

Review of Options for the Regulation of Taxis and Transportation Network Companies

Recommendations

The Administration is making the following recommendations:

1. That the City Solicitor be requested to draft a comprehensive vehicle for hire bylaw in accordance with the Administration's recommendations outlined in this report.
2. That the City Solicitor be requested to draft a stand-alone TNC bylaw and consequential amendments to *The Taxi Bylaw, 2014* in accordance with the Administration recommendations outlined in this report pending completion of the comprehensive vehicle for hire bylaw.

Topic and Purpose

This report provides an update on the regulation of transportation network companies ("TNCs"), specifically, the contents and options for a TNC bylaw both as a comprehensive bylaw including TNCs, taxis and limousines ("vehicles for hire") and a stand-alone TNC bylaw to be used in the interim while a comprehensive vehicle for hire bylaw is created.

In considering the regulation of TNCs at a municipal level and in furtherance of creating a level playing field between TNCs and the taxi industry, this report reviews and compares regulations applicable to the taxi industry and elaborates on potential regulatory distinctions.

Highlights

1. The Province has passed *The Vehicle for Hire Act* (the "Act") which enables municipalities to regulate TNCs. It is anticipated that the Act would come into force in the fall of 2018 after *The Vehicle for Hire Regulations* (the "Regulations") are promulgated.
2. The regulation of TNCs will need to be addressed at a municipal level through the creation or amendment of City bylaws, with several options available.
3. This report sets out the possible content and form of a TNC bylaw with specific focus on regulatory distinctions between TNCs and the taxi industry for Committee and Council's Consideration.

Background

The Province has passed the Act to allow for operation of TNCs in Saskatchewan. It is anticipated that accompanying Regulations will not be promulgated until the fall of 2018 and the Act will not come into force until the Regulations are passed. After the Act comes into force, if City Council approves the operations of TNCs in the City, a bylaw will be required.

On December 18, 2017, City Council received a report from the Standing Policy Committee on Transportation providing an update on the options for the regulation of

TNCs together with options for potential amendments to taxi fleet and licensing structures and the results of a city-wide online survey concerning TNCs.

When considering the December 18, 2017 report, City Council, in part, resolved:

- “1. That the Administration report on the creation of a comprehensive vehicle for hire bylaw including contents and options of same and a stand-alone bylaw for TNCs with consequential amendments to the Taxi Bylaw; and
2. That the Administration be directed to report back concerning:
 - ...
 - d) Reviewing regulations applicable to the taxi industry to support a ‘level playing field’ should development of regulations for transportation network companies be approved by City Council.”

Report

This report is in response to the above noted December 18, 2017 City Council resolutions and addresses the potential content and form of a TNC bylaw, while comparing specific TNC regulatory criteria to the current regulation of taxis, and elaborating on regulatory distinctions in pursuit of creating a level playing field.

The Administration has reviewed various models for regulation across Canada and regulation through municipal bylaw is a common practice.

Comprehensive Vehicle for Hire Bylaw

The form and content of a bylaw varies by jurisdiction, but the model used by the majority of municipalities across Canada including Toronto, Ottawa, Calgary, Edmonton, London, Niagara and Barrie is a comprehensive bylaw encompassing all vehicles for hire under one piece of municipal legislation. This would include taxis, TNCs, and limousines. Currently, the Province regulates limousines separately from taxis. It is anticipated that limousines will fall under municipal jurisdiction in the future. Should this eventually come to pass, a comprehensive vehicle for hire bylaw would include regulation of limousines. This report will exclude limousines. Limousines will be reported on should it fall under municipal jurisdiction in the future.

The Administration has reviewed the content and structure of comprehensive bylaws from the referenced municipalities. Edmonton’s Vehicle for Hire Bylaw (the “Edmonton Bylaw”) was the primary focus of the review, due its relative longevity and proven effectiveness (many of the other bylaws are newly created and untested).

Under the Edmonton Bylaw, TNCs, taxis and limousines are grouped together under the “vehicle for hire” definition with a general section applying to all. The Edmonton Bylaw then separates regulation for TNCs, taxis and limousines into separate sections where regulations vary between the three forms of transportation. The Administration will look to adopt a similar form for a comprehensive vehicle for hire bylaw.

