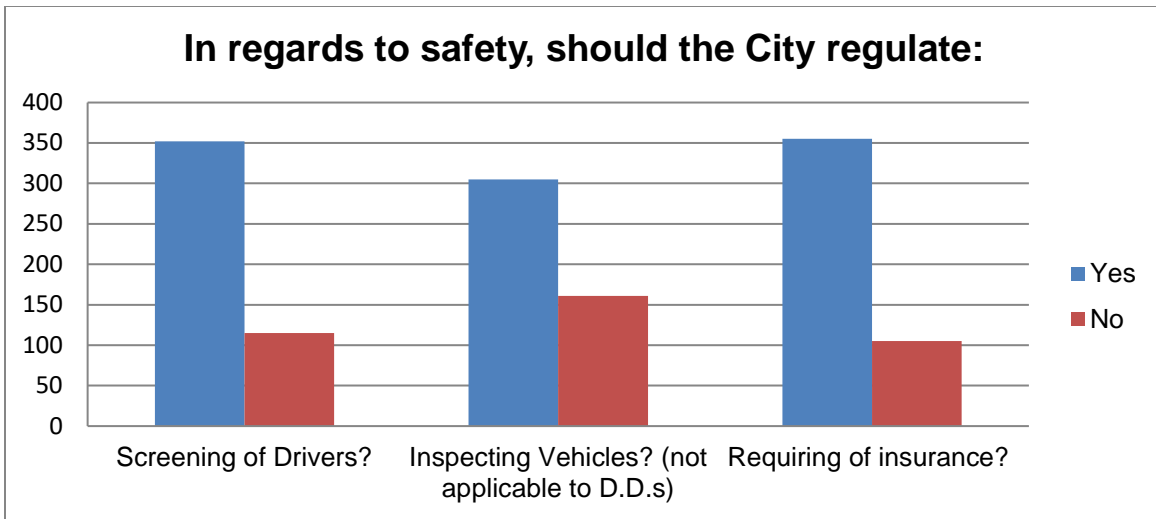


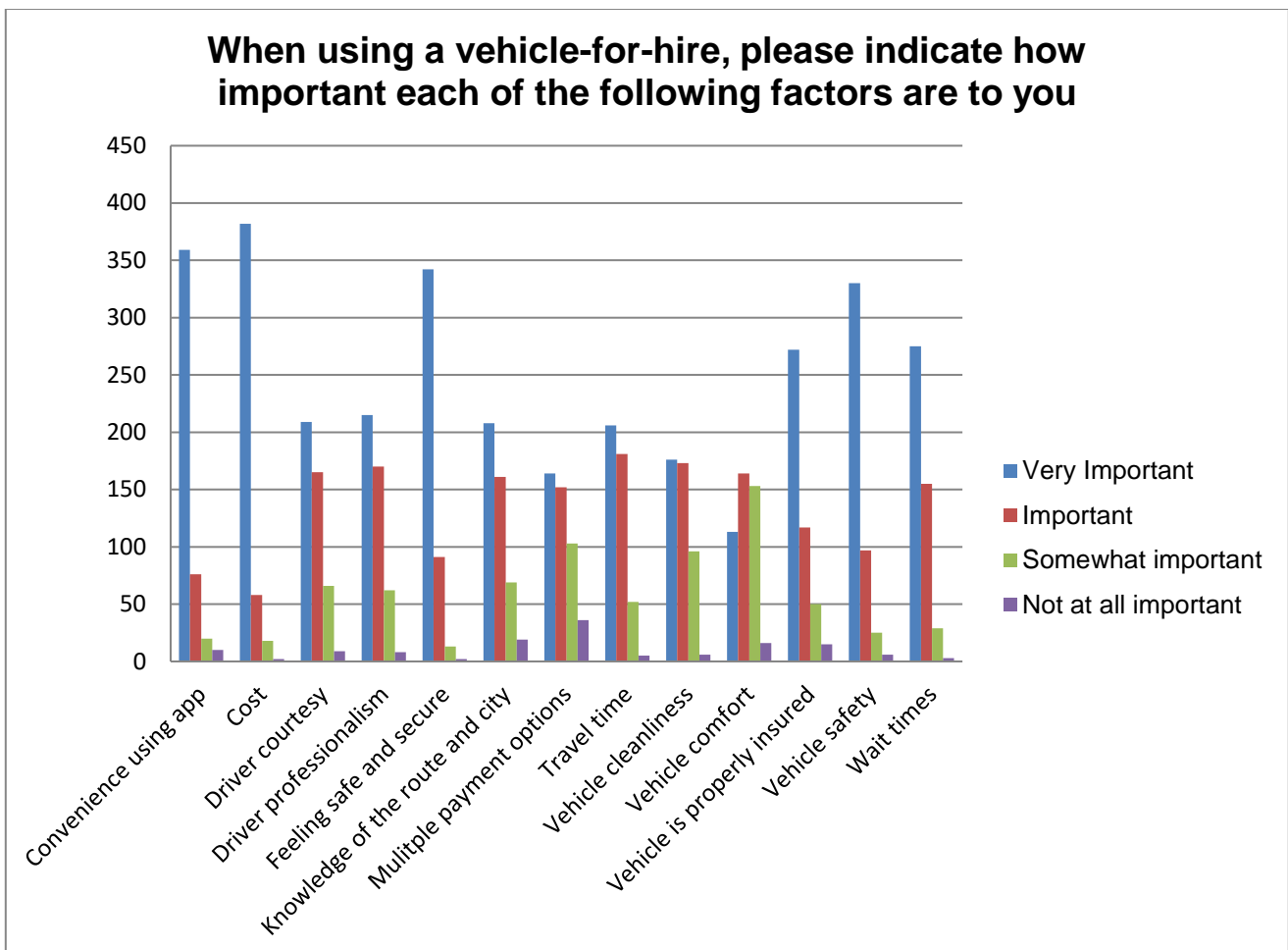
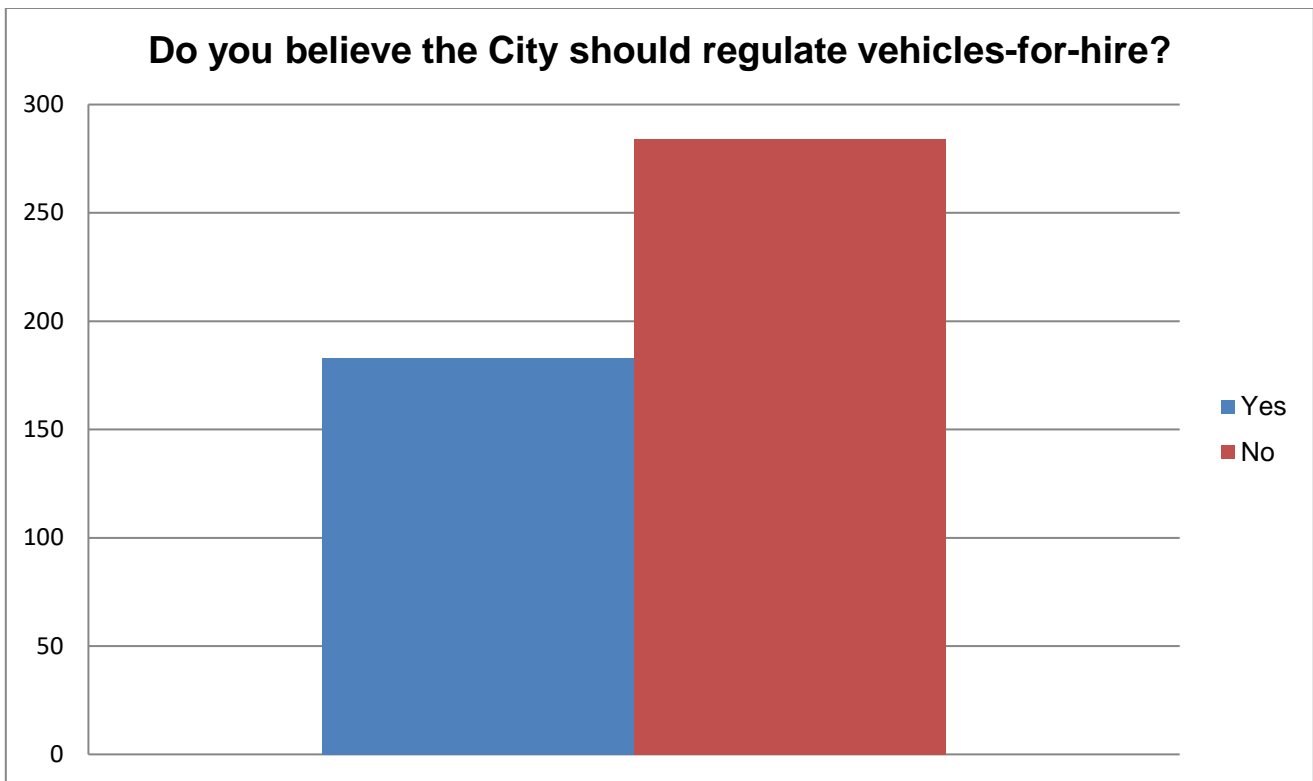
What do you like about D.D. services in Oshawa?



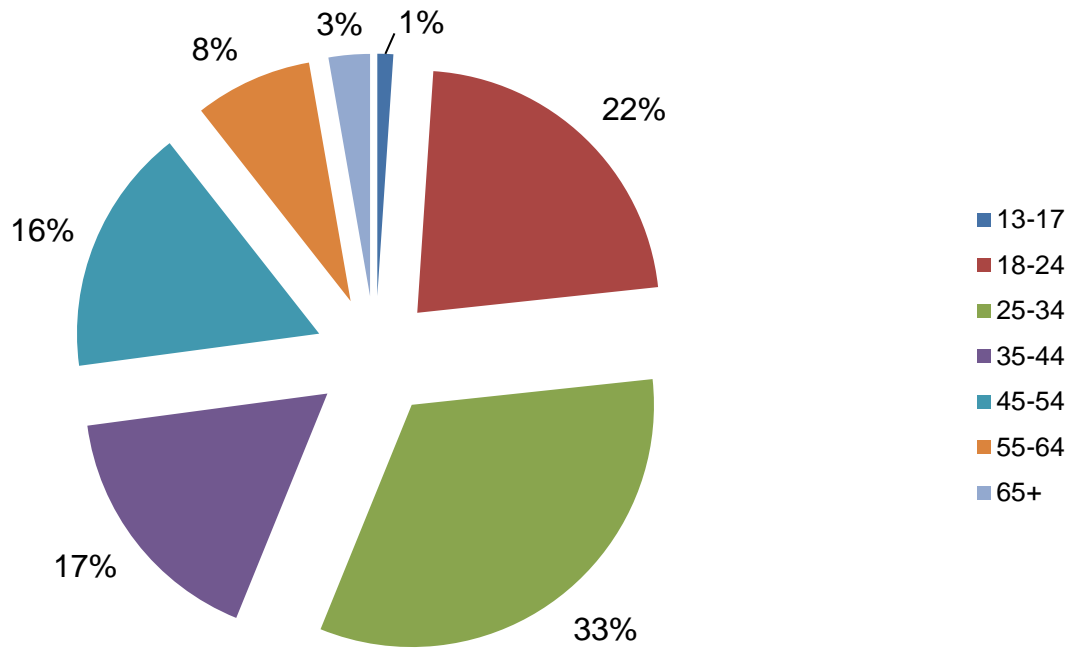
How satisfied are you with D.D. services in Oshawa?



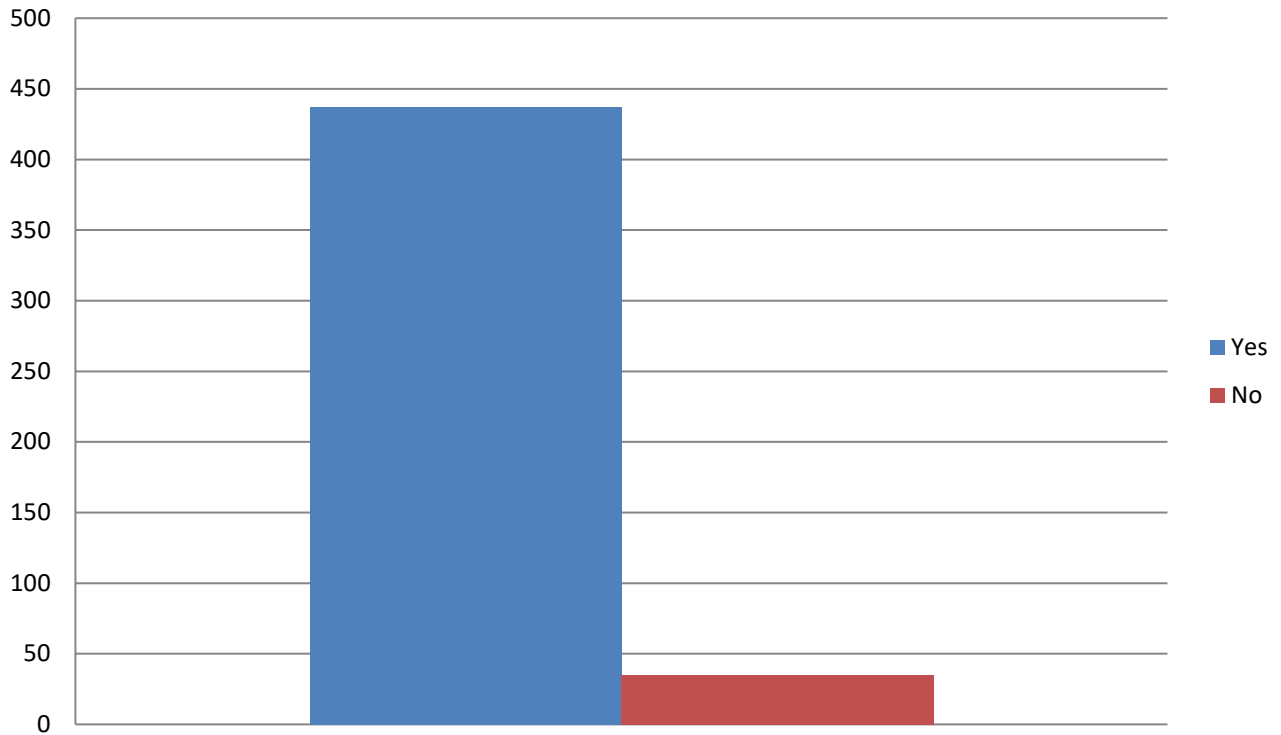




How old are you?



