## **EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 27, 2017**

Item 3, Report No. 24, of the Committee of the Whole (Working Session), which was adopted without amendment by the Council of the City of Vaughan on June 27, 2017.

## 3 REGULATION OF PRIVATE GROUND PASSENGER TRANSPORTATION

The Committee of the Whole (Working Session) recommends:

- 1) That the recommendation contained in the following report of the Deputy City Manager, Community Services, and Director of By-law & Compliance, Licensing & Permit Services, dated June 6, 2017, be approved;
- 2) That the presentation by the Manager of Policy & Business Planning, and Communication C3, presentation material titled "Regulation of Private Ground Passenger Transportation", dated June 6, 2017, be received; and
- 3) That the following deputations and communication, be received:
  - Mr. Chris Schafer, Uber Canada, Public Policy Manager, Adelaide Street West, Toronto:
  - 2. Mr. Yehuda Shahaf, Brownstone Circle, Thornhill;
  - 3. Mr. Marcel Hernandez, Treasure Hill Road, Vaughan; and
  - 4. Ms. Kathy Platanitis, Taxi Owner V570 and Communication C4.

## Recommendation

The Deputy City Manager, Community Services, and Director of By-law & Compliance, Licensing & Permit Services, in consultation with the Deputy City Manager, Legal Services and the Chief Financial Officer and City Treasurer, recommend:

- 1. That City Council adopt the licensing regulations for private ground passenger transportation, as provided in Schedule "A" of this report, subject to final wording and a format satisfactory to the Deputy City Manager, Legal Services;
- 2. That City Council adopt the licensing fees for private ground passenger transportation service providers, as provided in Schedule "B" of this report; and
- That City Council authorize staff to undertake any other actions required to implement the recommended by-law amendments, including any consequential amendments to other bylaws.

# **Contribution to Sustainability**

The socio-economic reach of the GTA's transportation network extends to every community, large and small, as it connects populations, helps to nurture business districts, allows employers to tap into larger workforces, spurs economic activity and increases property values. On an individual level, a well-developed transportation network saves money, and provides people with choices, freedom and opportunities.

Private ground passenger transportation services, such as taxicabs and ride-sharing providers, offer additional transportation options for the public and can help to decrease reliance on the use of personal cars, thus alleviating traffic congestion, reducing emissions, and encouraging public transit ridership. New services, such as carpooling, can also help to fill in transportation gaps, such as first-and-last-mile, and further promote sustainable growth and development.

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The recommendations in this report are intended to strengthen the transportation network by lowering business costs, reducing jurisdictional barriers, eliminating regulatory redundancy, improving competitive equity and promoting environmental stewardship. These recommendations are aligned directly with Council's priorities and the City's By-law Strategy.

## **Economic Impact**

It is difficult to project the full impact on licensing revenues arising from the introduction of licensing for ride-sharing providers. Staff expect there to be an ongoing demand for traditional taxi services. However, it is likely that the number of taxicabs and taxi drivers in Vaughan will continue to fall. Based on the recommended fee structure provided in Schedule "B", and estimated licensing volumes, staff expect licensing revenues from the industry to stabilize and to cover basic administrative and enforcement costs.

Actual licensing revenues from the private ground passenger transportation industry (mostly taxicab licences) were: \$293,000 in 2014; \$194,000 in 2015; and \$142,000 in 2016. With the introduction of licensing of ride-sharing services, staff expect licensing revenues to rebound to \$189,000 in 2017 (as the licensing requirement is not expected to be in effect until the last Quarter of the Year) and to \$260,000 by 2018.

Given the novelty of ride-sharing and its business model, it is difficult to determine whether administration and enforcement costs will vary considerably from current levels. As a result, for 2017 and 2018, staff will monitor the level of resources expended for the administration and enforcement of these licensing categories and make any necessary adjustments in 2019 through the budgeting process.

### **Communication Plan**

As part of its review of the City's private ground passenger transportation regulations, staff consulted with taxi brokerages, taxicab owners and drivers, and private transportation companies. Their feedback informed this report's recommendations.

As part of the City's communication plan, all affected licensees shall be informed of the changes adopted by Council by direct mail.

In addition, the new regulations shall be shared on the City's website.