Generally, comprehensive bylaws address the following areas:

- Driver Screening;
- Vehicle Standards (ex. decals, information displayed, inspection requirements);
- Licensing;
- Insurance;
- Street Hailing;
- Auditing;
- Security Technology (ex. in-car cameras); and
- Limit on number of drivers/vehicles.

Stand-Alone TNC Bylaw

Given the complex nature of a comprehensive vehicle for hire bylaw as well as the anticipated requirement of municipal regulation of limousines, it is likely that drafting of a comprehensive vehicle for hire bylaw would not be completed until 2019.

The Administration recommends that Committee and Council provide direction to begin drafting of a comprehensive vehicle for hire bylaw consistent with the content and form outlined in this report. In the interim, to allow for TNC operation immediately upon passing of the Act, the Administration further recommends that Committee and Council provide direction to begin drafting of a stand-alone TNC bylaw and consequential amendments to *The Taxi Bylaw, 2014* as outlined in this report.

Use of a stand-alone bylaw for the regulation of TNCs is not common in Canada. The Administration proposes using this model as an interim measure to bridge the gap between the Act's passing (likely fall/winter of 2018) and the creation of a comprehensive vehicle for hire bylaw (2019). The repeal of the stand-alone bylaw would be dealt with upon the passage of the comprehensive bylaw.

A stand-alone bylaw would include provisions specific to TNCs alone, and would be incorporated into the comprehensive bylaw once drafted. The contents of such a bylaw would include all areas addressed in this report. Finally, because the Act requires a bylaw for TNCs to operate, a stand-alone bylaw will provide a model for smaller Saskatchewan municipalities to adopt in order to enable TNC operations in those jurisdictions.

A stand-alone bylaw will require concurrent amendments to *The Taxi Bylaw, 2014* to ensure consistency as discussed in this report. The Administration recommends that Committee and Council provide direction to begin drafting of a stand-alone TNC bylaw with appropriate amendments to *The Taxi Bylaw, 2014*.

Regulatory Aspects Which Apply to All Vehicles for Hire (Taxis and TNCs)

Administration Recommendation: comparable regulations for all vehicles for hire (taxis and TNCs) in the following areas:

1. **Drivers' Licensing** (Provincial requirement)
 - It is anticipated that the Regulations will contain a requirement for drivers of all vehicles for hire to hold a class 4 Saskatchewan driver's license. Currently, a class 4 license requires a driver's test, written test and commercial medical test. The total cost for an application is \$180. As this will be addressed in the Provincial legislation, the City's bylaw would contain provisions which follow the Provincial legislation.
2. **Insurance** (Provincial requirement)
 - The Act requires TNCs to obtain proper insurance, the specifics of which will be addressed in the Regulations. While requirements/policies for TNCs and taxis will not be identical, they will be comparable (SGI has stated that it will provide insurance based on the number of kilometres a driver records, also known as "pay as you go" which is different than the commercial insurance coverage currently available for taxis). Again, the City's bylaw will follow the Provincial legislation in this area.
3. **Display of Information**
 - It is proposed that there be a requirement for all drivers to display the following information inside the vehicle (for taxis) or through electronic means (for TNCs):
 - (a) the dispatcher's name and contact information;
 - (b) City contact information;
 - (c) the valid driver's licence issued to the person driving; and
 - (d) clear decal indicating applicable taxi fares.
 - This is a current requirement in *The Taxi Bylaw, 2014*
4. **Production of Documents**
 - It is proposed that there be a requirement for all drivers to produce documents on request to Police or City bylaw enforcement officer, including license, inspection certificate, proof of insurance and proof of registration.
 - This is a current requirement in *The Taxi Bylaw, 2014*.
5. **Vehicle Inspection**
 - Currently, *The Taxi Bylaw, 2014* requires annual vehicle inspections of taxis.
 - It is anticipated that there will be no Provincial requirements for TNCs.
 - If annual inspections are not a Provincial requirement, it is proposed they be addressed through bylaw for TNCs in a manner similar to taxis.
6. **Behavioural Expectations**
 - It is proposed that there be a requirement for all vehicle for hire drivers to provide safe, clean, honest and respectful service, specifically regarding the choice of routes, charging of fares and treatment of passengers.
 - This is a current requirement in *The Taxi Bylaw, 2014*.

