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Bylaw 22/2017 - Amendment to Business License Bylaw 43/2000 Regarding Vehicle for Hire

Presented by: Dawn Fedorvich, Acting Manager of Business Retention & Expansion

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RECOMMENDATION(S)

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1. That Bylaw 22/2017, being Amendment 16 to Business Bylaw 43/2000, be read a first time.
2. That Council Members provide feedback to Administration on Bylaw 22/2017, provided as an attachment to the March 20, 2017 agenda report entitled "Bylaw 22/2017 - Amendment to Business License Bylaw 43/2000 Regarding Vehicle for Hire" by April 13, 2017.
3. That Administration incorporate feedback received from Council Members into amendments to Bylaw 22/2017, for Council consideration at a Council Meeting to be determined by Agenda Committee.

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PURPOSE OF REPORT

This report is to outline the proposed amendment to Business Licensing Bylaw 43/2000. This amendment creates Schedule C - Vehicles for Hire which provide direction to companies wishing to operate as a Vehicle for Hire business in St. Albert.

COUNCIL DIRECTION

On May, 24, 2016, the following Council Motion was passed:

C340-2016

1. That the "Proposed Approach to Amending the Business License Bylaw", provided as Attachment 1 to the May 24, 2016 agenda report entitled "Vehicle for Hire Approach" be received as information.
2. That Council members provide feedback to Administration on the "Proposed Approach to Amending the Business License Bylaw", provided as Attachment 1 to the May 24, 2016 agenda report entitled "Vehicle for Hire Approach" by June 30, 2016.
3. That Administration conduct further consultation with the vehicle for hire industry and incorporate feedback received from Council and industry into the proposed approach to amending the Business License Bylaw and bring back to Council in Q1 2017 for consideration.

BACKGROUND AND DISCUSSION

Community and Administration concern with the taxi industry and service levels provided in St. Albert has generated much discussion over the past few years. The introduction of ride-sharing network companies (i.e. UBER/TappCar) into the vehicle for hire ("Vehicle for Hire") industry has brought a greater focus onto this matter and has resulted in Council wanting a mechanism to address this matter.

Currently, the City of St. Albert has no legislation that regulates the Vehicle for Hire industry, other than the Business License Bylaw 43/2000. Should any Vehicle for Hire business wish to operate in the City of St. Albert, they are currently only required to apply for a Business License and pay the licensing fee as per the Bylaw. In 2009, the Business Licensing department added one procedural step to this process, which is the completion of a "Taxi Requirements" form. Vehicles for Hire are asked to provide the City with the operator's driver's license number, vehicle description, license plate number, and commercial registration (if applicable).

Although Business Licensing has added the above measures to improve the safety and security of our residents using vehicles for hire, there remain no requirements for vehicle inspections to deal with mechanical issues; appropriate insurance coverage, or driver criminal record checks. This has resulted in a non-regulated Vehicle for Hire environment in St. Albert.

In May of 2016, Council directed Administration to consult with the Vehicle for Hire industry and incorporate feedback received from Council and industry into the proposed approach to amending the Business License Bylaw. Through this consultation, Administration has created regulations that will help ensure that people using Vehicle for Hire services are riding in safe vehicles, with safe drivers.

These regulations include requirements for a Vehicle for Hire business to provide the following:

- (a) a valid class 1, 2 or 4 driver's licenses for each Vehicle for Hire operator employed and/or contracted by the business;
- (b) a vulnerable sector check dated within 90 days prior to submission, for each Vehicle for Hire operator employed and/or contracted by the Vehicle for Hire business;
- (c) a criminal record check dated within 90 days prior to submission, for each Vehicle for Hire operator employed and/or contracted by the Vehicle for Hire business;
- (d) a valid commercial insurance policy for the Vehicle for Hire business, or for each Vehicle for Hire driver employed and/or contracted by the business, that meets the Province of Alberta's requirements for passenger transportation services;

- (e) a valid vehicle registration certificate for each Vehicle for Hire that will be used in the operation of the Vehicle for Hire business; and
- (f) a valid mechanical inspection report dated within 90 days prior to submission, performed by an AMVIC certified business for each Vehicle for Hire that will be used in the operation of the Vehicle for Hire business.