Notice of the proposed amendments recommended in this report to Consolidated Licensing Bylaw 315-2005 and Fees and Charges By-law 171-2013, as amended, was conducted in accordance with Sections 4(3) and 4(4) of the City's Notice By-law No. 392-2002.

### **Purpose**

The purpose of this report is to seek Council approval for a new regulatory framework for the private ground passenger transportation industry. The proposed regulations are intended to promote the development and modernization of the City's transportation network while ensuring the health and safety of the public and the protection of consumers.

### **Background – Analysis and Options**

This section provides an overview of the private ground passenger transportation industry, followed by a framing of the current regulatory issues and the resulting opportunities. The discussion then turns to the approach taken by staff and the resulting rationale for their recommendations.

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## **Private Ground Passenger Transportation**

Since the inception of ride-sharing services like those provided by Uber, Lyft, or Curb, there has been considerable talk about how the service they provide is different than the services provided by taxis and limousines. In general terms, taxis are marked passenger vehicles with roof lights and meters. They provide both pre-arranged and flag-for-hire service. Some taxis may be modified to accommodate wheelchairs and scooters. Fares are calculated by a meter based on a combination of distance and time. Limousines are premium vehicles, sometimes modified as stretch vehicles. They most often provide pre-arranged service based on a flat fare per hour. Limousines very rarely provide fully accessible service. Ride-sharing companies use a smartphone-based application to engage potential clients. The app matches customers with available drivers and, acts as a meter that can provide an estimated fare up-front based on the pick-up point and destination entered by the client, and is also the means by which payment takes place automatically.

While the way in which ride-sharing companies deliver their service is undoubtedly new and innovative, the core service is no different than those provided by more traditional industry players. Ultimately, from a regulatory standpoint, whether one considers taxis, limousines or ride-sharing providers, they all provide a service to take a person from point A to point B. They all employ a method of engaging potential customers, use passenger vehicles to provide the service, and charge a calculated fare that takes distance into account. Some may provide their services using premium vehicles. Some may only work on a pre-arranged basis, while others may be flagged on the street. In the end, they are all private service providers offering ground transportation for passengers.

From a regulatory standpoint, this is a critical point because the role of the regulator is not to determine or influence the business model of these service providers, but rather to ensure that in the provision of such services, the health and safety of the public, consumer protection and nuisance control measures are duly upheld. As long as these three regulatory pillars are adequately maintained, service providers should be free to innovate, compete and fulfil consumer demand.

## **Current Situation**

Municipalities across Ontario, and around the world, have been struggling to regulate the mushrooming "sharing economy" and ride-sharing in particular as vehicles and drivers are difficult to identify. Despite this difficulty, ride-sharing providers have successfully courted consumers by meeting their increasingly more technologically-oriented expectations. In fact, Ontarians are overwhelmingly in support of many of the services being provided by sharing economy companies, such as eBay, TaskRabbit, and Uber. Over 40% of young Ontarians (18-34) are sharing economy consumers. Global sharing economy revenues are expected to grow more than twenty-fold in the next ten years. The sharing economy is part of a broader global movement of economic integration — it is increasingly the way people expect to do business. Thus, the challenge for regulators is to find increasingly innovative and forward-looking ways of allowing sharing economy services to thrive while maintaining a reasonable level of public protection.

With this in mind, City staff have developed a model of regulation that strikes a balance between embracing change and maintaining a valued sense of order and public protection.

### **Stakeholder Consultations**

City staff have consulted with industry representatives and participants of the taxi, limousine and ride-sharing industries with respect to the proposed regulations.

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Initial consultations were conducted to provide industry participants with an overview of the City's approach and to solicit specific ideas and suggestions on the direction of regulatory policy for the industry. A session for brokerages and limousine companies was conducted on April 5 and two sessions for owners and drivers were conducted on April 27 and May 1, respectively.

In general terms, most brokerages were of the opinion that existing regulations should be applied to ride-sharing services. There also seemed to be limited appetite for the ability of brokerages to set fares for their services. Some argued for maintaining an over-all cap on the number of service providers across the industry. However, most brokerages were accepting of the introduction of new regulations for ride-sharing in general and receptive to the possibility of broadening their future ability to operate across jurisdictions, where possible.