7. **Requirement to Provide Service**
 - It is proposed that there be a requirement for all vehicle for hire drivers to provide service to any person when appropriately dispatched.
 - This is a current requirement in *The Taxi Bylaw, 2014*.

8. **Requirement to Report**
 - It is proposed that TNCs be subject to the same legal framework as taxi companies (as per current provisions of *The Taxi Bylaw, 2014*) with respect to releasing information to the City or Police for safety purposes. Most TNC apps have built-in functionality to allow for proactive disclosure of information, including: driver and vehicle information (e.g., driver name and photo, vehicle make, model, and license plate number); feedback mechanisms for driver and passenger rating; electronic receipts which provide details regarding the fare paid; starting and ending locations; ride duration; and distance, time, and date. TNCs typically retain this data on all rides for at least one year.

9. **Criminal Records Checks**
 - It is proposed that there be a requirement for criminal record and vulnerable sector checks for all vehicle for hire drivers. Taxi drivers require an annual check when their license is renewed; it is anticipated that it will be required for TNC drivers to have annual checks done through the TNC. It will be illegal to operate any vehicle for hire within the City if a driver has been convicted of criminal activity to be specified in the Regulations.

10. **Age of Vehicles**
 - It is proposed that there be a requirement for vehicles used in TNC operations to be no more than 10 model years old. Under *The Taxi Bylaw, 2014* taxis in operation must be no more than 7 years old; however, taxis will average more miles than a personal vehicle. Edmonton's Bylaw does not regulate vehicle age; however, this approach is in line with Calgary's *Livery Transport Bylaw*.

Same or similar regulatory provisions are summarized in Table 1 below.

Table 1 - Same or Similar Regulatory Provisions										
	Licensing of Drivers (Provincial requirement)	Insurance (Provincial requirement)	Display of Information Inside Vehicle	Production of Documents	Vehicle Inspection	Behavioural Expectations of Drivers	Requirement to Provide Service	Requirement to Report	Criminal Record Checks	Age of Vehicles
Taxis	Class 4 Drivers' License Saskatoon bylaw to be consistent	To be set by Province Saskatoon bylaw to be consistent	Requirement for all drivers to display the following information inside the vehicle: (a) the dispatcher's name and contact information; (b) City contact information; (c) the valid driver's licence issued to the person driving; and (d) clear decal indicating applicable taxi fares	Requirement for all drivers to produce documents on request to Police or City bylaw enforcement officer, including license, inspection certificate, proof of insurance and proof of registration Requirement for brokers to provide trip data and report to City	Requirement for annual vehicle inspection and upon request by City	Requirement for all vehicles for hire drivers to provide safe, clean, honest and respectful service	Requirement for all vehicle for hire drivers to provide service to any person when appropriately dispatched	Requirement to release information to City or Police for safety purposes	Requirement for criminal record and vulnerable sector checks	Taxi must be no more than 7 years old
TNCs	Same would apply	Same would apply	Same would apply; but would be allowed to display through electronic means in the approved app	Same would apply	Same would apply	Same would apply	Same would apply Would not apply to accessible rides at this time	Same would apply	Same would apply Responsibility for check is with the TNC (<i>The Vehicle for Hire Act & Regulations</i>)	TNC vehicles must not be more than 10 years old

Possible Regulatory Differences Between Taxis and TNCs

Based on the distinct natures of the taxi and TNC business models, regulatory differences are present in other jurisdictions and are being recommended by Administration. These recommendations are being made with public safety as a top priority.