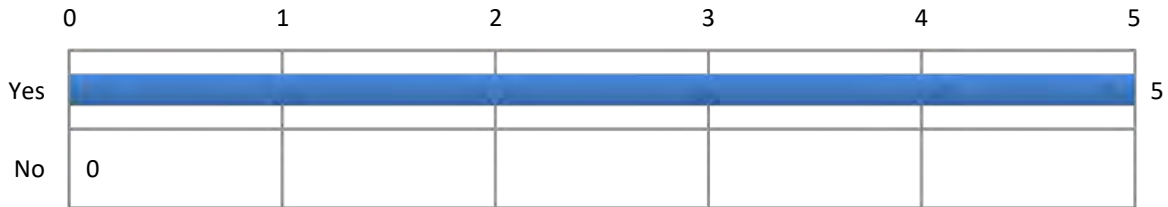
Are you an Oshawa resident?



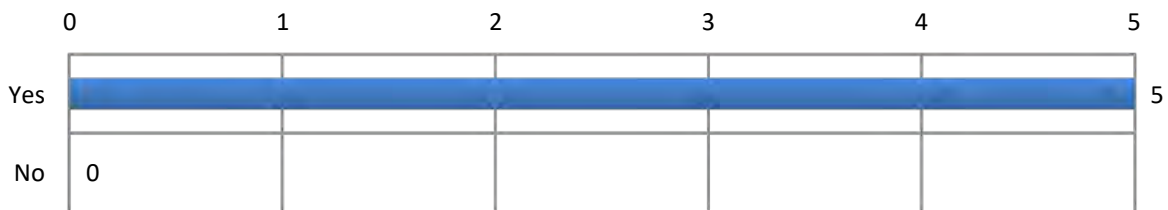
Survey Responses: Taxicab Brokers/Owners

Sample Size: 5 Taxicab Brokers/Owners

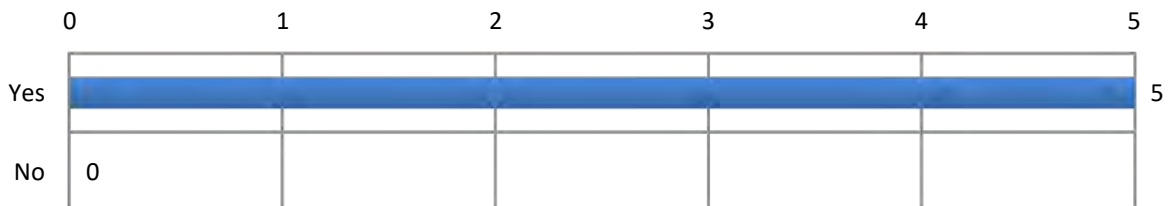
Have you as a taxicab broker/owner been impacted by **loss of income** as a result of T.N.C.s (Uber, RideCo, etc.)?



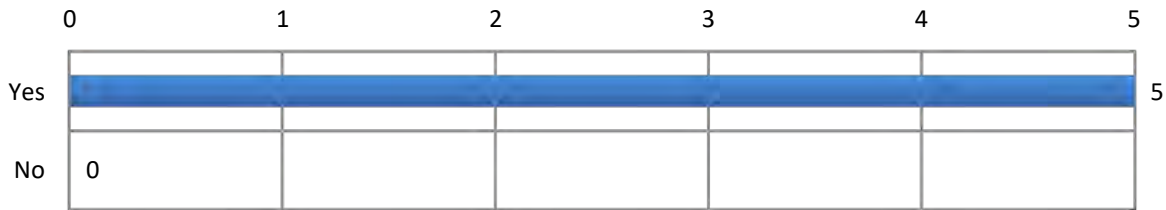
Have you as a taxicab broker/owner been impacted by **less interest in the profession** as a result of T.N.C.s (Uber, RideCo, etc.)?



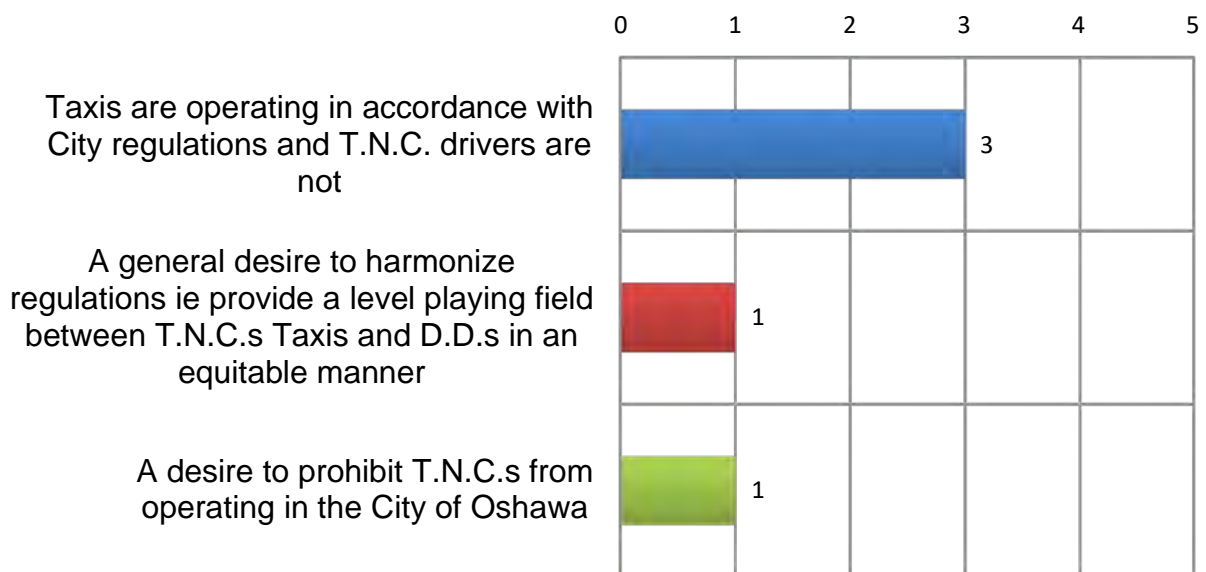
Have you as a taxicab broker/owner been impacted by a **reduced value of taxi plates** as a result of T.N.C.s (Uber, RideCo, etc.)?



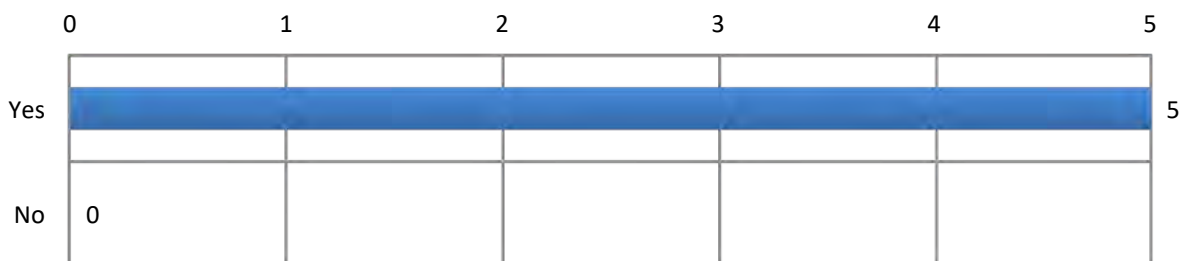
Have you as a taxicab broker/owner been impacted **another way** as a result of T.N.C.s (Uber, RideCo, etc.)?



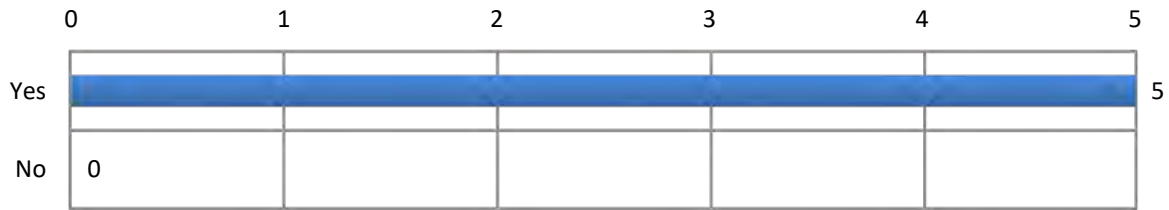
What is the single most important issue related to T.N.C.s (Uber, RideCo, etc.) that concerns you at this time?



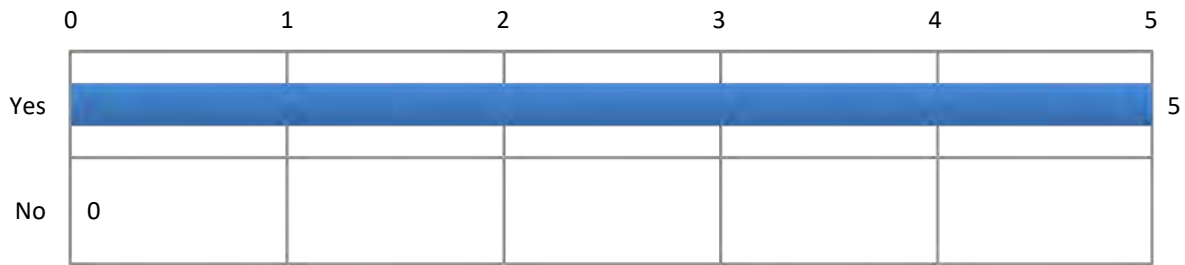
In regards to safety, should the City regulate:
Screening of drivers?



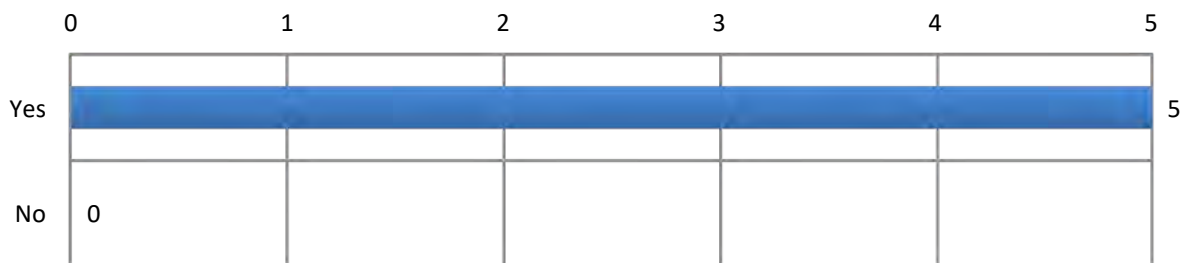
In regards to safety, should the City regulate:
Inspecting of vehicles?
(not applicable to D.D.s)



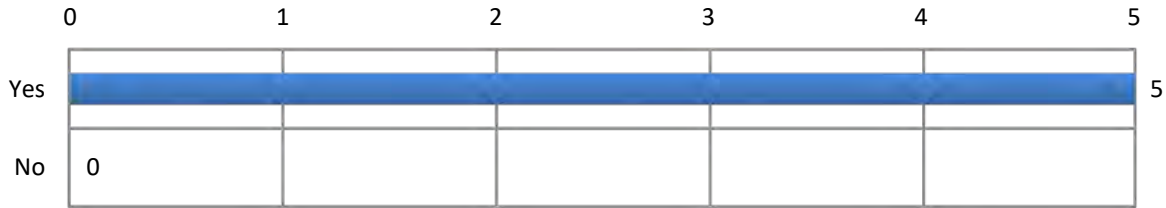
In regards to safety, should the City Regulate:
Requiring of insurance?