Opinion amongst owners and drivers with respect to the adequate level of regulation in the industry varied widely. However, most owners and drivers said that ride-sharing service providers should be subjected to the same regulations as taxicab service providers. Some also suggested that new requirements, including the use of in-vehicle cameras, should be established across the industry. Especially amongst owners, there was general agreement about the need to maintain a restricted licensing or plate system. However, some drivers argued for the issuance of licences to existing drivers. No one spoke in favour of a complete elimination of the cap on taxi licences. Another issue in which there seemed to be some level of agreement was the need to address the economic hardship around the operation of accessible vehicles. The City currently requires all newly licensed owners to operate a fully-accessible vehicle for the first four years of the licensing tenure. Fully retrofitted vehicles can cost between \$60,000 and \$70,000 and often have higher operation costs than regular taxicabs. Operators of these vehicles indicated that although the service they provide is important, the market is not sufficient for them to operate profitably.

City staff also consulted with representatives from the GTA's primary ride-sharing provider, Uber. Uber's main interest is for the City to adopt a set of regulations that, while meeting the basic requirements for the protection of the safety of the public and consumer, do not otherwise impose requirements that adversely affect their business model. Overall, staff's recommendations were generally well-received by Uber and it is expected that staff will receive full co-operation.

## **Municipal Comparison**

Most major municipalities in Ontario now license ride-sharing providers. Although regulatory models vary, most municipalities are coalescing around some key issues, including passenger safety (e.g., driver background check, vehicle safety and appropriate insurance), vehicle requirements (e.g., vehicle identification, age of vehicles, required equipment), consumer protection (e.g., fare setting), meeting accessibility requirements, restrictions on the number of licences, licensing fees, and the need for regulatory checks and balances. Schedule "D" provides a detailed table of the Ontario municipalities surveyed.

### Passenger Safety

All municipalities will require that ride-sharing drivers:

- have a valid Ontario Class G Driver's Licence
- submit a background check annually; and
- submit a driver's abstract annually.

All municipalities will require that vehicles:

- be properly insured for the use (i.e., commercial passenger conveyance); and
- have had a safety standard certificate issued.

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In the case of the major ride-sharing service provider in Ontario, Uber, these clearances and requirements are submitted by the company on behalf of all of its Drivers.

### Vehicle Requirements

Most municipalities are requiring that vehicles:

- be no more than ten model years old; and
- have some form of vehicle identifier, such as a decal or hangtag

### Consumer Protection

All municipalities are allowing:

- fares to be calculated using the operator's app; and
- surge pricing to be used, as long as the passenger is advised in advance.

## **Accessibility Requirements**

With respect to providing on-demand accessible service:

- most municipalities have not imposed the requirement on ride-sharing services; and
- some municipalities have required a fee-in-lieu.

## Restrictions on the Number of Licences

No municipality has:

- imposed a cap on the number of ride-sharing vehicles allowed to operate within their boundaries; and
- eliminated the existing cap on taxicab licences (with the exception of Barrie on a pilot basis).

#### Licensing Fees

All municipalities are imposing a licensing fee on PTCs that includes:

- a flat fee, in some cases based on the number of vehicles being operated; and
- a per-ride fee, ranging from 6¢ to 30¢ (with 11¢ being the most common).

## Regulatory Check and Balances

With respect to monitoring and enforcement:

- all municipalities are requiring ride-sharing companies to provide information on their drivers and vehicles, as well as statistical information for determining the per-ride licensing fees; and
- most municipalities are including provisions to provide for enforcement-related accounts and to require cooperation with any enforcement-related investigations or actions.

# **Guiding Principles for the Regulatory Review**

In the process of their review, staff were guided by four principles against which their recommendations for regulatory change could be compared:

