

TNC Review

Date	February 17, 2021
To	Operations and Community Services Committee
From	City Solicitor's Office
Service Area	Licensing & Parking Services
Item No.	OCS21-6

RECOMMENDATION

The Operations and Community Services Committee recommends that City Council:

1. Delegate authority to the Manager, Licensing & Parking Services to approve initiatives and distribute funds for the use of accessibility surcharge to support accessible services for persons experiencing a disability, such as the initiatives described further in this report.
2. Remove items CPS20-9 and CM20-16 from the Outstanding Items List for Community and Protective Services Committee.
3. Approve these recommendations at its meeting on February 24, 2021.

ISSUE

Administration presented CPS20-9 Transportation Network Company Review at the June 3, 2020 Community and Protective Services Committee meeting. The report provided information on the first year of services provided under *The Vehicle for Hire Bylaw*. The report was referred back to Administration to return to the Community and Protective Services Committee by Q4 of 2020 with a report including:

1. Data and percentages regarding the number of taxi and transportation network company (TNC) rides with high level data from the Regina Police Service (RPS) including one-year of activity with the number of complaints, investigations and any other data collected such as criminal record checks and suspended drivers.
2. Review of the accessibility fee amount being collected and how the approximately \$20,000

collected is used to achieve accessibility standards.

3. Background and recommendations for a camera policy specific to the ridesharing industry.

CM20-16 Taxi Bylaw Review Report was presented to Council at the June 30, 2020 meeting. The report provided a comparison between *The Taxi Bylaw* and *The Vehicle for Hire Bylaw* and recommended changes to *The Taxi Bylaw*. The recommendations contained in the report were approved. However, Administration was directed to report back as part of the TNC report scheduled to come forward in Q4 of 2020 with the implications of having RPS process the TNC applications for the Criminal Records Checks and Vulnerable Record Checks.

IMPACTS

None with respect to this report.

OTHER OPTIONS

None with respect to this report.

COMMUNICATIONS

None with respect to this report.

DISCUSSION

The Vehicles for Hire Act (Act) and *Vehicles for Hire Regulations (Regulations)* came into force on December 14, 2018. The Act enables the operation of Transportation Network Companies (TNC), often referred to as ridesharing services, in Saskatchewan provided the TNC holds a valid licence issued by the municipality or is otherwise authorized by the municipality to operate in that municipality. The Act permits the municipality to create bylaw requirements above and beyond what is required by the Act and Regulations provided that the bylaw requirements are not inconsistent with the Act and Regulations and fall within the authorities granted in *The Cities Act* and *The Vehicles for Hire Act*.

In February 2019, *The Vehicle for Hire Bylaw* (CR19-3 and CM19-1) was passed which allowed TNC to operate in the City of Regina and on May 15, 2019 Uber Canada Inc. (Uber) provided its first trip in Regina. Other TNC have inquired about regulations and the process to obtain a city licence, however none have completed the application process. Uber has remained the only TNC in operation in the City.

This report provides additional information requested by Council and the Community and Protective Services Committee. In preparation of this report, Administration engaged with other Canadian municipalities, Saskatchewan Government Insurance (SGI), Regina Police Service and Uber. Uber provided written comment which is provided in Appendix A. Administration and Uber worked together to survey Regina Uber drivers. The survey results are contained in Appendix B.

Trip Data

The City receives detailed driver, vehicle and trip data monthly from TNC. Summary trip data, vehicles on shift and wait times are obtained from taxicab brokers quarterly. The City may request additional data as required.

Table 1 shows the total for-hire transportation trip percentage changes in relation to the previous year for 2019 and 2020 and the market share percentage for both the taxi industry and TNC industry. This information does not include raw trip numbers or information related to a taxi broker that was temporarily in service for part of 2020. Raw trip numbers are not included due to the findings by the Information and Privacy Commissioner in 2018 that the trip information provided by the taxi brokers (even if de-identified) should be treated confidentially. The taxi trip data does not include trips provided by a taxicab broker that was temporarily in service between June and December 2020 and failed to submit the required data. The broker had no more than nine vehicles in their fleet for any month. Omission of this data results in a slightly lower trip count for total taxi trips but would not impact the overall percentage of trips by more than one or two per cent.

The data shows that with the emergence of TNC, the total for-hire transportation trips (taxi and TNC) provided in Regina increased by 13 per cent in 2019. Annual taxi trip volumes decreased by 4.5 per cent and amounted to 85 per cent of the total for-hire trips provided. TNC provided the remaining 15 per cent of the market share. This information suggests that with the additional for-hire transportation options available, people that would normally not take a taxi began using for-hire transportation services. Indeed, more people used for-hire transportation services than in the past.