The full Schedule C - Vehicles for Hire is attached for Council's consideration. The proposed regulations apply equally to all Vehicle for Hire operations, including traditional taxi style businesses, senior transportation services and ride-sharing/transportation network companies (TNCs) such as UBER and TappCar. The requirements set out in section 3 of the schedule for TNCs is very similar to provincial requirements.

STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT

An internal stakeholder committee that included Legal, Municipal Enforcement, Risk & Insurance, and Economic Development was formed to develop the Vehicle for Hire amendments. The public was engaged through a survey that was conducted online and in person at the Village Transit Centre and Servus Credit Union Place. Over 170 residents responded.

All residents who participated in the survey were overwhelmingly in favor of the City imposing safety regulations for the Vehicle for Hire industry, but also expressed concern about the risk of losing the services of transportation network companies like UBER.

In December, an external stakeholder open house was held to engage with the fifteen-existing Vehicle for Hire companies. All companies attended the open house or provided feedback by email. The Economic Development Advisory Board was also actively involved in developing the amendments and endorses this recommendation.

Vehicle for Hire business owners/representatives attended an open house regarding the proposed regulations, and generally endorsed having safety requirements regulated for their industry - their main concern involved extra fees and costs that may be imposed. The two existing transportation network companies from the Capital Region also attended; TappCar agreed with the proposed regulations and was willing to fully cooperate with any additional municipal regulations. UBER agreed with the nature of the safety requirements, but viewed municipal regulations as duplicating what the Province is already regulating, and views compliance with any additional municipal requirements as a cost/operational barrier to operating in St. Albert.

IMPLICATIONS OF RECOMMENDATION(S)

Financial: If Council approves the recommended approach "Vehicles for Hire" will be managed through a schedule attached to the Business License Bylaw. This approach will have no financial impacts on the City.

Legal / Risk: Adding (and enforcing) new bylaw provisions that impose safety measures on operators of vehicles for hire accords with section 7(a) of the Municipal Government Act, which authorizes bylaws respecting the “safety, health and welfare of people and the protection of people and property”.

Program or Service: none at this time

Organizational: Through consultation with stakeholders, Uber - the largest TNC Company in the Capital Region - has made it clear that they perceive any municipal regulations for TNCs as a duplication of existing regulations they already comply with on the provincial and municipal level (with the City of Edmonton). The added costs of finding a way for thousands of drivers to comply with multiple (and sometimes conflicting) regulatory regimes means they may choose to not provide services in St. Albert or other suburban communities that impose additional regulatory requirements on their business. UBER specifically self regulates the safety aspect of their service, and has created their business model around providing safe transportation. While this is commendable, Schedule C is meant to ensure that all current and future Vehicle for Hire services are safe for residents and does not assume that future companies will have the same corporate policies as UBER. Removing licensing requirements for all TNCs would create a situation where local Municipal Enforcement Officers would be unable to enforce the City's safety-based regulations for TNCs, and any safety concerns for the industry would have to be addressed by the province.

Also, as more regulations are added, there may be an increase in the expectation for enforcement of these regulations. Currently, enforcement is complaint based and handled by the Business Licensing Inspector with the assistance of Municipal Enforcement where necessary. If enforcement of this amendment to the bylaw increased beyond capacity of current staffing levels, future business cases may be presented to handle the workload.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Council may choose to not accept this bylaw amendment or may choose to approve alternative actions. One such alternative may be to exclude TNCs (i.e. UBER & TappCar) from this bylaw. In June 2016, the provincial government instituted provincial rules for TNCs. These requirements include:

- The type of and standards for driver police information checks
- Permissible operator's licenses, and;
- Insurance requirements

Additional power was also created for the province to enforce these requirements and impose significant penalties for companies that do not adhere to the rules. This power to penalize is beyond the authority given to municipalities.

If Council decides to exclude TNCs, local Municipal Enforcement will not be able to enforce the safety requirements originally driving this amendment for these private drivers. The provincial rules are not incorporated in the *Traffic Safety Act*. Administration will also not be able to verify the information that the province has received from the TNC.