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- 1. Protection of the safety and well-being of the public. This has been a long-standing mandate of municipalities when it comes to the regulation of business activity. In the case of the private ground passenger transportation industry, the public expects that reasonable measures have been put in place to ensure the service provider is a permitted driver and does not have a significant criminal history, and that vehicles used are mechanically sound and properly insured in the event of an accident.
- Protection of consumers. This is another common objective of regulation and is especially aimed at ensuring that vulnerable consumers are not taken advantage of through unfair or unscrupulous practices. Measures include ensuring that pricing and the service is not discriminatory on the basis of any prohibited grounds (e.g., disability, age, gender, race, etc.).
- 3. **Development of effective and economical transit options for the public.** This is a key priority of Council, but is also a priority for the Region and the Province. This principle speaks to creating a set of regulations that helps to move these priorities forward, including contingent service for less dense and underserviced areas, adequate on-demand accessible service, and diverse economical options for socio-economically disadvantaged individuals.
- 4. Facilitation of economic growth and innovation through reasonable, coherent and consistent regulation. Another key priority of Council is to attract investment and create jobs. Regulation can assist in meeting this objective by lowering or eliminating jurisdictional barriers to entry, applying regulations equitably and consistently, and continuously engaging residents, businesses and other stakeholders to ensure that community interests are being protected and fostered.

## Scope of Recommended Regulatory Policy

The proposed regulatory model would apply to all private-sector operators, owners and drivers involved in the provision of ground transportation services for passenger conveyance. It does not include other transportation services, such as public transit, couriers, or delivery services.

Under this model, operators are defined as anyone who operates a platform within the boundaries of the city of Vaughan for the purpose of providing private ground passenger transportation services. Owners are defined as the entities that own the vehicles being used to provide accessible, taxicab, and limousine services. Drivers are those who actually deliver the services.

The main public interest issues with respect to private ground passenger transportation are the personal safety of passengers and the public, and the reasonable protection of consumers. To achieve these objectives, operators, owners and drivers need to be reasonably vetted and held accountable for their obligations to their passengers and the public more generally.

In the case of drivers, a background review that includes a police check and a driver's abstract is a reasonable minimum clearance. These two clearances have been a long-standing and appropriately regulatory practice.

In the case of owners, the provision of a vehicle safety certificate that ensures the vehicle being used to transport passengers is mechanically sound and the requirement to hold an adequate insurance policy that covers the conveyance of passengers are equally reasonable and minimum clearances. In addition, owners need to be held accountable for ensuring that anyone driving their vehicles for the purpose of transporting passengers has been properly vetted.

Finally, in the case of operators who engage owners and drivers, it is critical that they do not facilitate services from non-vetted drivers in non-certified and uninsured vehicles. Operators have

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a responsibility to the general public to provide a reasonably safe service. In the event that an incident does take place between a driver and a passenger operators should be required to cooperate with the City to investigate matters.

The new regulatory regime for the private ground passenger transportation industry considers four sectors that require different levels of regulation based on level of public risk:

- 1. Accessible Taxicab Services
- 2. Taxicab Services
- 3. Limousine Services
- 4. Ride-Sharing Services

Each is described in more detail in Schedule "C", along with an explanation of how each relates, from a regulatory standpoint, to the other services.

## **Overview of Recommended Regulations**

In reviewing the approaches taken by other Ontario municipalities and in considering the particular challenges and opportunities inherent in the Vaughan and regional context, staff are recommending a regulatory model that provides a regulatory framework for ride-sharing services and reduces regulatory restrictions on industry incumbents.

## **Licensing Requirements**

Staff are recommending that operators, owners, and drivers be licensed. Individuals would be required to be at least 18 years old, while drivers would have to be eligible to work in Canada, and hold a valid Ontario driver's licence.

Operators, owners, and drivers licensed in other municipalities that have the same licensing clearances could be licensed in Vaughan by presenting their valid licence and paying the required renewal fee for their category.

# Passenger Safety

Staff are recommending that all drivers be subject to a background check and be required to provide a driver's abstract on an annual basis. The documentation may be provided by the subject individual or an agent appointed by such individual (e.g., a taxi brokerage, limousine company, or private transportation company).

Staff are further recommending that all owners of private vehicles used in the commercial conveyance of passengers be required to provide an Ontario Safety Certificate on an annual basis as well as proof of appropriate vehicle insurance. This information may be provided directly by the owner of the vehicle or an agent appointed by such owner (e.g., a taxi brokerage, limousine company, or a private transportation company).

Finally, staff are recommending that only accessible taxis and taxicabs be permitted to pick up hailed fares. All services provided by limousine services and ride-sharing service providers must be pre-arranged through the company, which may include the use of an app.