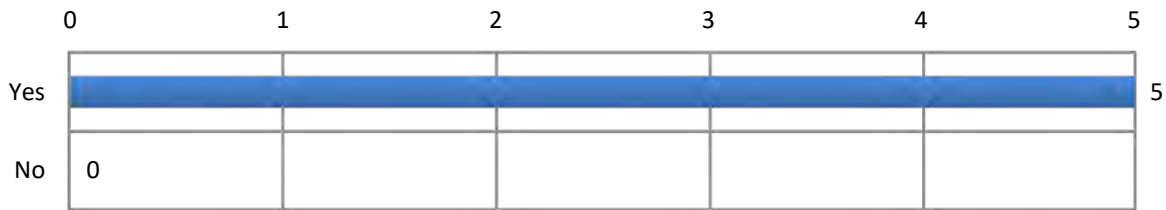
In regards to consumer protection, should the
City regulate: **Fares?**



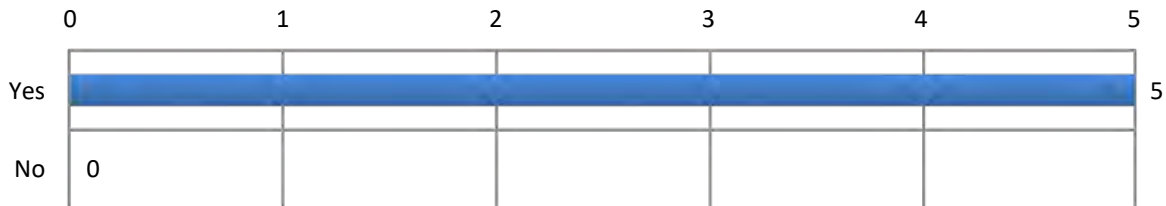
In regards to consumer protection, should the City regulate: **Record-keeping requirements?**



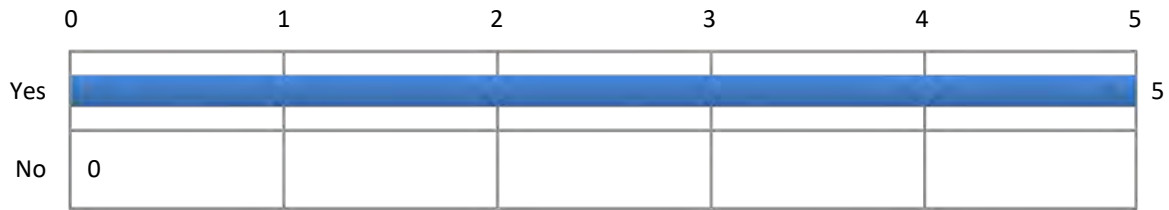
In regards to quality of service, should the City regulate: **Availability of service?**
(not applicable to D.D.s)



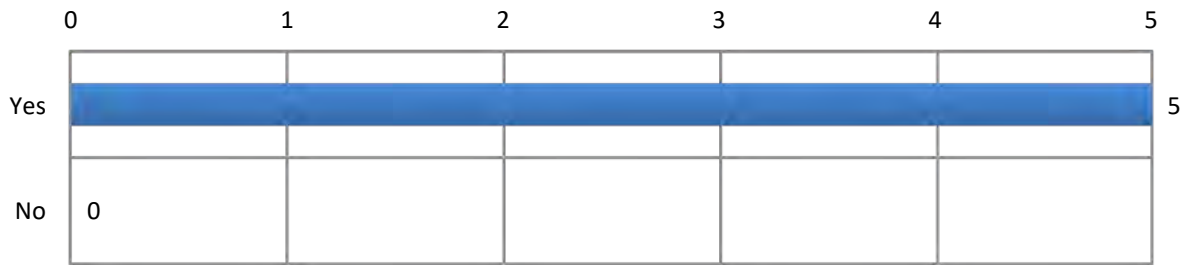
In regards to quality of service, should the City regulate: **Driver dress/appearance?**
(not applicable to D.D.s)



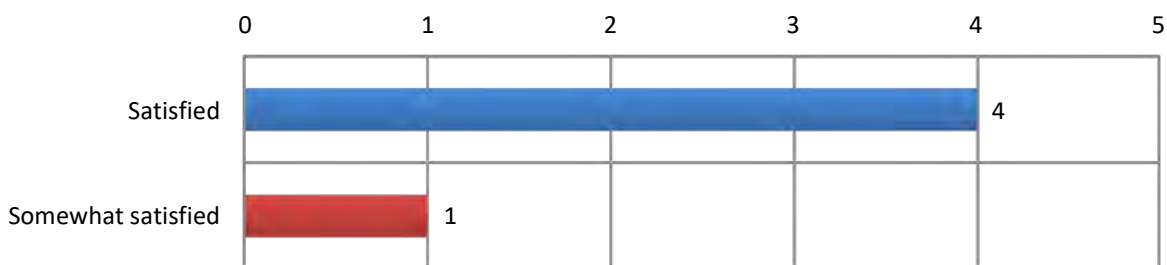
In regards to quality of service, should the City regulate: **Cleanliness of vehicles?**
(not applicable to D.D.s)



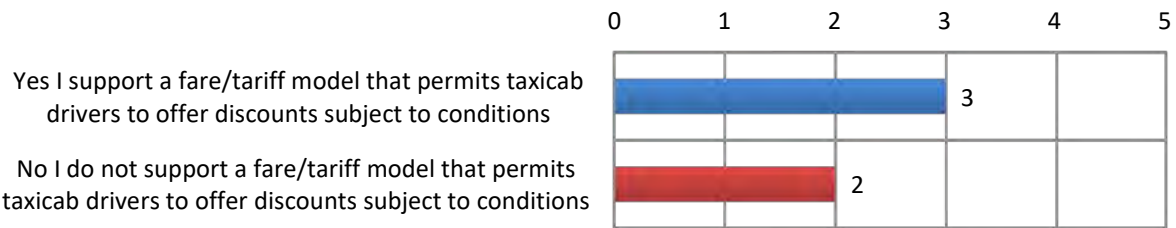
Do you believe the City should regulate vehicles-for-hire?



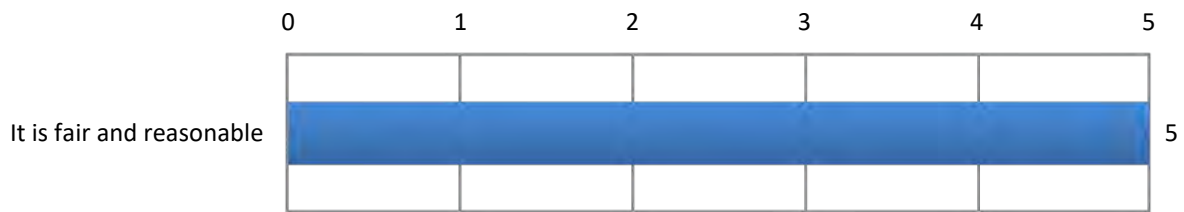
How do you feel about the current taxicab fare/tariff model?



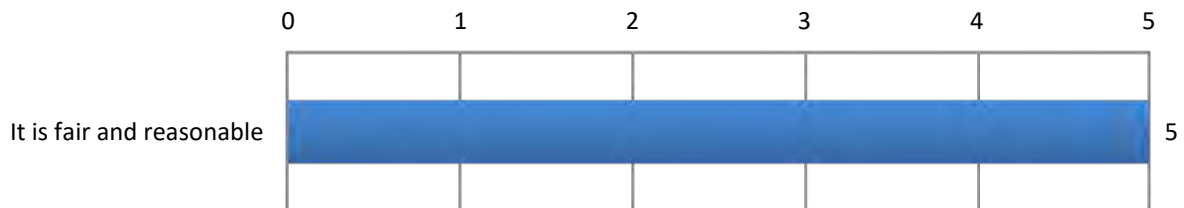
Do you support changing the current fare/tariff model to permit taxicab drivers to offer discounts to the taximeter rate subject to conditions?



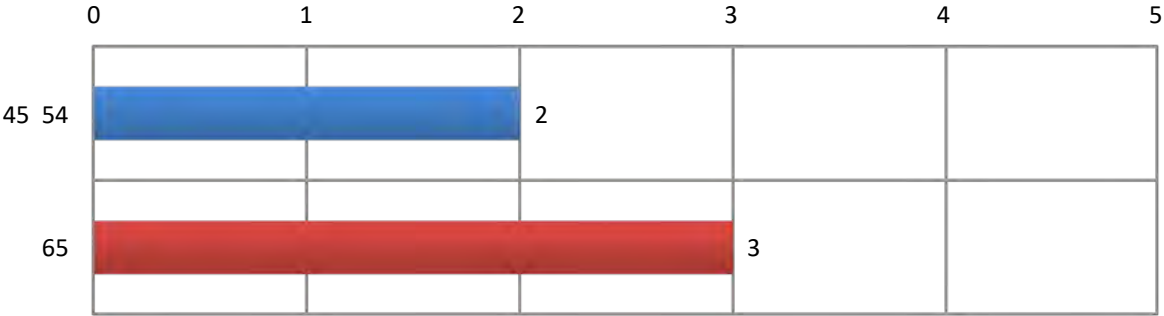
What do you think about the current fee of \$150 for a two-year driver's licence for taxi drivers and D.D. drivers?



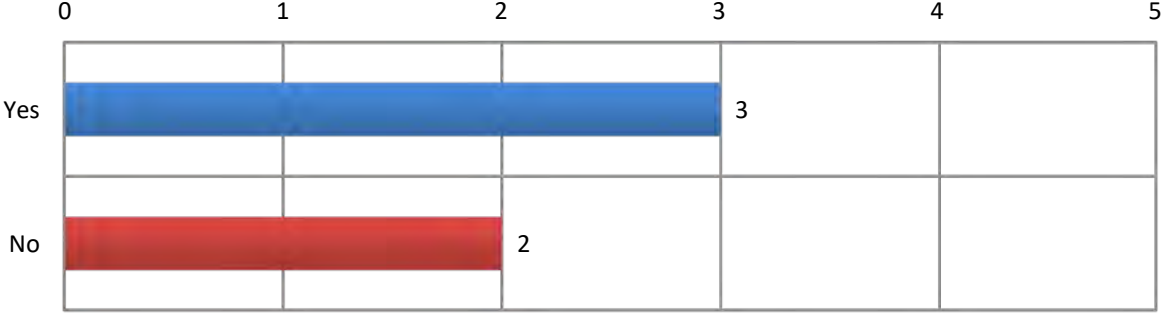
What do you think about the current fee of \$250 for an annual licence for taxi brokers taxi owners and D.D. brokers?



How old are you?



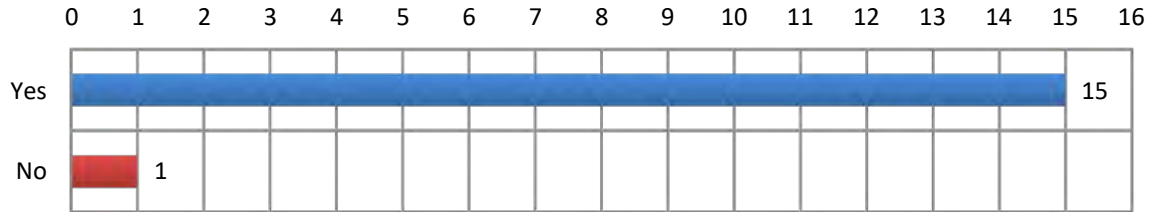
Are you an Oshawa resident?



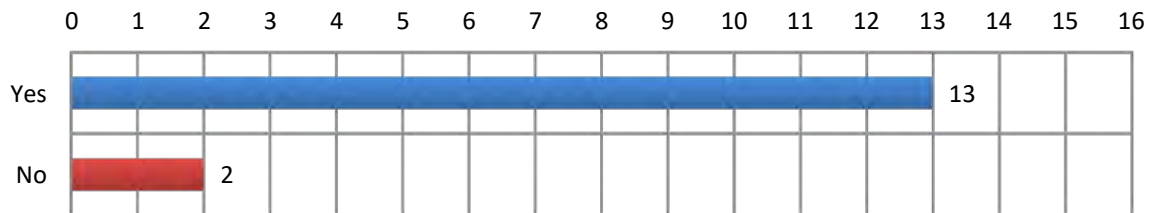
Survey Responses: Taxicab Drivers

Sample Size: 16 Taxicab Drivers

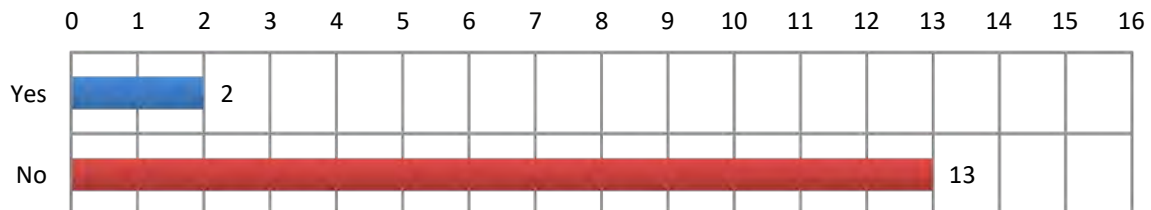
Have you as a taxicab driver been impacted by **loss of income** as a result of T.N.C.s (Uber, RideCo, etc.)?



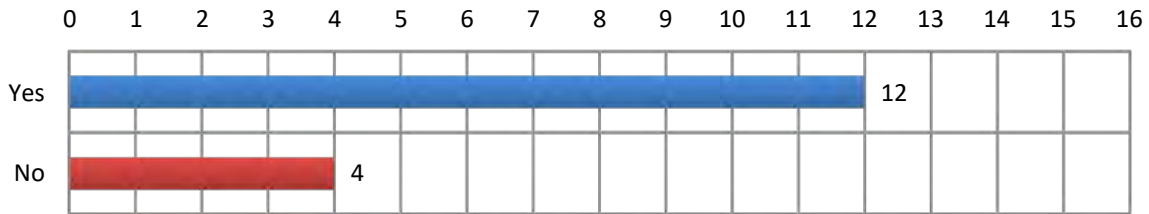
Have you as a taxicab driver been impacted by **less interest in the profession** as a result of T.N.C.s (Uber, RideCo, etc.)?