The Administration is recommending regulatory distinctions for TNCs and taxis in the following areas (limousines will be dealt with in a separate report if they become subject to municipal regulation):

1. Street Hailing and Taxi Stands

Administration Recommendation:

- Taxis would continue to be allowed to pick up street hails and use taxi stands. TNCs would be limited to picking up dispatched fares through the approved app, and would be prohibited from picking up street hails or using taxi stands.
- This is standard in other municipal bylaws.

2. Metering Requirements

Administration Recommendation:

- Taxis would be required to have a sealed taximeter displayed and engaged at all times when transporting a fare. TNCs would have fares calculated through the approved app.
- Again, this is standard in other municipal bylaws.

3. Decaling Requirements

Administration Recommendation:

- Taxis have various decaling requirements under *The Taxi Bylaw, 2014*, which would remain unchanged. TNCs would be required to identify themselves as TNCs through standardized decaling. As part of the requirements, a City of Saskatoon decal would be issued, which must be placed in the rear window of all TNC vehicles while in operation to allow for easy identification by the City, the public and Saskatoon Police Service (“Police”). TNCs would be prohibited from using any decaling which could identify them as a taxi.
- Again, this is standard in other municipal bylaws.

4. Accessibility Requirements

- Taxis have no requirements for a minimum number of accessible vehicles, but the City may issue a maximum of five accessible licenses, with 21 temporary accessible licenses available as required. Accessible licenses require a D409 Certificate issued through the Canadian Standards Association.
- While most jurisdictions are silent on accessibility requirements for TNCs, some have recommended the use of levies for non-accessible trips, which is

to be used to provide a “trip bonus” for drivers of accessible TNCs in an effort to increase the number of accessible drivers.

Administration Recommendation:

- TNCs would have no requirements for a minimum or maximum number of accessible vehicles, but may be considered for accessible pickups if in possession of the D409 Certificate.
- Again, the Administration is recommending regulatory silence on the issue of accessible TNC drivers at this time, and that more research be conducted on TNC accessibility options and how other municipalities regulate and monitor these drivers. The Administration is not recommending the use of levies at this time, but would explore the issue at a later date upon direction from Committee and Council.

5. Dispatcher Broker/Owner Obligations

Administration Recommendation:

- Both taxi and TNC dispatchers would be subject to regulatory obligations such as information collecting and reporting requirements. However, based on their unique business models, there will be minor distinctions including areas such as licensing, accessibility requirements and the need to have a permanent office in the City.
- Again, this is standard in other municipal bylaws.

6. Licensing Methods

- Taxi drivers, by Provincial legislation, are required to obtain a PT plate to operate within the City. TNCs, pursuant to the Provincial legislation, will be allowed to operate using LV plates with a special designation at no additional cost. The justification for the distinction is that TNCs and taxis operate under different business models; TNC operation is a part-time activity. Research has indicated that for one rideshare company in Canada, 50% of all drivers operate 10 hours a week or less in weeks they choose to drive and 80% of drivers have other primary forms of employment (with similar numbers for another rideshare company). This is not true for taxi drivers, who typically drive full-time in 12 hour shifts.
- Currently, in addition to a class 4 license and a PT plate, taxi drivers must purchase, or drive under (through a lease) a valid taxi license and have a taxi driver’s license issued by the City.

Administration Recommendation:

- TNC drivers would be licensed through the TNC, not individually. This would be similar to the Edmonton Bylaw. The company would pay an annual fee based on volume with a per trip surcharge similar to the Edmonton Bylaw. The fee and surcharge amounts are being reviewed and would be reported upon when the City Solicitor’s Office brings the bylaw for Council’s consideration.