## Vehicle Requirements

Staff are recommending that all private vehicles used in the commercial conveyance of passengers be allowed to be up to ten model years old with the possibility to extend that to twelve years, subject to an annual mechanical and physical inspection deemed satisfactory to the Chief Licensing Officer. This puts the City of Vaughan in line with most other municipalities and also

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recognizes that responsible owners, who take care of their vehicles, should be permitted to maximize their vehicle's economic life.

Staff are also recommending that all accessible taxis must meet the D409-16 requirements for an accessible vehicle and that all accessible taxis and taxicabs must have a working roof light and trip meter acceptable to the Chief Licensing Officer. Staff are not recommending that emergency lights or cameras be required in any private ground passenger transportation vehicle.

Staff are recommending that all accessible taxis and taxicabs continue to be required to have a plate bearing the vehicle's licence number as well as having the licence number clearly marked on the vehicle's sides. In addition, staff are recommending that limousines and ride-sharing vehicles not be required to have municipal plates or other body markings, but that a decal satisfactory to the Chief Licensing Officer be continuously displayed during operation.

### Consumer Protection

Staff are recommending that accessible taxis and taxicabs be permitted to set their own fare structure, subject to the following requirements:

- 1. If an app is used for the engagement, the passenger be advised of the estimated total fare prior to the engagement and the final fare be calculated by the app;
- 2. If the engagement is pre-arranged through a brokerage, the passenger be advised of the estimated total fare prior to the engagement and that the basis for such a fare be previously filed with the City and the fare be calculated by a trip meter; or
- 3. If the vehicle is hailed, the rate used to calculate the fare be posted in plain view of the passenger and the basis for such a fare be previously filed with the City and the fare be calculated by a trip meter.

Staff are further recommending that limousines be permitted to set their own fare structure, subject to the following requirements:

- 1. If an app is used for the engagement, the passenger be advised of the estimated total fare prior to the engagement and the final fare be calculated by the app; or
- 2. If the engagement is pre-arranged through a limousine company, the passenger be advised of the estimated total fare prior to the engagement and that the basis for such a fare be previously filed with the City.

Finally, staff are also recommending that ride-sharing providers be permitted to set their own fare structure, subject to the following requirements:

1. An app be used for the engagement and the passenger be advised of the estimated total fare prior to the engagement and the final fare be calculated by the app.

Although operators will be permitted to establish their pricing, the City shall prohibit any fare structure that discriminates on the basis of a Prohibited Ground (as defined in the *Ontario Human Rights Code*) or, in the opinion of the Chief Licensing Officer, has the same effect.

# Accessibility

Given the complicated dynamics and legislative requirements surrounding on-demand accessible service (see Schedule "E" for a summary of accessibility requirements in Vaughan), staff propose to continue to explore different approaches to ensure the long-term continuation of an on-demand accessible service. In the meantime, the requirement for accessible vehicles for new licences

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shall be maintained. Furthermore, by eliminating the restriction on licences, staff hope to be able to attract more potential accessible taxi owners.

Initially new accessible taxicab owner licences will only be available to taxicab drivers that have been licensed as such in Vaughan for at least five years. This will ensure that such licences go to individuals that have shown commitment to the Vaughan industry and who have the experience to make a successful venture more likely. Staff will monitor the uptake of this program and assess whether it is successfully meeting the goals of having a local taxicab fleet that is 5% accessible. In the event that the program falls short, staff will consider opening up the same licensing opportunity to taxicab drivers in York Region.

These recommendations were developed in consultation with the City's Accessibility & Diversity Office. Staff will continue to explore ways to create a sustainable on-demand service in Vaughan, including the possibility and implications of establishing a fee-in-lieu for operators that do not meet the accessibility requirements.

## Restrictions on the Number of Licences

Staff are recommending that the cap on taxicab licences be eliminated, subject to certain restrictions, including that only Taxicab Drivers with a minimum tenure of five years would be eligible to apply for a licence. No cap is imposed on limousines and no cap is being recommended for ride-sharing services. Currently, only 91% of the available licences are being actively used. As a result, staff do not believe that the elimination of the cap will result in a proliferation of taxicab licences. However, the effect of this recommendation may have a further negative impact on the value of taxicab "plates".