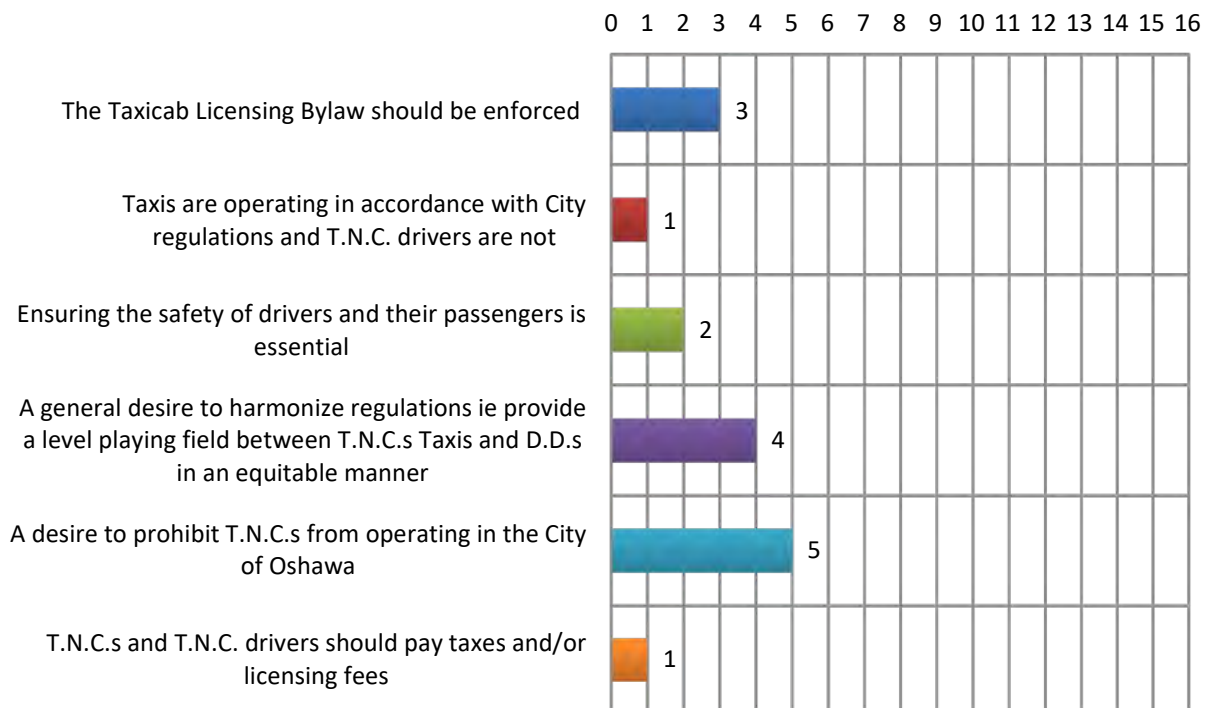
Have you as a taxicab driver been impacted by **a lower cost to rent your taxicab** as a result of T.N.C.s (Uber, RideCo, etc.)?



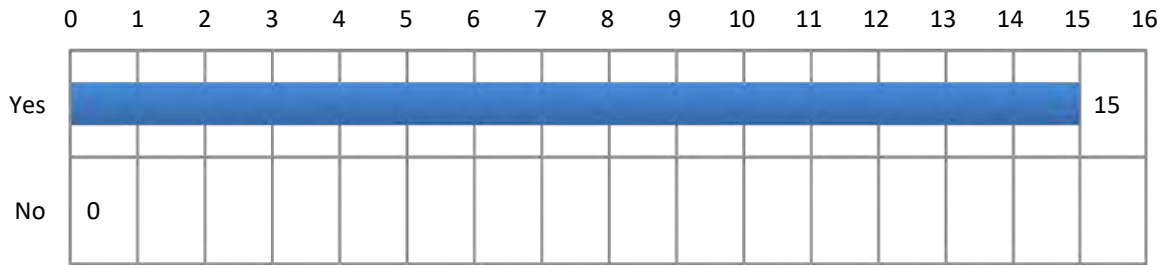
Have you as a taxicab driver been **impacted another way** as a result of T.N.C.s (Uber, RideCo, etc.)?



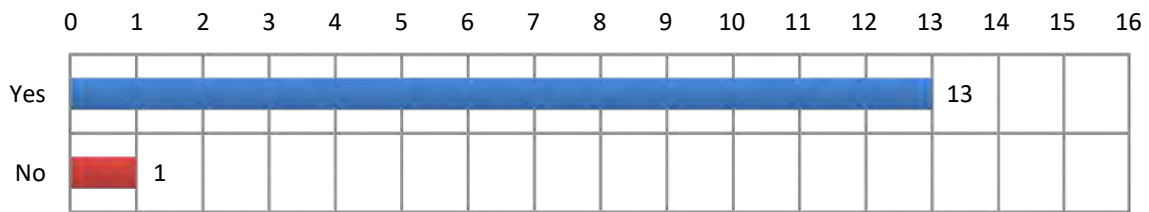
What is the single most important issue related to T.N.C.s (Uber, RideCo, etc.) that concerns you at this time?



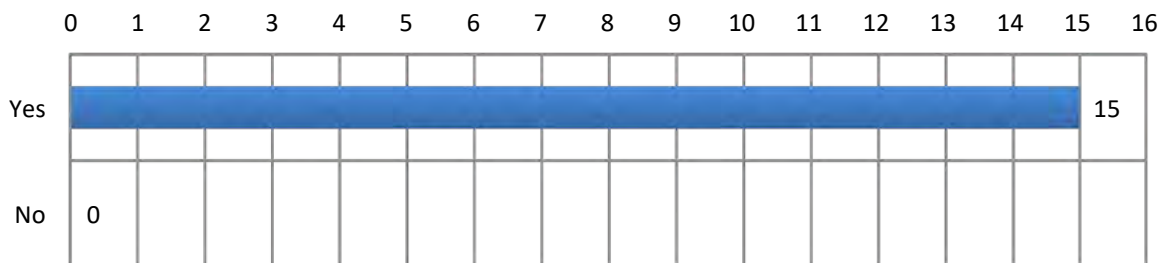
In regards to safety, should the City regulate:
Screening of drivers?



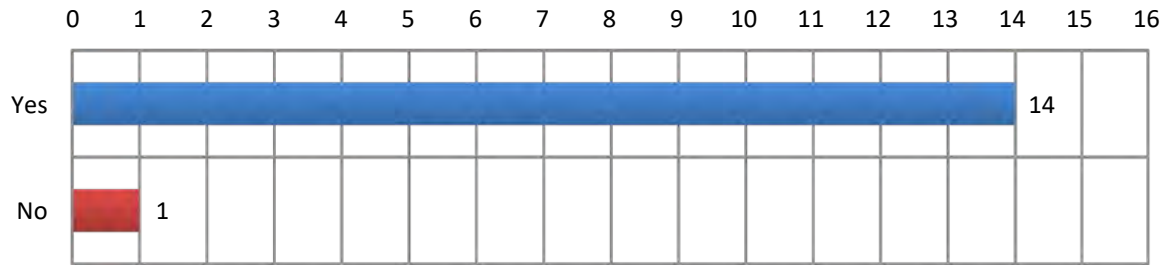
In regards to safety, should the City regulate:
Inspecting of vehicles?
(not applicable to D.D.s)



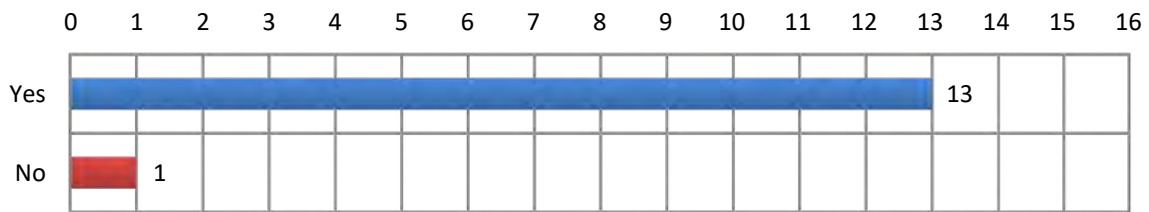
In regards to safety, should the City regulate:
Requiring of insurance?



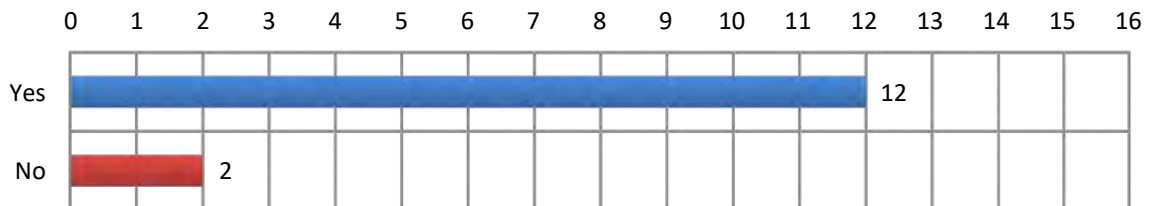
In regards to consumer protection, should the City regulate: **Fares?**



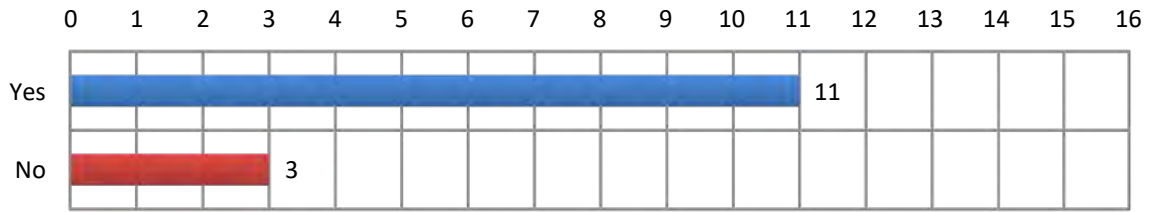
In regards to consumer protection, should the City regulate: **Record-keeping requirements?**



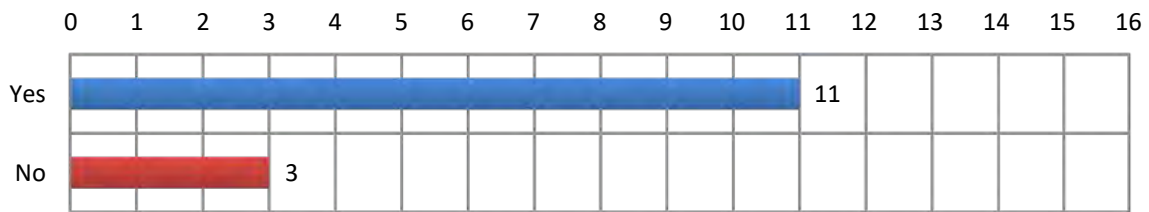
In regards to quality of service, should the City regulate: **Availability of service** (not applicable to D.D.s)?



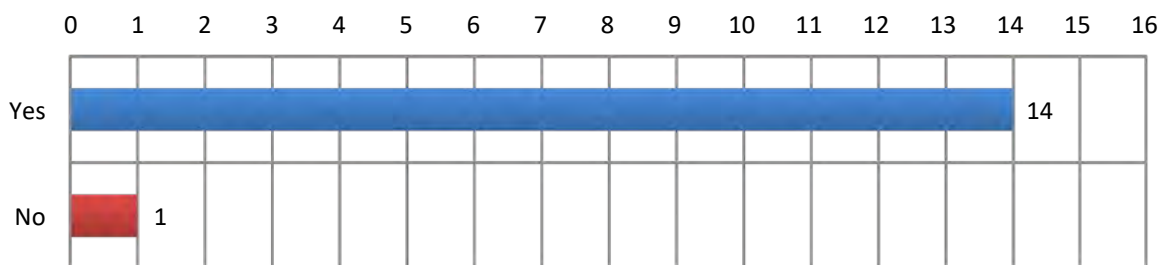
In regards to quality of service, should the City regulate: **Driver dress/appearance**
(not applicable to D.D.s)?



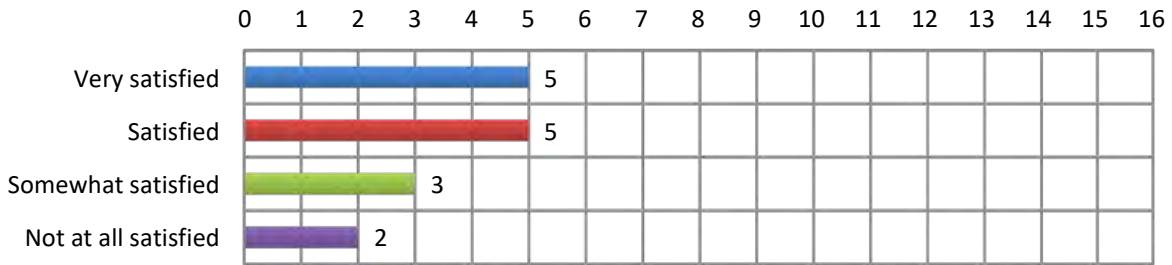
In regards to quality of service, should the City regulate: **Cleanliness of vehicle**
(not applicable to D.D.s)



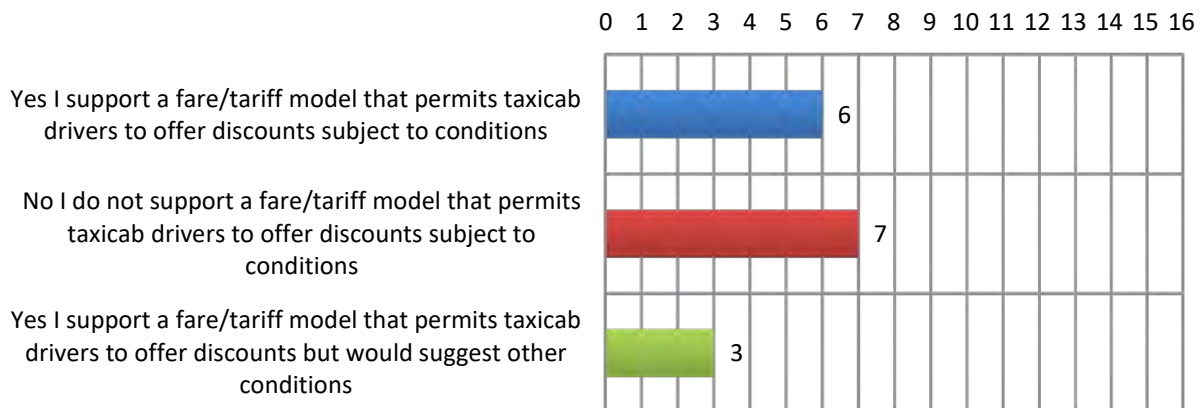
Do you believe the City should regulate vehicles-for-hire?