STRATEGIC CONNECTIONS

- a) Council's Strategic Outcomes and Priorities (See Policy C-CG-02)
 - CULTIVATE ECONOMIC PROSPERITY: A diversified, robust and resilient economic foundation to support growth and community service delivery.
 - CULTIVATE SUSTAINABLE INFRASTRUCTURE AND SERVICES: A growing community that has balanced development and management of civic facilities, transportation networks and related services.
 - CULTIVATE A SAFE, HEALTHY AND INCLUSIVE COMMUNITY: A community that provides opportunities for everyone to realize their potential in a thinking, caring and connected way.
- b) Long Term Plans (e.g. MDP, Social Master Plan, Cultural Master Plan, etc.)
 - Social Master Plan
- c) Corporate Objectives (See Corporate Business Plan)
 - Deliver programs and services that meet or exceed our standards
 - Ensure our customers are very satisfied
- d) Council Policies
 - N/A.
- e) Other Plans or Initiatives (Business Plans, Implementation Strategies, etc.)
 - N/A

Report Date: March 20, 2017
Author(s): Joan Barber
Committee/Department: Economic Development
General Manager: n/a
City Manager: Kevin Scoble

CITY OF ST. ALBERT

BYLAW 22/2017

Being Amendment 16 to the Business Licensing Bylaw 43/2000

The Council of the City of St. Albert, duly assembled, hereby ENACTS AS FOLLOWS:

1. Bylaw 43/2000, the Business Licensing Bylaw, is hereby amended by adding Schedule C, Vehicle for Hire, as attached.
2. The Chief Administrative Officer is authorized to consolidate Bylaw 43/2000.

READ a first time this day of 2017.

READ a second time this day of 2017.

READ a third time this day of 2017.

SIGNED AND PASSED this _____ day of _____ 2017.

MAYOR

CHIEF LEGISLATIVE OFFICER

Schedule "C"
Vehicle for Hire

1. In this Schedule:
- (a) "Limousine" means a luxury Vehicle for Hire that provides pre-arranged transportation services.
 - (b) "Mechanical Inspection Report" means a mechanical inspection of a vehicle, performed at an Alberta Motor Vehicle Industry Council licensed business by an Automotive Service Technician that is certified to work as such in Alberta, reported at minimum in an approved form pursuant to section 803 of the Alberta Insurance Act.
 - (c) "Senior Transportation Services" means private transportation services provided specifically for older citizens.
 - (d) "Taxi" means a Vehicle for Hire that provides transportation services to passengers as requested by the passenger.
 - (e) "Transportation Network Company" means any business that connects passengers with Vehicle for Hire Operators for pre-arranged transportation exclusively through the offering, use or operation of an online enabled application, a digital platform, software, or a website.
 - (f) "Third-Party Documents" means such documents and information, created or issued by a third party, to be provided to the License Inspector by an applicant in accordance with this Schedule.
 - (g) "Vehicle for Hire"
 - (i) means, with the exception of public transit vehicles defined by and operating in compliance with Transit Bylaw 34/87 or in conjunction with a "handi-bus" program, a motor vehicle used or offered with intended commercial purposes for the transportation of at least one passenger from any place within the City of St. Albert to a destination either within or outside the City, and includes but is not limited to:
 - I. a Limousine;
 - II. a Taxi;

III. a vehicle used for Senior Transportation Services;

IV. a vehicle used in the operation of a Transportation Network Company.

(ii) Without limiting the generality of subsection (i), if the transportation of a passenger is provided as part of a package of additional goods or services for which there is a fee, then the transportation of the passenger is considered to be for intended commercial purposes unless the transportation is shown, on a balance of probabilities, to be merely ancillary to the goods or services.

(h) "Vehicle for Hire Business" means any business that provides Vehicle for Hire services within the City, and includes but is not limited to:

(i) luxury or limousine service companies;

(ii) taxi dispatch companies;

(iii) sole proprietorships offering Vehicle for Hire services;

(iv) Transportation Network Companies;

(v) transportation services for seniors.

(i) "Vehicle for Hire Operator" means any person who operates a Vehicle for Hire, whether as a proprietor, employee or contractor of a Vehicle for Hire Business.

(j) "Vulnerable Sector Check" means the process that verifies whether an individual has a criminal record, as well as any record suspensions (formerly pardons) for sexual offences and local police records information relevant to the check.

2. (a) A business must not operate as a Vehicle for Hire Business in the City of St. Albert unless that business holds a business license that specifically refers to this Schedule C.

(b) A person shall not operate a Vehicle for Hire in the absence of a business license that authorizes the person to do so.