In January and February 2020 total for-hire trip volumes increased, however with the onset of the COVID-19 pandemic, trip volumes significantly decreased throughout the remainder of the year when compared to 2019 volumes. Market share fluctuated in the first half of 2020, and then remained consistent since July with taxis providing 80 per cent and TNC providing 20 per cent of all trips. Taxis are providing on average three times more trips than TNC.

Table 1: For Hire Transportation Trip Data

2019 Total Trip % Change	2019 Taxi Share %	2019 TNC Share %	2020 Total Trip % Change	2020 Taxi Share %	2020 TNC Share %
2%	100%	0%	20%	73%	27%
8%	100%	0%	10%	72%	28%
-3%	100%	0%	-23%	76%	24%
-2%	100%	0%	-32%	91%	9%
0%	93%	7%	-13%	89%	11%
15%	82%	18%	-16%	84%	16%
27%	80%	20%	-7%	81%	19%
35%	76%	24%	-17%	79%	21%
25%	75%	25%	-19%	78%	22%
26%	74%	26%	-28%	77%	23%
21%	74%	26%	-35%	80%	20%
7%	72%	28%	-37%	82%	18%
12%	85%	15%	-17%	79%	21%

Data provided by Uber shows that the number of drivers and vehicles associated with the company fluctuates each month as well as the number of drivers that are actively providing transportation services. There were 635 TNC drivers at the start of 2020 and by the end of the year this was reduced to 338 drivers. The average number of drivers for the last six months of 2020 was 380. Driver information received shows that on average, 60 per cent of affiliated drivers provide at least one trip per month while 40 per cent are inactive. The data shows that the majority of Uber drivers are only providing services on a part-time basis. Approximately five per cent of drivers have only taken trips on the weekend (Friday, Saturday and/or Sunday) and 31 per cent of drivers take an average of one trip per day. Only 14 per cent of drivers take more than six daily trips. This is supported by the survey results where 64 per cent of respondents reported driving less than 40 hours per week and 55 per cent indicated they drive for Uber for a second income and like the flexible hours (63 per cent).

Driver Enforcement

Complaints and investigations against TNC and taxi drivers are conducted by City staff and RPS. Enforcement activities and action required is communicated to Uber through the Canada Regulatory Inquiry and/or the Law Enforcement Response Team. In addition, the City has a direct account manager with Uber to follow up on any issues.

Since implementation of *The Vehicle for Hire Bylaw*, few complaints, investigations and suspension of TNC drivers have occurred. City staff has received zero complaints against TNC drivers, one complaint from a TNC driver against the TNC platform and requested the temporary suspension of a driver from the platform four times. The complaint from the driver found the TNC was appropriate in denying his affiliation with the platform. All four drivers that received temporary suspensions provided updated documentation and were reinstated on the platform.

RPS has not received any complaints about TNC driver behaviour from the public and focuses on the enforcement of bylaw, traffic and criminal offences. Since Uber began operating, RPS has completed one large scale spot check event at the July 1, 2019 Saskatchewan Roughrider football game. During the project, officers stopped TNC drivers entering and exiting Mosaic Stadium to ensure they were properly licensed. Fifteen of the 59 drivers that accessed the location were charged for failing to have the proper decals on their vehicles which indicate the TNC with which they are affiliated. Initially the supply of company decals to drivers was not occurring as required. Through discussions, Uber made available an online link where drivers could print temporary decals to place on their vehicles until the company was able to provide permanent decals. Periodic checks have identified that some drivers are still operating without valid decals and Uber continues to review and enhance its processes to ensure compliance. Drivers not displaying a decal have been charged with an offence under *The Vehicle for Hire Bylaw* and removed from the platform until they have obtained a company decal.

RPS has suspended five TNC drivers from the platform since May 15, 2019 and eight taxi drivers during the same period. The reasons for the suspensions relate to incidents that occurred after initial approval that would cause the driver to no longer meet the requirements of *The Vehicles for Hire Act* and *Bylaw* or the certificate of approval review process (described later in this report) identified behaviours that would raise concerns for public safety. The reasons for suspension did not necessarily occur in relation to the operation of the vehicle for hire but render the person ineligible for a licence.