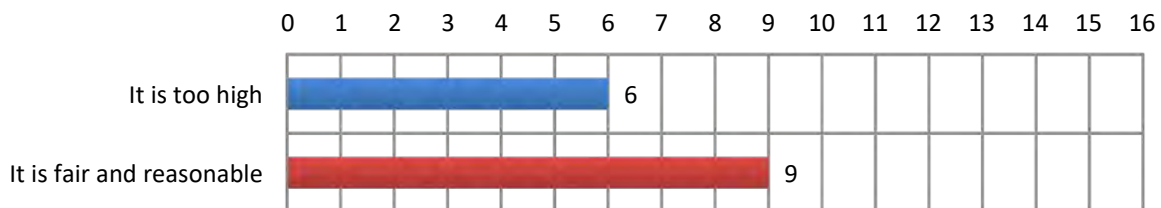
How do you feel about the current taxicab fare/tariff model?



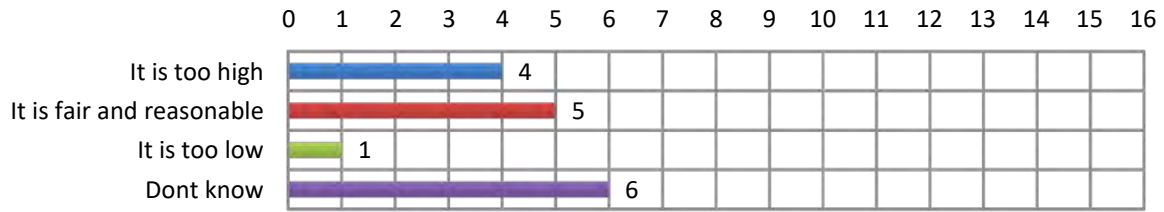
Do you support changing the current fare/tariff model to permit taxicab drivers to offer discounts to the taximeter rate subject to conditions?



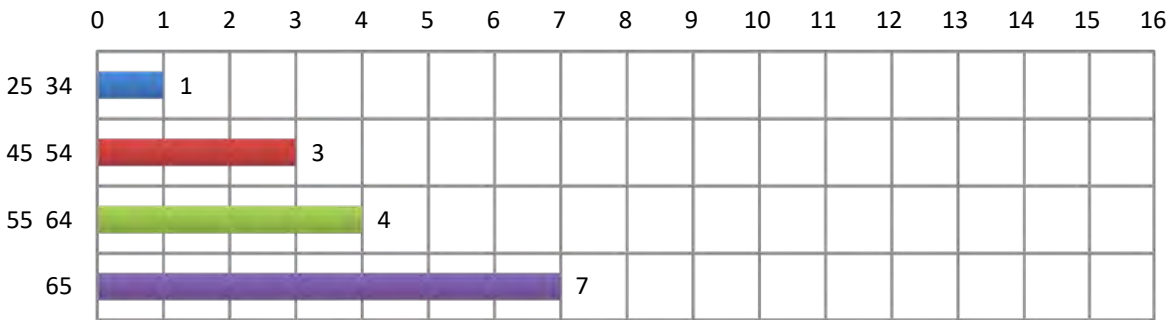
What do you think about the current fee of \$150 for a two-year driver's licence for taxi drivers and D.D. drivers?



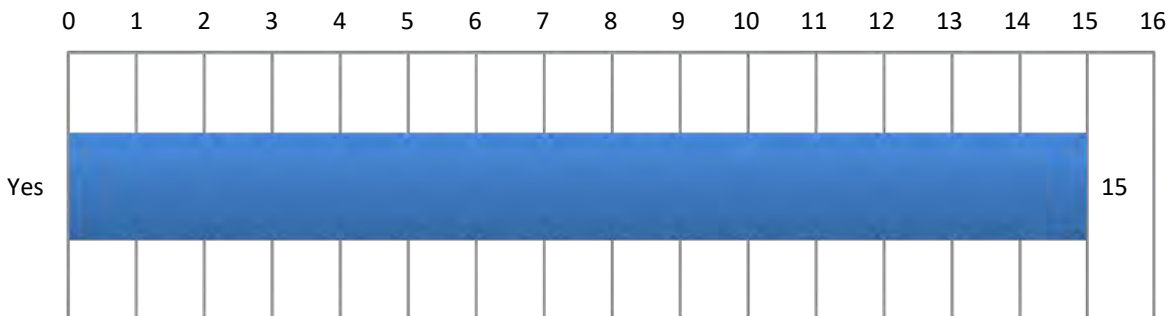
What do you think about the current fee of \$250 for an annual licence for taxi brokers, taxi owners, and D.D. brokers



How old are you?

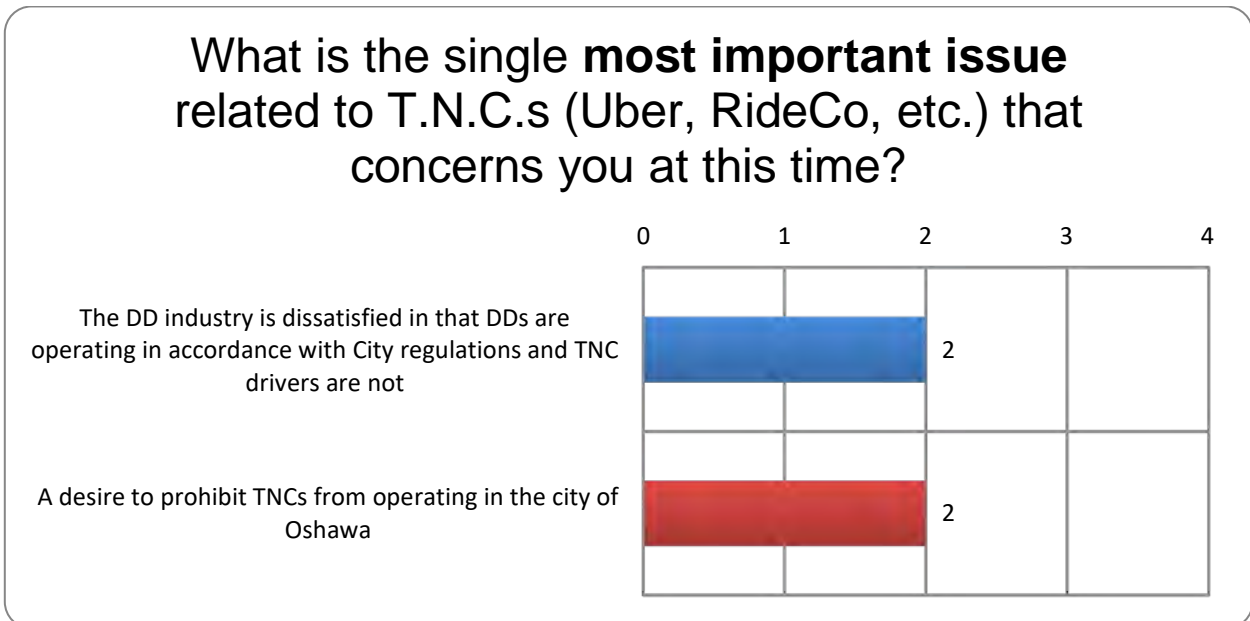
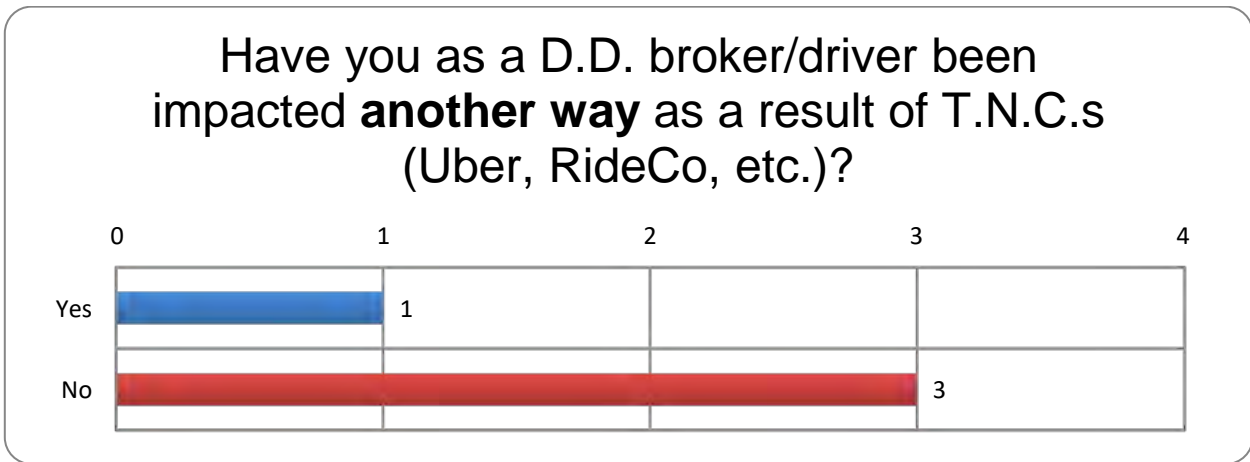
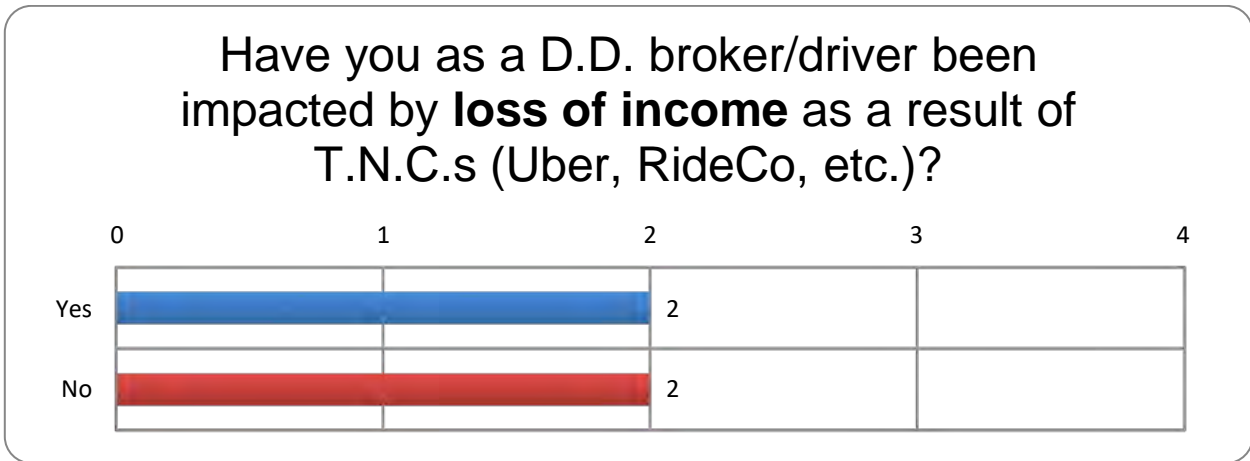


Are you an Oshawa resident?

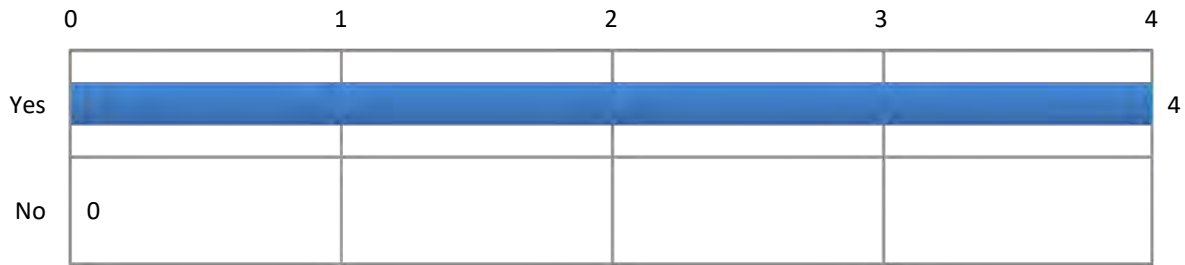


Survey Responses: D.D. Brokers and Drivers

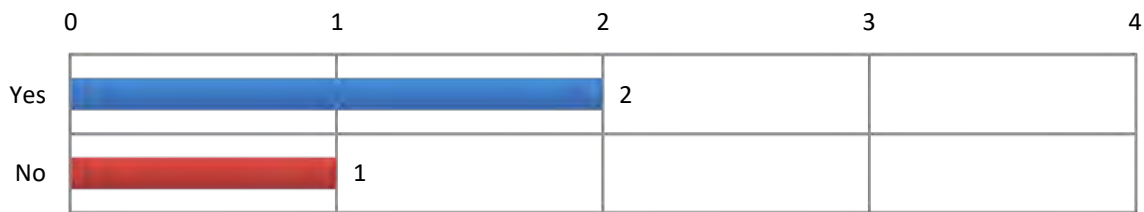
Sample size: 4 D.D. Brokers and/or Drivers



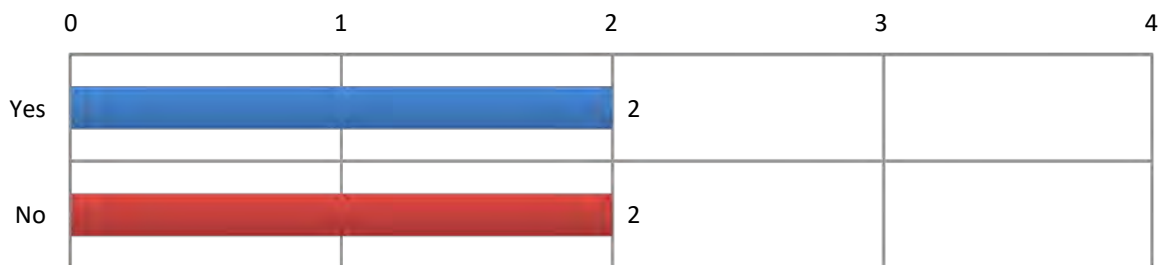
In regards to safety, should the City regulate:
Screening of drivers?