#### Licensing Fees

Staff are proposing an alignment of the fees for taxicab and limousine operators, owners and drivers. An initial annual licence in 2017 for an operator would be \$390 and \$252 for a renewal. An initial licence for an owner would be \$498 with a \$322 renewal fee. And, for a driver the initial fee would be \$172 and the renewal would be \$167. Licensing fees for accessible owners and drivers are proposed to be half of those for taxicabs and limousines.

For ride-sharing providers, staff are recommending an escalating flat licensing fee for operators, based on the number of vehicles they have operating in the municipality and supplemented by a per-ride fee of 11¢.

Through the per-ride-fee, PTC licensing fees are tied to the anticipated level of enforcement (i.e., the greater the number of rides, the more likely it is that complaints arise), administration. This licensing fee structure is in line with the provisions of the Municipal Act that allow for a fee or charge to include costs incurred by the municipality related to the administration, enforcement and the establishment, acquisition and replacement of capital assets.

## Regulatory Checks and Balances

In line with the requirements imposed by other municipalities, staff are recommending that all operators be mandated to provide data relevant to the administration of the City's licensing provisions and that such data be made available for audit both periodically and upon request.

## Customer Service

General training for taxicab drivers will be discontinued. Customer service and related training will be left to individual brokerages, limousine companies and private transportation companies. Training will continue to be required for accessible drivers.

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Basic behavioural requirements will continue to be requirements under the By-law and will be extended to ride-sharing owners and drivers. However, many of the non-safety or consumer protection measures under the current By-law provisions will be eliminated, such as the requirement for Drivers to have to search their vehicle for a passenger's left belongings after every engagement.

Complaints with respect to any issue encountered with a licensee will continue to be received and investigated by the City equally across all industry sectors.

## Relationship to Term of Council Service Excellence Strategy Map (2014-2018)

Creating an innovative regulatory regime that encourages investment from high-tech firms, ranging from transportation to lodging to asset management, is directly in line with the Term-of-Council Priorities, specifically:

- continuing to develop transit options to get around the City;
- continuing to ensure the safety and well-being of citizens;
- attracting investment and creating jobs;
- continuing to cultivate an environmentally sustainable city; and
- continuing to advance a culture of excellence in governance.

The recommendations are also consistent with the Vaughan Service Excellence Strategic Initiatives of:

- providing consistent and effective service delivery; and
- championing continuous improvement.

### **Regional Implications**

In conjunction with staff from the City of Markham and the Town of Richmond Hill, staff are recommending regulations that will establish the groundwork for more consistent regulation across the three municipalities to govern private ground passenger transportation providers.

As Richmond Hill and Markham continue to review and introduce regulations for their own private ground passenger transportation industries, City of Vaughan staff will work to promote greater cross-jurisdictional co-operation and alignment to develop more effective and efficient regulations.

## Conclusion

The advent and rapid expansion of ride-sharing services in the Greater Toronto Area have created both market and regulatory pressures. As a policy response, staff recommend the introduction of a set of regulations for the private ground passenger transportation industry. This model would continue to promote the development and modernization of the City's transportation network while ensuring the health and safety of the public, the protection of consumers and the ongoing control of nuisances.

The report's recommendations were guided by four principles: (1) the protection of the safety and well-being of the public; (2) the protection of consumers; (3) the development of effective and economical transit options for the public; and (4) the facilitation of economic growth and innovation through reasonable, coherent and consistent regulation.

The proposed regulations are a first step in addressing the interest and demand in new services within the private ground passenger transportation industry. In accordance with the City's By-law Strategy, staff will closely monitor the effectiveness of the new regulations and continue to work with stakeholders to make any adjustments that may be needed.

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Staff are confident that the proposed regulatory framework reflects the need for modernization across industry sectors, supports the principles that guided this review, and provides City Council with the necessary information to make an informed decision on this matter.

# **Attachments**

- Schedule "A" Proposed Regulations for the Private Ground Passenger Transportation Industry.
- Schedule "B" Proposed Annual Licensing Fee Structure for the Private Ground Passenger Transportation Industry
- Schedule "C" Description of Sectors in the Private Ground Passenger Transportation Industry
- Schedule "D" Municipal Comparison of Licensing Regulations for the Private Ground Passenger Transportation Industry
- Schedule "E" Accessibility Requirements for the Private Ground Passenger Transportation Industry

### Report prepared by:

Rudi Czekalla-Martinez Manager, Policy & Business Planning

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)