Uber's Customer Support Team, available 24/7, receives complaints and inquiries from both passengers and drivers. Passengers and drivers can submit their questions or concerns within the App either before, during or after any trip. Inquiries received by Uber since they began operations in Saskatchewan occur on less than 0.33% of trips and is even lower in the City of Regina which reports inquiries on 0.2% of trips or 1 in 500 trips. Topics addressed by the customer support team include:

- Fares inquiries for specific trips including fare disputes and refund requests
- Service inquiries including lost items and driver professionalism
- Account inquiries including difficulties with sign up, request to change contact information and updating payment methods
- Vehicle inquiries including vehicle safety issues and drivers logged on with incorrect vehicle

Accessibility Fee

The City charges all TNC an accessibility per trip fee of \$0.07. The fees collected are held in a separate account to be used to support accessible transportation options or initiatives. This approach is consistent with most Canadian municipalities that regulate TNC and has been introduced because most personal vehicles used to provide TNC services would not be properly equipped to provide accessible service. Appendix C shows the accessibility fees charged by other Canadian municipalities and what they have or are intended to be used for.

As per *The Cities Act*, the fees collected (per trip fee and per trip accessibility fee) do not exceed the cost to administer, regulate or enforce the vehicle for hire program. There is approximately \$35,200 of accessible funds available as of December 31, 2020. Beginning with the 2022 licensing period, Administration intends to use the funds to:

1. Reimburse the annual licence fee of \$375 to each accessible taxicab owner that maintained the accessible taxicab licence for the entire previous licence period;
2. Provide a rebate to accessible taxicab owners for each fare provided in the previous licence period to non-ambulatory passengers as identified in trip data submissions;
3. Provide a rebate to taxi operators that provide taxi services for Regina Paratransit based on the number of trips provided

Administration intends to exhaust the funds each year. The rebates provided will be dependent upon the amount collected and the number of qualifying fares provided in the previous year. If the amount available is less than the total of the annual accessible licence fees paid, the reimbursement of these fees will be prorated and no rebates for trips will occur. Reimbursement will not occur until the 2022 licence period in order to communicate program requirements to licence holders in advance of the next licence period which begins June 15, 2021.

Administration recommends that the authority to approve initiatives and distribute funds for the use of accessibility surcharge to support accessible services for persons experiencing a disability, exercised within the authorities of *The Cities Act* and *The Vehicles for Hire Regulations*, be delegated to the Manager, Licensing & Parking Services.

Camera Policy

The Vehicle for Hire Bylaw does not require TNC vehicles to be equipped with video cameras, however as per *The Taxi Bylaw*, cameras are required in all taxis. Cameras are required in taxis because the primary use of the vehicle is for commercial purposes, passengers and drivers are unknown to each other, no information is collected on who is taking the trip, cash is exchanged and held within the vehicle and technological safety features such as real time trip tracking and the ability to share trip details with others is not available. The footage recorded in taxis may only be accessed by RPS for use in criminal investigations. The City, taxi brokers, taxi licence holders and taxi drivers do not have access to these files.

Upon development of the Bylaw, research conducted indicated that no other Canadian municipality included a requirement for cameras to be installed in TNC vehicles. In addition, reviews conducted by the City of Calgary and the City of Ottawa have determined that cameras are not necessary for business models that only conduct prearranged trips and retain appropriate passenger and driver information to maintain accountability.

TNC Apps are developed with safety features that reduce the need to require that cameras be installed within the vehicle. Prearranged trips where cash transactions are prohibited eliminates the potential for theft and retention of passenger and driver information provides the opportunity to follow up on any concerns after the fare is completed. The Uber App also provides for in-trip assistance through the emergency assist button that is available for both passengers and drivers. The Ridecheck feature uses sensor and GPS technology to detect if a trip has an unexpected long stop. Should this occur, the Uber Safety Team will reach out and offer tools to get help if required. Similarly, the On-Trip Reporting feature allows anyone that feels unsafe during a trip to report immediately and discreetly, initiating contact by the Uber Safety Team. These features make it unnecessary for cameras to be mandatory in TNC vehicles.