- The justification for the distinction is that TNC operation is a part-time activity. Further, TNC drivers operate private vehicles under the TNC, whereas taxi drivers operate commercial vehicles which are often leased out to other drivers for profit, an option not available to TNC drivers.
- In the alternative, the Administration could create TNC licensing provisions, similar to the taxi licensing provisions, which would require annual renewal with a criminal record check and application fee. The City of Calgary recently created a “transportation network driver’s license”, which is required for a TNC driver to operate in the City, with an annual fee of \$229 for 2018. Calgary is the only known municipality to use this method, and Alberta does not require TNC drivers to obtain a class 4 license (or their equivalent).
 - A risk with this approach would be compelling individual drivers to pay an annual licensing fee could significantly reduce the number of TNC drivers in the City, considering the \$180 fee already required to obtain a class 4 license.
- Again, the Administration is recommending that individual TNC drivers not be required to obtain municipal TNC licenses or business licenses to operate in the City. Rather, the recommendation is that the TNC pays a per trip surcharge used to offset the cost of regulation and enforcement allowable under *The Cities Act*. This amount of the per-trip surcharge will be addressed when the City Solicitor’s Office brings the bylaw to Council for consideration. This approach is the same as the Edmonton approach.

7. License Caps

- Taxis are limited to 160 licenses under *The Taxi Bylaw, 2014*, with 24 seasonal licenses issued in addition to the 160 as required. Seasonal plates are proposed to be replaced by flex service. As addressed above, TNCs would be issued licenses rather than individual drivers.

Administration Recommendation:

- The Administration is recommending not limiting the number of drivers a TNC would be able to employ or dispatch at this time.
- A jurisdiction which caps the number of drivers has not been identified.

8. Background Checks

- In order to obtain a taxi driver’s license from the City, an applicant must produce a criminal record and vulnerable sector check annually. It must be dated no earlier than 30 days prior to the application date. Taxi drivers apply for checks individually.
- Because the recommendation is that TNC drivers not be required to obtain individual licenses, the responsibility for ensuring compliance with background check requirements (which are identical to those for taxis) shift to the TNCs. Indeed, it is anticipated that the TNC will be required to ensure drivers have not been convicted of any “prescribed offences” (a list of which will be set under the Regulations), that the checks are current and renewed annually for all active TNC drivers and that only drivers who meet the

requirements are given access to the app. We anticipate that failure to comply with these requirements will result in fines (either to the driver, TNC or both) and/or suspension or termination of license for the TNC. TNC checks are done through a third party, which still involves Police, and requires compliance with the Provincial standard under the Act.

Administration Recommendation:

- The Administration recommends that background checks for taxis through the taxi driver's license application remain unchanged and that TNC background checks be enforced through the Provincial legislation. This is similar to other municipal jurisdictions.
- As an alternative, the Administration could create a TNC driver's license, similar to a taxi driver's license, issued by the City which would require the background check be done individually prior to issuance (and would be in addition to the TNCs' requirements under the Provincial legislation). This approach would require the bylaw to duplicate and/or compliment the requirements under the Act.

9. **Fares**

- Taxi fares are set under Schedule B of *The Taxi Bylaw, 2014* and do not allow for variable pricing based on demand. While fares are set through bylaw, the Administration amends the fares in response to requests from the taxi industry alone. For example, the taxi industry can request to lower or raise fares through a request to the City. The Administration typically responds with a report to Council mirroring the request. Other jurisdictions, such as Edmonton and Calgary, allow for taxis to charge variable rates. A similar approach would be possible in Saskatoon.
- Typically, TNC fares would be allowed to vary depending on real-time demand using an algorithm, also known as surge pricing. TNC fares are self-regulated through the TNC app with no discretion for the driver or passenger (only allowing for cashless in-app transactions) and are typically not set by bylaw. This is the model adopted in Edmonton. The rationale for the regulatory distinction is the business model for TNCs. TNCs use surge pricing to allow for cheaper fares when demand is low and higher rates when demand is high.
- Taxis fares in Saskatoon begin at \$3.75 for the first 130 metres of a trip. This means the minimum fare for a taxi is \$3.75. A similar minimum charge could be applied by the City to TNC fares. However, it is recommended that the minimum would be \$3.10 which is consistent with bus fare, as is the case in the Edmonton Bylaw and most other jurisdictions who use a minimum fare. The TNC industry has communicated that a bylaw with no minimum fare is preferred, but has asked that if one is imposed that it be consistent with other municipalities.

Administration Recommendation:

- That taxi fare structures remain the same and that TNC fares be calculated using the surge pricing model, the calculation of which is not addressed under bylaw.
- That use of a minimum fare charge for TNCs to be set by bylaw, the amount of which would be consistent with bus fare at \$3.10, which is the approach used in the Edmonton model.