3. A Vehicle for Hire Business must provide the following documents to the License Inspector prior to being issued a license or a license renewal under this schedule:
 - (a) a valid class 1, 2 or 4 operators licence in accordance with the Alberta Traffic Safety Act for each Vehicle for Hire Operator employed and/or contracted by the business;
 - (b) a clear Vulnerable Sector Check or a criminal record verification showing no convictions in accordance with Section 5, dated within 90 days prior to submission for each Vehicle for Hire Operator employed and/or contracted by the business;
 - (c) a valid commercial insurance policy for the Vehicle for Hire Business, or for each Vehicle for Hire Operator employed and/or contracted by the business, that meets the Province of Alberta's requirements for passenger transportation services;
 - (d) a valid class vehicle registration certificate in accordance with the Alberta Traffic Safety Act for each Vehicle for Hire that will be used in the operation of the Vehicle for Hire Business; and
 - (e) a deemed roadworthy Mechanical Inspection Report dated within 90 days prior to submission for each Vehicle for Hire that will be used in the operation of the Vehicle for Hire Business.
4. A license under this schedule will not be issued to or renewed for a Vehicle for Hire Business that employs and/or contracts a Vehicle for Hire Operator that the License Inspector deems will pose a risk to the safety of the public
5. A license under this schedule will not be issued to or renewed for any Vehicle for Hire Business that employs and/or contracts a Vehicle for Hire Operator who, during the last 10 years, was convicted of an offence under the Criminal Code of Canada and/or Controlled Drugs & Substances Act that falls under the following criteria:
 - (a) any offence of a violent nature, including firearms and weapons offences;
 - (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;
 - (c) trafficking;

- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion or theft; or
- (e) any offence relating to the unlawful operation of a motor vehicle.
6. A license under this schedule will not be issued to or renewed for any Vehicle for Hire Business that uses a Vehicle for Hire in its operations that, due to the Mechanical Inspection Report, the License Inspector deems will pose a risk to the safety of the public.
7. A Vehicle for Hire Business with a license under this schedule must keep and maintain an accurate and current record of all the required documents in Section 3.
8. Immediately upon request, a Vehicle for Hire Business must make available to the License Inspector or peace officer an accurate copy of the information kept under Section 7.
9. The License Inspector may suspend or revoke a license if the information provided by the Vehicle for Hire Business does not meet the requirements of Sections 3, 4, 5 and 6.
10. A Vehicle for Hire Business licensed under this schedule must not alter, or permit or cause the alteration of, any Third-Party Documents.
11. Third-Party Documents must be kept
- (a) in electronic form with automated reporting capabilities;
 - (b) in English, and/or
 - (c) in any form deemed to be acceptable by the License Inspector.
12. Immediately upon request, a Vehicle for Hire Operator must make available to the License Inspector or peace officer an accurate copy of the following documents:
- (a) a valid class 1, 2 or 4 operators licence in accordance with the Alberta Traffic Safety Act;
 - (b) a clear Vulnerable Sector Check or a criminal record verification showing no convictions in accordance with Section 5, dated within one year prior to the date of request;

- (c) a valid commercial insurance policy that meets the Province of Alberta's requirements for passenger transportation services;
- (d) a valid class vehicle registration certificate in accordance with the Alberta *Traffic Safety Act*;
- (k) a deemed roadworthy Mechanical Inspection Report dated within 1 year prior to the date of request.

13. Pursuant to Section 12, if a Vehicle for Hire Operator is unable to produce any of the required documents, the Vehicle for Hire Operator will be liable to a fine in the amount of \$250.00.

14. A Vehicle for Hire Operator must not alter, or permit or cause the alteration of, any Third-Party Documents.

15. All references to Sections are references to Sections within this Schedule "C".

PREVIOUSLY DISTRIBUTED

Schedule "C"