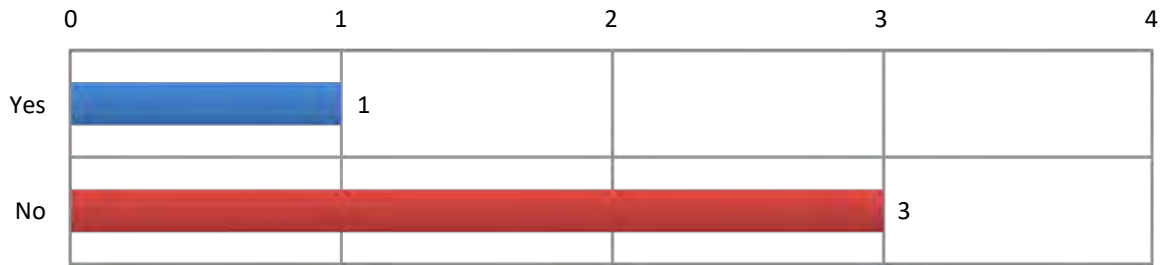
In regards to safety, should the City regulate:
Inspecting of vehicles?
 (not applicable to D.D.s)



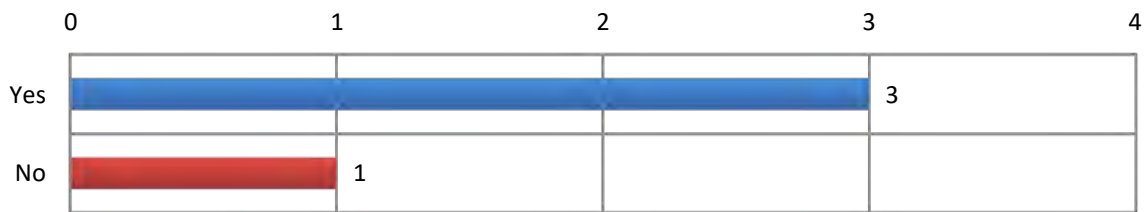
In regards to safety, should the City regulate:
Requiring of insurance?



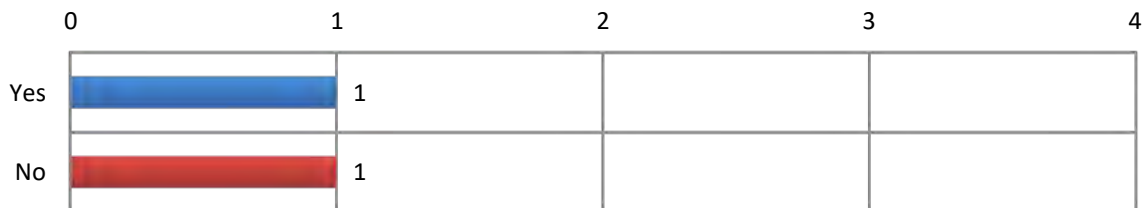
In regards to consumer protection, should the City regulate: **Fares?**



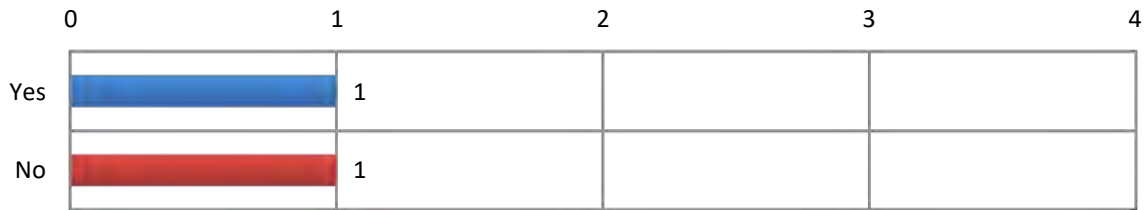
In regards to consumer protection, should the City regulate: **Record-keeping requirements?**



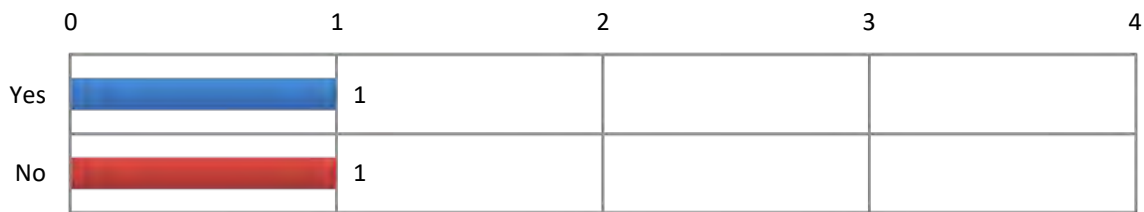
In regards to quality of service, should the City regulate: **Availability of service?**
(not applicable to D.D.s)



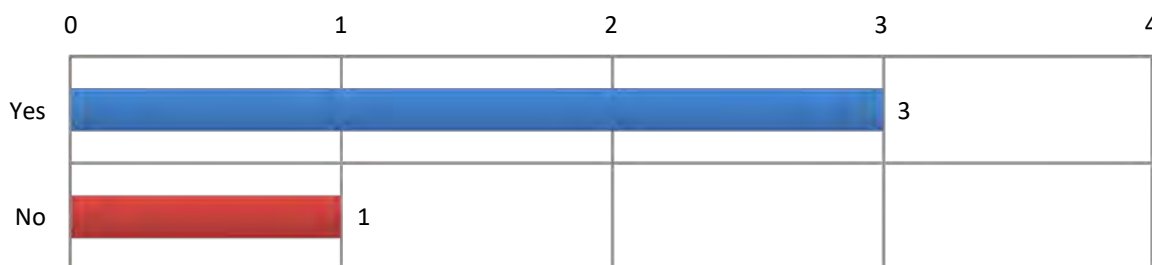
In regards to quality of service, should the City regulate: **Driver dress/appearance?**
(not applicable to D.D.s)



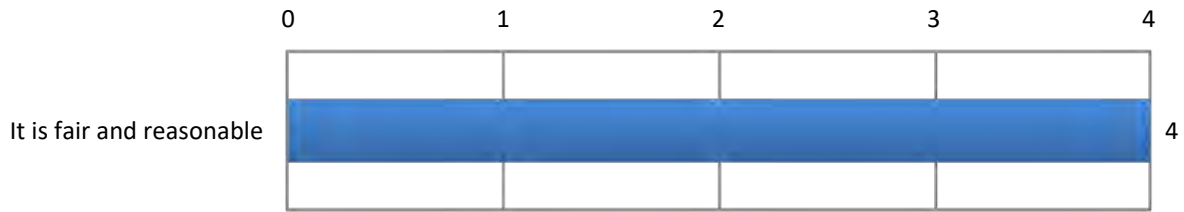
In regards to quality of service, should the City regulate: **Cleanliness of vehicle?**
(not applicable to D.D.s)



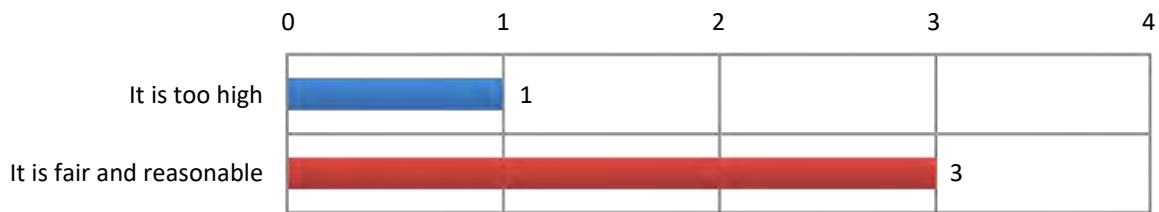
Do you believe the City should regulate vehicles-for-hire?



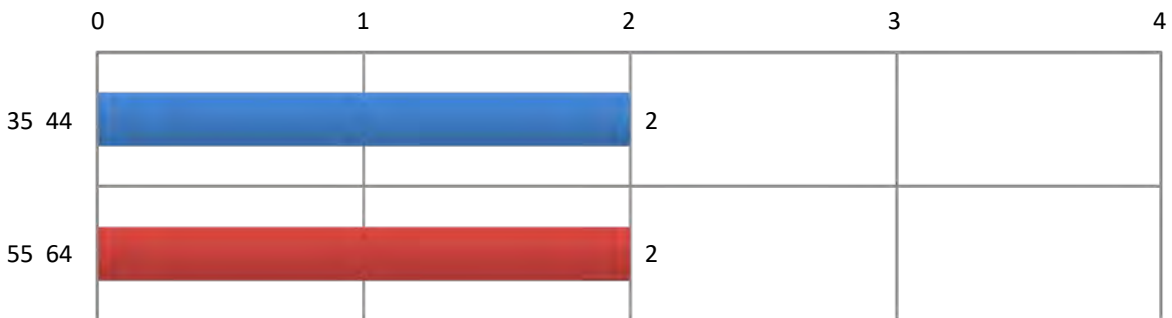
What do you think about the current fee of \$150 for a two-year driver's licence for taxi drivers and D.D. drivers?



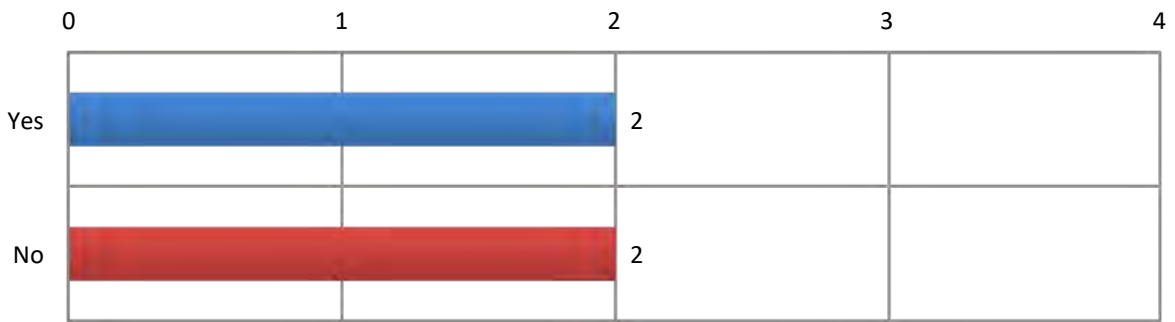
What do you think about the current fee of \$250 for an annual licence for taxi brokers, taxi owners, and D.D. brokers?



How old are you?



Are you an Oshawa resident



Public Report

To: Corporate Services Committee

From: Beverly Hendry, Commissioner,
Corporate Services Department

Report Number: CORP-17-24

Date of Report: May 4, 2017

Date of Meeting: May 8, 2017

Subject: Transportation Network Companies and Proposed Public and
Industry Stakeholder Consultation Process

File: D-2200

1.0 Purpose

This report presents information on Transportation Network Companies and recommends that staff initiate a public and industry stakeholder consultation process and report back with potential policy options for the Corporate Services Committee's consideration at its September 11, 2017 meeting.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

- 1) That staff be authorized to initiate a public and industry stakeholder consultation process as detailed in Section 5.4 of report CORP-17-24;
- 2) That staff develop potential policy options taking into account feedback from the consultation process and report back to the Corporate Services Committee at its September 11, 2017 meeting; and,
- 3) That all correspondence on the subject of Transportation Network Companies be forwarded to staff for direct response and/or consideration in the forthcoming report.

3.0 Executive Summary

Transportation Network Companies (T.N.C.s) have established operations in many Ontario municipalities including in the City of Oshawa. The entrance of T.N.C.s in the provision of private transportation services, a sector traditionally regulated by many municipalities, has introduced a host of issues - the most important being the need to ensure consumer protection and health and safety. This report provides information on T.N.C.s and

recommends that staff be authorized to initiate a public and industry consultation process and that staff report back with potential policy options at the Corporate Services Committee's September 11, 2017 meeting.

4.0 Input From Other Sources

The following have been consulted in the preparation of this report:

- City Manager
- Legal Services
- Strategic Initiatives
- Ontario municipalities including: Hamilton, Mississauga, Oakville, Pickering, Ajax, Whitby, and Clarington

5.0 Analysis

5.1 Background

The issue of T.N.C.s (also referred to as private transportation companies and/or ride-sharing companies) has been considered by the Corporate Services Committee ("Committee") on multiple occasions. Accordingly, Committee directed staff to consider the issue of T.N.C.s and to report back. This report provides information on T.N.C.s; recommends that staff initiate a comprehensive public and industry stakeholder consultation process; and that staff report back with potential policy options at Committee's September 11, 2017 meeting.

5.1.1 Defining Transportation Network Companies

T.N.C.s are companies that connect passengers with drivers for hire through a mobile application ("app"). Examples of T.N.C.s include, but are not limited to: Uber, Lyft, and RideCo. Perhaps the most comprehensive definition of a T.N.C. is provided by the Commission of the State of California which defines T.N.C.s as:











"an organization whether a corporation, partnership, sole proprietor or other form...that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using their personal vehicles."¹

By extension, T.N.C. drivers are individuals other than a licensed taxicab driver or designated driver (D.D.) who provide pre-arranged transportation services to passengers for a fee using a T.N.C.'s app. While some taxicab and D.D. brokers have developed apps that connect passengers to licensed taxicabs or D.D.s, T.N.C.s differ in that the payment is

¹ Peevey, Michael R, ed. Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry 20, December 2012, San Francisco. City of San Francisco: Public Utilities Commission of the State of California p 2.

entirely cashless, trips are arranged exclusively through the app and street hails are not permitted. In contrast, licensed taxicab and D.D. brokers arrange rides through various means including street hails, telephone, and apps and accept cash in addition to electronic payment. There is also greater distinction between D.D.s and T.N.C.s (and taxicabs) in that D.D.s provide transportation services in the client’s vehicle. Another distinction is that T.N.C. drivers, similar to D.D.s, predominately work part-time whereas taxicab drivers predominantly work full-time. The aforementioned distinctions are depicted in **Table 1** for reference purposes.