10. **Cameras**

- Taxis are required to be equipped with a fully functional in-car camera which shows the interior of the vehicle. This is, in part, due to the independent and anonymous nature of street hail and cabstand taxi services.
- TNCs are typically not required to install and use an in-car camera. The reason for the distinction is that the TNC business model requires the use of private/personal vehicles which are not used solely for commercial purposes, making the installation of cameras less feasible from a monetary and practical perspective. Also, for reasons elaborated on below, TNCs have various safety mechanisms built into their model which mitigate the need for in-car cameras. Again, most TNC drivers are casual or part-time and the requirement for in-car camera installations may significantly reduce the number of drivers in the City.
- The Edmonton Bylaw does not require the use of cameras for any vehicle for hire, whereas the Calgary Bylaw requires cameras in taxis but not for TNCs. Currently, we could find no jurisdictions in North America that require in-car cameras for TNCs. In 2017, the City of Ottawa brought a report to their Community and Protective Services Committee consisting of a one year review of rideshare operations in the City. The report states that, according to the study, "There is no evidence to support the need for in-vehicle cameras". The justification in the report is that safety is built into the TNC model because: no cash is exchanged, passenger and driver are always known to each other in advance (not street hails or taxi stands) and "[t]his, and all of the other requirements, establish safety standards and negate the need for an in-vehicle camera." (See City of Ottawa report to Community and Protective Services Committee, November 1, 2017, p. 9)
- GPS capabilities in TNC apps allow drivers and passengers to track their location at all times in real time and, in some instances, share this information with their contacts for an additional sense of security and safety, particularly when travelling in remote or isolated locations.

Administration Recommendation: The Administration is recommending that taxis continue to require an in-car camera. The Administration is recommending that in-car cameras not be a requirement for TNC drivers to operate within the City. Again, this approach is similar to how other municipalities have regulated this issue.

Differing regulatory provisions are summarized in Table 2 below.

Table 2 - Possible Differing Regulatory Provisions

	Street Hailing & Taxi Stands	Metering Requirements	Decaling Requirements	Accessibility Requirements	Dispatcher Broker/Owner Obligations	Licensing Methods	License Caps	Background Checks	Fares	Camera
Taxis	Street hails allowed Taxi stands continue	Sealed taximeter displayed and engaged while transporting a passenger	Specific decaling requirements	No requirement for minimum number of accessible vehicles May be “accessible” if possess D409 Certificate. City issues maximum of 5 accessible licenses and up to 21 temporary accessible licenses	Subject to regulatory obligations <ul style="list-style-type: none"> • permanent office in the City • complaints process • telephone number listed • meter testing requirements Business license required for brokers City license required for each Broker and Owner under <i>The Taxi Bylaw, 2014</i>	Drivers licensed individually by City Criminal record check completed	License caps applied Flex Service proposed to allow additional vehicles to serve high demand periods	Drivers individually licensed by City Criminal record check completed annually	Surge pricing not allowed Fares set by bylaw Minimum fare of \$3.75 Option: incorporate surge pricing for taxis	Requirement for in-car camera
TNCs	Street hails prohibited Prohibited from using taxi stands	Fares calculated through app	Decaling requirements would be applied Prohibited from identifying as a taxi	No requirement for minimum number of accessible vehicles May be “accessible” if possess D409 Certificate.	Subject to regulatory obligations <ul style="list-style-type: none"> • no permanent office • complaints handled by TNC • no telephone number • no meter testing requirements Different accessibility requirements Business license required for TNC City license required for TNC under TNC Bylaw	Drivers not licensed individually by City Per trip fee charged TNCs licensed by City Option: license drivers individually by City	No license caps applied	Drivers not individually licensed Provincial legislation mandates criminal record check completed by TNCs Option: license drivers individually and complete criminal record check similar to Provincial requirements	Surge pricing allowed Minimum fare of \$3.10 Option: set no minimum fare	No requirement for in-car camera