Vehicles for Hire

1. In this Schedule:
 - (a) "Limousine" means a luxury Vehicle for Hire that provides pre-arranged transportation services.
 - (b) "Mechanical Inspection Report" means a mechanical inspection of a vehicle, performed at an Alberta Motor Vehicle Industry Council licensed business by an Automotive Service Technician that is certified to work as such in Alberta, reported at minimum in an approved form pursuant to section 803 of the Alberta Insurance Act.
 - (c) "Senior Transportation Services" means private transportation services provided specifically for older citizens.
 - (d) "Taxi" means a Vehicle for Hire that provides transportation services to passengers as requested by the passenger.
 - (e) "Transportation Network Company" means any business that connects passengers with Vehicle for Hire Operators for pre-arranged transportation exclusively through the offering, use or operation of an online enabled application, a digital platform, software, or a website.
 - (f) "Third-Party Documents" means such documents and information, created or issued by a third party, to be provided to the License Inspector by an applicant in accordance with this Schedule.
 - (g) "Vehicle for Hire"
 - (i) means, with the exception of public transit vehicles defined by and operating in compliance with Transit Bylaw 34/87 or in conjunction with a "handi-bus" program, a motor vehicle used or offered with intended commercial purposes for the transportation of at least one passenger from any place within the City of St. Albert to a destination either within or outside the City, and includes but is not limited to:
 - I. a Limousine;
 - II. a Taxi;
 - III. a vehicle used for Senior Transportation Services;

IV. a vehicle used in the operation of a Transportation Network Company.

(ii) Without limiting the generality of subsection (i), if the transportation of a passenger is provided as part of a package of additional goods or services for which there is a fee, then the transportation of the passenger is considered to be for intended commercial purposes unless the transportation is shown, on a balance of probabilities, to be merely ancillary to the goods or services.

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- (v) transportation services for seniors.

(i) "Vehicle for Hire Operator" means any person who operates a Vehicle for Hire, whether as a proprietor, employee or contractor of a Vehicle for Hire Business.

(j) "Vulnerable Sector Check" means the process that verifies whether an individual has a criminal record, as well as any record suspensions (formerly pardons) for sexual offences and local police records information relevant to the check.

2. (a) A business must not operate as a Vehicle for Hire Business in the City of St. Albert unless that business holds a business license that specifically refers to this Schedule C.

(b) A person shall not operate a Vehicle for Hire in the absence of a business license that authorizes the person to do so.

3. A Vehicle for Hire Business must provide the following documents to the License Inspector prior to being issued a license or a license renewal under this schedule:

- (a) a valid class 1, 2 or 4 operators licence in accordance with the Alberta Traffic Safety Act for each Vehicle for Hire Operator employed and/or contracted by the business;
- (b) a clear Vulnerable Sector Check or a criminal record verification showing no convictions in accordance with Section 5, dated within 90 days prior to submission for each Vehicle for Hire Operator employed and/or contracted by the business;
- (c) a valid commercial insurance policy for the Vehicle for Hire Business, or for each Vehicle for Hire Operator employed and/or contracted by the business, that meets the Province of Alberta's requirements for passenger transportation services;
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- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;
- (c) trafficking;
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion or theft; or
- (e) any offence relating to the unlawful operation of a motor vehicle.

6. A license under this schedule will not be issued to or renewed for any Vehicle for Hire Business that uses a Vehicle for Hire in its operations that, due to the Mechanical Inspection Report, the License Inspector deems will pose a risk to the safety of the public.
7. A Vehicle for Hire Business with a license under this schedule must keep and maintain an accurate and current record of all the required documents in Section 3.
8. Immediately upon request, a Vehicle for Hire Business must make available to the License Inspector or peace officer an accurate copy of the information kept under Section 7.
9. The License Inspector may suspend or revoke a license if the information provided by the Vehicle for Hire Business does not meet the requirements of Sections 3, 4, 5 and 6.
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 - (b) a clear Vulnerable Sector Check or a criminal record verification showing no convictions in accordance with Section 5, dated within one year prior to the date of request;
 - (c) a valid commercial insurance policy that meets the Province of Alberta's requirements for passenger transportation services;
 - (d) a valid class vehicle registration certificate in accordance with the Alberta *Traffic Safety Act*;
 - (k) a deemed roadworthy Mechanical Inspection Report dated within 1 year prior to the date of request.

13. Pursuant to Section 12, if a Vehicle for Hire Operator is unable to produce any of the required documents, the Vehicle for Hire Operator will be liable to a fine in the amount of \$250.00.
14. A Vehicle for Hire Operator must not alter, or permit or cause the alteration of, any Third-Party Documents.
15. All references to Sections are references to Sections within this Schedule "C".

PREVIOUSLY DISTRIBUTED