Table 1 Principal Distinctions Between T.N.C.s, Taxis, and D.D.s

	T.N.C. Driver	Taxicab Driver	Designated Driver
Conveyance of Passenger(s)	Personal Vehicle	Commercial Vehicle	Customer’s Personal Vehicle
Arranging/Hailing of Rides		  	   ²
Employment Classification of Driver	Predominantly Part-Time	Predominantly Full-Time	Predominantly Part-Time
Legend	 Mobile Application	 Phone	 Street Hail

5.1.2 General Business Model of T.N.C.s

The general business model of T.N.C.s shares the following five (5) common elements:

Technology - Customers arrange rides with T.N.C.s through an app and are able to monitor the status of their pick-up/location of the T.N.C. driver via Global Positioning System in real time. The app allows the customer to input an address for the pick-up location or, in the absence of an address, the customer is able to select a pick-up location on the map. When a pick-up is arranged, the customer is provided with their T.N.C. driver’s information which typically includes:

- name and picture of the T.N.C. driver;
- details of their vehicle (make, model, and licence plate number); and,

² Only licensed Designated Drivers who are similarly licensed as D.D. Brokers may arrange for the provision of designated driving services through a street hail.

- reputational ranking

T.N.C. drivers can call their customers to provide updates on their arrival or to acquire more details on their pick-up location.

Driver Screening – Recognizing that there is a need to ensure a level of consumer protection, many T.N.C.s have established driver screening processes as part of their online driver intake process. T.N.C. driver screening processes typically includes requiring the T.N.C. applicant to submit:

- personal details (name, age, valid drivers' licence, address, email, etc.)
- details about their vehicle (licence plate number, ownership documents, etc.)
- mechanical safety certificates for their vehicle (i.e. vehicle inspection for mechanical safety)

In addition, the T.N.C. conducts a background check on behalf of the T.N.C. driver through a third-party service that attains the T.N.C. driver applicant's Criminal Information Report and Drivers Abstract (i.e. driving record). It is worthwhile to note that municipal regulations have acted as a catalyst for the development of T.N.C. driver screening processes.

Reputational Rankings – Both T.N.C. drivers and customers rate each other at the conclusion of the ride. The reputational ranking of both the T.N.C. driver and customer is disclosed to both parties at the time a ride is arranged. T.N.C.s leverage the peer-to-peer reputational ranking system to ensure better customer service and good behavior. Moreover, some T.N.C.s have established policies to deny a T.N.C. driver access to their app if the driver's ranking falls below a certain threshold.

Payment – Transactions between T.N.C.s and customers is entirely cashless. T.N.C.s generally require customers to maintain a credit card on their account and customers are emailed a receipt at the conclusion of their journey.

Fares – Fares, similar to traditional taxicabs, are measured by time and distance travelled. T.N.C. off-peak fares tend to be cheaper than the regulated fares charged by taxis. Notwithstanding this, T.N.C.s leverage data to implement dynamic pricing whereby the price of the service varies depending on the supply of the service (i.e. number of T.N.C. drivers available in a geographical area) and the demand for the service (i.e. number of customers requesting rides). Specifically, T.N.C.s will discount fares during off-peak demand periods and will conversely raise rates, also referred to as "surge pricing"³, during peak demand periods.

³ Lyft refers to peak pricing as "Prime Time".

5.1.3 City of Oshawa and the Regulation of Private Transportation Services

Municipalities are authorized pursuant to the Municipal Act, 2001 to regulate taxicabs and other modes of private transportation services to achieve various public policy objectives. The City of Oshawa articulates its rationale for regulating taxicabs in Schedule 4 of Taxicab Licensing By-law 50-2003 ("Taxicab Licensing By-law") for the following three (3) reasons:

- **Health and Safety:** to enhance and encourage safe maintenance and operational practices for drivers and owners; ensure experienced and qualified drivers are providing services; supply passengers with drivers who have proven themselves to be trustworthy to care for their belongings and their person; and ensure accountability of industry participants for health and safety issues.

Examples of standards:

- Driver Screening and training
 - Providing a smoke free environment
 - Requiring vehicle mechanical safety checks
 - Requiring taxicab safety features such as emergency lights
 - Providing assistance to passengers with accessibility needs
- **Consumer Protection:** to enhance and encourage equal, fair and courteous treatment of passengers, drivers, owners and brokers; protect the property of passengers; ensure competence of owners and drivers in providing taxicab services; promote accountability; ensure consistency in the application of fares; and support proper and good business practices.

Examples of standards:

- Regulating fares and inspecting meters
 - Requiring taxicab drivers to maintain trip sheets
 - Requiring taxicab drivers to undertake training, including accessibility training and first aid certification
- **Nuisance Control:** to promote professional behaviour; fair dealing amongst participants in the industry; ensure courteous treatment; and limit or mitigate unsightliness, unnecessary noise, nuisance or disruption for passengers, Drivers, Owners, Brokers and the general public.

Examples of standards:

- Prohibiting advertising on and within taxicabs
- Establishing driver dress code
- Establishing driver conduct code
- Requiring a taxicab to be inspected daily to ensure that it is clean and free of debris

In addition to taxicabs, the City regulates D.D. services pursuant to Licensing By-law 120-2005. While there are a number of minor differences in the D.D. service model, the rationale for regulating D.D.s is similar to that of the Taxi industry.

5.1.4 City By-laws and T.N.C.s

The City's Taxicab Licensing By-law defines "Taxicab" as including "[...] any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area [...]". The Taxicab definition excludes certain vehicles such as an ambulance, or a funeral hearse, or a motor vehicle operated by a licensed D.D. pursuant to Licensing By-law 120-2005. Vehicles driven by T.N.C. drivers are not excluded from the definition. The T.N.C. business model contemplates that drivers convey paying passengers in the drivers' vehicles. To this extent, at least, the T.N.C. business model does not comply with the City's Taxicab Licensing By-law. When providing their services, T.N.C. drivers, are considered to be operating a Taxicab, contrary to the Taxicab Licensing By-law by conveying passengers in a vehicle for a fee.

5.1.5 The Sharing Economy

The entrance of T.N.C.s in the City of Oshawa's broader private transportation services sector is directly related to the changing nature of work, and specifically, the introduction of the "sharing economy" defined as,

"a paradigm of peer-to-peer lending that enables the sharing, borrowing or bartering of underutilized assets in exchange for goods, services or money. Ultimately, it describes transactional relationships that shift the value from ownership to that of access, where assets of all kinds can be made available on a short-term basis. It is a fundamentally community-driven approach."⁴

Indeed, municipalities are at the forefront of where the impacts of the sharing economy are felt the most. In the context of private transportation services, T.N.C.s encourage vehicle owners to unlock the value of their underutilized vehicles by facilitating the provision of private transportation services; specifically, the T.N.C. connects vehicle owners who are offering rides with the traveling public. In some cases, T.N.C.s provide these services without regard to municipal and other standards that otherwise apply to such services. Despite providing consumers with alternative transportation options, T.N.C.s raise a number of significant public policy issues.

5.1.6 Issue Definition

The principal issue is that the City's highly regulated Taxi industry is facing competition from new entrants who operate in contravention of the City's Taxicab Licensing By-law, a by-law in need of modernization. It is also important to note that in addition to the principal issue, the entrance of T.N.C.s within the City of Oshawa's broader private transportation industry requires the City to address other issues including, but not limited to:

⁴ Van den Steenhoven, Joeri, Idil Burale, Venessa Toye, and Claire Buré. Shifting Perspectives redesigning regulation for the sharing economy. Rep. MaRS Solutions Lab, Mar. 2016. Web. 21 Apr. 2017.

- Consumer protection: driver screening, insurance, mechanical safety of vehicles, fares, etc.
- Accessibility issues
- The need to modernize taxicab standards
- Private transportation options that are responsive to the public's changing needs
- Potential delegation of licensing authority to third parties
- The evolving role of licensing staff to include a monitoring and auditing capability for this type of business
- The recovery of costs for City services associated with the entrance of new private transportation services

It is important to note that the aforementioned issues are not unique to the City of Oshawa. Rather, these issues have been raised in many international jurisdictions where T.N.C.s operate.

5.1.7 The Sharing Economy: Regulatory Paradigm Shift and Future Opportunities

The rise of the sharing economy presents a number of issues; however, this new paradigm similarly presents new opportunities for municipalities. One such opportunity is a potential change in the City's traditional role of administering licensing processes to an auditing role whereby certain licensing administrative authorities are delegated to a third party and the City, through data-arrangements, is able to periodically audit the third party for compliance. Such a shift in roles could allow the City to realize greater efficiencies; provide industry participants with a more accessible licensing process; and support transportation options in the realm of private transportation services.

It is important to note that these new developments are not unique to T.N.C.s. Taxis and D.D.s have similarly informed the City of new technological innovations within their industries and have similarly expressed their desires for the modernization of regulations. New innovations in private transportation services and its associated challenges are timely. In the recent Council-approved staff report DS-17-68, the City identified an opportunity to develop partnerships with several post-secondary institutions and the Canadian Urban Institute to establish Oshawa as a Centre of Urban Innovation. The general intent of the initiative is to test solutions that respond to complex urban issues in a manner that positions the City as a recognized leader on urban issues. Accordingly staff will explore opportunities for collaborative research with parties of the Centre of Urban Innovation initiative on the issue of T.N.C.s and the future of regulated private transportation services in the City of Oshawa.

5.2 Provincial Developments and Municipal Responses to Regulating T.N.C.s

The regulatory response to T.N.C.s has been diverse across various jurisdictions and T.N.C. regulatory regimes have gradually been introduced to govern the operations of T.N.C.s and T.N.C. drivers. This section provides information on staff's environmental scan of various regulatory responses.

5.2.1 Developments at the Provincial Level

Given that the regulation of the taxi industry has historically been the domain of municipalities, there has been a limited response at the provincial level to addressing the T.N.C. issue. Developments at the provincial level includes, as outlined below, a Private Member's Bill, introduced by former Member of Provincial Parliament Tim Hudak, and amendments to the Insurance Act, 1990 to permit insurance companies to offer insurance products that cover T.N.C. activities.

- **Bill 131, Opportunity in the Sharing Economy Act, 2015** - On October 27, 2015 the Province of Ontario considered a Private Member's Bill, Bill 131, Opportunity in the Sharing Economy Act, 2015 ("Bill 131") which sought to introduce regulations for the broader sharing economy including standards for ride-sharing, home-sharing (ex. Airbnb), and the sharing of residential parking spaces. Bill 131 was referred to the Standing Committee on Finance and Economic Affairs on October 29, 2015. If approved, Bill 131 would legalize T.N.C.s and would require T.N.C.s to either obtain a licence from a municipality or, if no municipal licensing regime exists, from the Ontario Highway Transportation Board. Bill 131 would limit certain licensing powers. For example, municipalities could not establish rates for fares or limit the number of licensed T.N.C.s or T.N.C. drivers.
- **Changes to Insurance Coverage** – In July 2016, the Province of Ontario, through the Financial Services Commission of Ontario (F.S.C.O.), approved changes to the Insurance Act, 1990 allowing insurers to offer blanket fleet coverage ("fleet coverage") for private passenger automobiles used in the transportation of paying passengers. The F.S.C.O. has approved fleet auto insurance coverage for the following T.N.C.s⁵:
 - Uber – policy provided by Intact Insurance (effective July 7, 2016)
 - RideCo – policy provided by Northbridge Insurance (effective December 1, 2016)

In general terms, insurance coverage is provided to the driver, passenger(s) and vehicle from the moment the T.N.C. app is turned on to the moment the passenger(s) exit the vehicle.⁶ When the T.N.C. app is turned off, the T.N.C. driver's personal automobile insurance policy applies.

In addition to fleet coverage, the insurance provider Aviva offers a ride-sharing insurance policy to prospective T.N.C. drivers. Coverage operates in the same way as fleet coverage in that coverage is provided to the driver, passenger(s) and

⁵ Ontario, Financial Services Commission of. "Ridesharing and auto insurance in Ontario." Financial Services Commission of Ontario / Commission des services financiers de l'Ontario. Financial Services Commission of Ontario, Corporate Policy and Public Affairs Branch, 2 Dec. 2016. Web. 24 Apr. 2017.

⁶ Ibid.

vehicle from the moment the T.N.C. app is turned on to the moment the passenger(s) exit the vehicle.⁷ The requirements for Aviva's policy are as follows:

- Designed for part-time drivers who ride-share up to a maximum of 20 hours per week
- Contracted with a transportation network company
- Six (6) years minimum licensed (G2 and up) in Canada or US
- Vehicle carries a maximum of eight (8) people
- No commercial use, such as delivery of goods, including food or courier services
- Not registered as a taxi or limousine

Prior to changes to the Insurance Act, 1990 and Aviva's ridesharing insurance product, T.N.C. drivers were primarily relying on their own standard automobile insurance policies to respond to potential claims resulting from their T.N.C. activities. This presented risks to public safety and consumer protection in that standard automobile insurance policies do not provide coverage for claims resulting from the use of a vehicle to convey paying passengers.

5.2.2 Municipal Response

The regulation of T.N.C.s has predominantly been addressed at the local level. Numerous municipalities in Ontario, and across Canada, have approved regulatory regimes which have established operating standards for T.N.C.s and T.N.C. drivers. Staff undertook a preliminary survey of municipal T.N.C. regulatory regimes detailed in **Attachment 1**.

The common elements of municipal regulatory regimes are as follows:

- **Driver Screening** – Municipalities establish minimum standards for driver screening with respect to criminal convictions and level of driving offences for the purposes of registering drivers on the T.N.C.'s platform or issuing a T.N.C. driver's licence on behalf of a municipality. T.N.C.s are permitted to screen drivers using third-party background check providers who attain Criminal Reference Checks and Driver Abstracts on behalf of the T.N.C. and T.N.C. driver applicant.
- **Vehicle Standards** – Municipalities establish minimum standards for vehicles respecting the age of the vehicle; display of a T.N.C. decal/signage; and annual vehicle inspections.
- **Licensing fee structure** – It is common for municipalities to establish a licensing fee structure which includes a combination of:
 - Flat annual T.N.C. licensing fee;
 - Per driver fee; and/or
 - Per trip fee

⁷ Aviva. "Ride-sharing Insurance." *Aviva Canada*. N.p., 01 Feb. 2016. Web. 24 Apr. 2017.

- **Insurance requirements** – Municipalities have established insurance requirements for T.N.C.s and T.N.C. drivers to ensure that appropriate levels of insurance coverage is provided to both the T.N.C. driver and customer when the service is provided.
- **Auditing** - To ensure compliance with municipal by-laws, municipalities often require T.N.C.s to submit data on a regular and/or as-needed basis for staff to audit. Municipal data requests typically include all T.N.C. driver and vehicle screening documents, trip history, etc.
- **Security Technology (ex. in-car cameras)** – T.N.C. drivers are not required to install security technologies such as in-car cameras and/or emergency lighting systems as T.N.C. drivers do not pick-up street hails and both the T.N.C. driver and customer are provided with each other's information (ex. name, phone number, licence plate number, etc.).
- **Limit on number of T.N.C. drivers/vehicles operating within municipal boundaries** – All surveyed municipalities did not limit the number of T.N.C. drivers/vehicles that could operate within their respective municipal boundaries.

Staff contacted the Durham lakeshore municipalities of Pickering, Ajax, Whitby and Clarington as part of the municipal survey. The majority of Durham lakeshore municipalities reported they are in the initial stages of examining the issue of T.N.C.s. The Town of Ajax is the only municipality to complete a T.N.C. public consultation process. The City will continue to engage its municipal counterparts, specifically those in the Region of Durham, for updates on their efforts to address the T.N.C. issue.

5.3 City's Current Approach to Addressing T.N.C.s in Oshawa

T.N.C. activities within the City of Oshawa are considered to be in contravention of the City's Taxicab Licensing By-law. In response, the City's Municipal Law Enforcement (M.L.E.) Services has initiated targeted special enforcement projects to enforce the Taxicab Licensing By-law. The enforcement project has proceeded in stages commencing with an education phase where Officers inform violators of relevant City standards to an enforcement phase where tickets are issued for contraventions.

Many municipalities have established T.N.C. regulatory regimes which generally included harmonized standards (where applicable) for both their local taxi industries and T.N.C.s. Initial consultation with municipal counterparts has identified that the regulatory approach has been positive in that it has addressed many public policy objectives. The aforementioned policy response which seeks to "even the regulatory playing field" is worthy of further consideration.

5.4 Proposed Public and Industry Stakeholder Consultation Process

The operations of T.N.C.s in the City of Oshawa impact a myriad of different stakeholders who hold diverse perspectives on T.N.C.s. At present time, staff have gathered initial input from members of the Taxi industry and, to a lesser extent, members of the D.D. industry.

This input was collected from submitted correspondence and delegations at various Corporate Services Committee meetings. Key points are summarized below:

Summary of Initial Input from Taxi and D.D. Industries

- The Taxicab Licensing By-law should be enforced
- The Taxi industry is dissatisfied in that Taxis are operating in accordance with City regulations and T.N.C. drivers are not
- Ensuring the safety of drivers and their passengers is essential
- Some delegates expressed a general desire to harmonize regulations⁸ i.e. provide a “level playing field” between T.N.C.s, Taxis, and D.D.s in an equitable manner noting they are not “afraid” of competition from T.N.C.s
- Some delegates expressed a desire to prohibit T.N.C.s from operating in the City of Oshawa
- Some members of the Taxi industry have requested changes to existing regulations to accommodate the introduction of new taxi technologies
- Some former T.N.C. drivers are interested in becoming full-time licensed taxi drivers but the “start-up” costs of taxicab driver regulation are too great
- The Taxi industry has apps capable of servicing the City in the same way T.N.C.s do
- T.N.C.s and T.N.C. drivers should pay taxes and/or licensing fees

Despite collecting initial input from the Taxi and D.D. industries, staff have identified a need to initiate a public and industry stakeholder consultation process to reaffirm the Taxi and D.D. industries’ views and to engage other stakeholders, namely the public and T.N.C.s. Accordingly, staff are proposing the following consultation process detailed in **Table 2**. The proposed public and industry stakeholder consultation process is comprised of an online survey, and facilitated and public meetings.

Table 2 Proposed Public and Industry Stakeholder Consultation Process

Stakeholder	Type of Consultation	Proposed Number of Meetings	Timeline
All (ex. Public, Taxis, D.D.s, T.N.C. drivers)	Online	Not applicable	June – August 2017
Public	Public Meeting	2	June – July 2017
Taxi Industry	Facilitated Meeting	2	June – July 2017
T.N.C.s	Meeting	2	June – July 2017
D.D. Industry	Facilitated Meeting	1	June – July 2017

Note:

- The public meeting format will include a short presentation, a question and answer period followed by opportunities to interact with City staff.

⁸ Includes standards related to: Driver Screening, Vehicle Safety, Insurance etc.

- Where more than one meeting is contemplated per stakeholder group, staff are proposing that meetings be held both during the day-time and evening hours.
- It is proposed that the facilitated meeting for the D.D. industry be initiated during the early afternoon between Monday and Wednesday when calls-for-service are typically lower.

The proposed public and industry consultation process will be extensive. Each consultation session will be tailored to the stakeholder group with the aim of accurately identifying:

- the current state of Oshawa's private transportation industry;
- each stakeholders' unique concerns, needs and priorities; and
- opportunities to modernize existing regulations while addressing the City's public policy objectives.

5.5 Conclusion: Next Steps

The entrance of T.N.C.s has introduced a plethora of new issues, which impact a broad range of stakeholders and require municipalities to address - the most salient being the need to ensure consumer protection and health and safety. Accordingly, it is recommended that staff be authorized to initiate a public and industry stakeholder consultation process and report back to the Corporate Services Committee's September 11, 2017 meeting with potential policy/regulatory options.

6.0 Financial Implications

The recommendation to initiate a public and industry stakeholder consultation process presents an approximate cost of \$1,500 associated with providing public notice in the form of newspaper advertising.

7.0 Relationship to the Oshawa Strategic Plan

The recommendations in this report respond to the Oshawa Strategic Plan Goal of 4.2: Accountable Leadership: Deliberate Community Engagement, and Develop and Leverage Relationships.



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services











































Beverly Hendry, Commissioner,
Corporate Services Department

Attachment

T.N.C. Regulatory Regimes and Municipal Survey (April 2017)

Note: Table is for reference purposes only. Information was attained from a combination of phone interviews and a review of municipal by-laws and reports.

Legend	
	Yes
	No

	Barrie ¹	Hamilton	Mississauga ²	Niagara Region ³	Oakville	Ottawa	Toronto	Waterloo Region
T.N.C. Licensed								
T.N.C. Drivers Licensed								
Who Licenses/Screens T.N.C. Drivers	T.N.C.	T.N.C.	T.N.C.	Niagara Region ⁴	T.N.C.	T.N.C.	T.N.C.	T.N.C.
Limit on Number of T.N.C. Drivers								
Driver Screening Standards								
Valid Driver's Licence								
Criminal Information Report								

¹ Standards relate to Barrie's two-year T.N.C. Pilot Project

² Standards relate to Mississauga's 18 month T.N.C. Pilot Project

³ T.N.C. regulatory regime administered by Niagara Regional Police Services (N.R.P.S.)

⁴ T.N.C. collects documents on behalf of T.N.C. drivers and remits to N.R.P.S. for screening.

	Barrie ⁵	Hamilton	Mississauga ⁶	Niagara Region ⁷	Oakville	Ottawa	Toronto	Waterloo Region
Drivers Abstract	✓	✓	✓	✓	✓	✓	✓	✓
Medical Clearance Letter/Certificate	✗	✗	✗	✗	✗	✗	✗	✗
Licensing Fees								
T.N.C. Licence Fee	✓	✓	✓	✓	✓	✓	✓ ⁸	✓
Per T.N.C. Driver Fee	✗	✗	✗	✗	✗	✗	✓	✓
Per Trip Fee	✓	✓	✓	✓	✓	✓	✓	✗
Vehicle Standards								
Annual Inspection	✓	✓	✓	✓	✓	✓	✓	✓
Mechanical Safety Certificate	✓	✓	✓	✓	✓	✓	✓	✓
Vehicle Age Limit	✗	10 Years	7 Years	10 Years	7 Years	10 Years	7 Years	✗
Vehicle Door Requirement	✗	✗	4 Doors	✗	4 Doors	✗	4 Doors	✗
Security Cameras	✗	✗	✗	✗	✗	✗	✗	✗
T.N.C. Signage/Decal	✗	✓	✓	✓	✓	✗	✓	✓
Valid Insurance	✓	✓	✓	✓	✓	✓	✓	✓

⁵ Standards relate to Barrie's two-year T.N.C. Pilot Project

⁶ Standards relate to Mississauga's 18 month T.N.C. Pilot Project

⁷ T.N.C. regulatory regime administered by Niagara Regional Police Services (N.R.P.S.)

⁸ One-time application fee

	Barrie ⁹	Hamilton	Mississauga ¹⁰	Niagara Region ¹¹	Oakville	Ottawa	Toronto	Waterloo Region
Operating Standards								
Street Hails Permitted								
Dynamic (i.e. "Surge") Pricing Permitted								
T.N.C. Provides T.N.C. Driver Training								
Data/Record Keeping Requirements								
Municipality Maintains Data/Records: <ul style="list-style-type: none"> • Driver screening • Vehicle screening • Trip information 								
T.N.C. Remits Data/Records to Municipality								
Compliance Requirements								
Municipality Audits Data								
T.N.C. Creates Passenger and Driver Account for Municipality for Law Enforcement Purposes								



⁹ Standards relate to Barrie's two-year T.N.C. Pilot Project

































¹⁰ Standards relate to Mississauga's 18 month T.N.C. Pilot Project

¹¹ T.N.C. regulatory regime administered by Niagara Regional Police Services (N.R.P.S.)

T.N.C. Regulatory Regimes and Municipal Survey (March 2019)

Note: Table is for reference purposes only. Information was attained from a combination of phone interviews and a review of municipal by-laws and reports.

Legend	
	Yes
	No

	Barrie ¹	Hamilton	Mississauga ²	Niagara Region ³	Oakville	Ottawa	Toronto	Waterloo Region
T.N.C. Licensed								
T.N.C. Drivers Licensed								
Who Licenses/Screens T.N.C. Drivers	T.N.C.	T.N.C.	T.N.C.	Niagara Region ⁴	T.N.C.	T.N.C.	T.N.C.	T.N.C.
Limit on Number of T.N.C. Drivers								
Driver Screening Standards								
Valid Driver's Licence								

¹ Standards relate to Barrie's two-year T.N.C. Pilot Project

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	Barrie ⁵	Hamilton	Mississauga ⁶	Niagara Region ⁷	Oakville	Ottawa	Toronto	Waterloo Region
Criminal Information Report	✓	✓	✓	✓	✓	✓	✓	✓
Drivers Abstract	✓	✓	✓	✓	✓	✓	✓	✓
Medical Clearance Letter/Certificate	✗	✗	✗	✗	✗	✗	✗	✗
Licensing Fees								
T.N.C. Licence Fee	✓	✓	✓	✓	✓	✓	✓ ⁸	✓
Per T.N.C. Driver Fee	✗	✗	✗	✗	✗	✗	✓	✗
Per Trip Fee	✓	✓	✓	✓	✓	✓	✓	✓
Vehicle Standards								
Annual Inspection	✓	✓	✓	✓	✓	✓	✓	✓
Mechanical Safety Certificate	✓	✓	✓	✓	✓	✓	✓	✓
Vehicle Age Limit	✗	10 Years	7 Years	10 Years	7 Years	10 Years	7 Years	✗
Vehicle Door Requirement	✗	✗	4 Doors	✗	4 Doors	✗	4 Doors	✗
Security Cameras	✗	✗	✗	✗	✗	✗	✗	✗
T.N.C. Signage/Decal	✗	✓	✓	✓	✓	✗	✓	✓
Valid Insurance	✓	✓	✓	✓	✓	✓	✓	✓

⁵ Standards relate to Barrie's two-year T.N.C. Pilot Project

⁶ Standards relate to Mississauga's 18 month T.N.C. Pilot Project

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	Barrie ⁹	Hamilton	Mississauga ¹⁰	Niagara Region ¹¹	Oakville	Ottawa	Toronto	Waterloo Region
Operating Standards								
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T.N.C. Provides T.N.C. Driver Training								
Data/Record Keeping Requirements								
Municipality Maintains Data/Records: • Driver screening • Vehicle screening • Trip information								
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T.N.C. Creates Passenger and Driver Account for Municipality for Law Enforcement Purposes								

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