If cameras were mandatory in TNC vehicles, privacy over footage contained on any recording devices would pose a concern. The vehicles used for TNC services are personal vehicles that are not used primarily for the commercial transportation of passengers. As presented earlier in this report, most TNC drivers work part-time and requiring cameras would significantly infringe on the driver and the driver's friends and family's privacy by recording personal engagement in a private vehicle. While a TNC driver may decide to install some form of camera, there are significant challenges for the City to require cameras in personal vehicles. Access to footage could not be reasonably confined to RPS, constant recording could lead to storage challenges, and there would be challenges in confirming footage was appropriately managed or erased. There is an important difference for responsibility over data where the City requires that the data be recorded. In situations where the City requires data to be recorded, the City would also play a role in protecting that information. RPS has identified that although access to camera footage could be useful in criminal investigations, they have concerns over privacy, management of data and enforcement of such a requirement for TNC vehicles.

TNC do not require affiliated drivers to install cameras in their vehicles, but do not prohibit the use of them. Uber drivers may use cameras for the purposes of fulfilling transportation services but must refrain from broadcasting the recordings. In 2019, Uber started a small pilot project to capture more data about what happens inside vehicles during trips where disputes occur. The pilot was to be conducted in selected cities in Texas, Florida and Tennessee with video recording and in Brazil and Mexico with audio recording. The pilot remained small as significant challenges related to privacy had been identified and will need to be addressed before the pilot

could be introduced in additional locations. The pilot program will allow either the driver or the passenger to request a recording of the trip. Upon completion of the trip, either party had the option to send the recording to Uber for review. Information on the progress, results, future pilot programs or further expansion is not currently available.

The survey of Uber drivers identified that more than 90% of drivers felt safe while providing rideshare services and that no additional features were required to improve safety for either themselves or their passengers. When asked if they would continue to provide services if cameras were required in vehicles, 72% of drivers said they would likely not. This would result in fewer drivers available and have a negative impact on transportation options for residents and visitors to the City.

Although Administration does not support a mandatory camera policy for TNC, we would support a policy that permits TNC drivers to use a recording device with restrictions on the type of device and regulations related to data management. As privacy for both the driver and passengers are of greatest concern, it is important to ensure safeguards are in place to limit the opportunity for misuse. Acceptable devices must be used for the sole purpose of recording video for transportation services. The device would be limited to a camera or dash cam dedicated to these purposes and cellular devices such as phones or tablets would be prohibited. Data/footage could only be stored within the device and not saved online, the cloud or internet. The data/footage may only be used for criminal investigations and shared with law enforcement upon request. It may not be posted or shared with other individuals, organizations or on social media.

Data/footage would be required to be kept for a minimum of four calendar days and to a maximum of fifteen days before it must be deleted. This will ensure sufficient time for law enforcement to obtain any footage required for an investigation. A policy should also include that a driver must clearly post within the vehicle that the vehicle is under video and/or audio surveillance. This policy would allow drivers to use a camera should they choose, while ensuring policies are in place to ensure the data/footage is stored and used to protect the privacy of both drivers and passengers.

Criminal Record Checks

The Vehicle for Hire Bylaw requires that all TNC ensure drivers meet all of the requirements of *The Vehicles for Hire Act* and *The Vehicles for Hire Regulations* including the requirement for criminal convictions. At the time of implementation, Administration did not recommend additional requirements. Therefore, the TNC may use a criminal record check (CRC) performed by any law enforcement agency to confirm the driver has not been convicted of any offence that would make them ineligible to provide transportation services. The requirement for a vulnerable sector check (VS) is not required. For clarification, a CRC is a basic search using name only to check for criminal convictions, while a VS cross-references gender and date of birth for pardoned sex offences.

Presently, RPS is provided a list of all drivers affiliated with TNC at the beginning of each month, whether RPS conducted the CRC or not. Once received, RPS Traffic Safety Unit completes a secondary review of the driver, similar to what is completed during the certificate of approval process for taxi drivers. During this review, RPS uses their police database, which is not accessible by any other law enforcement agency, confers with other police agencies, Immigration or the Canadian Security Intelligence Service if necessary. They check for outstanding warrants, ongoing criminal investigations and/or charges, charges that were diverted

outside the court system, involvement in criminal activity (regardless of any record of conviction) that would raise suspicion that the applicant might use their position as a driver to engage in criminal activity and any other behaviours that would raise concerns for public safety. Should this review identify concerns, a restriction is placed on the individuals driver's licence and they would be ineligible to provide services as either a TNC or taxi driver. SGI and TNC are notified of the restriction and the driver would be removed from the TNC platform. RPS is concerned that the current CRC process delays their review. Requiring that the CRC is conducted by RPS will allow them to be on the front end of the screening processing instead of weeks behind. RPS has identified that they have the capacity to do this and the processing time for the CRC would range from a few days to two weeks, depending on the volume of applications received.

The survey of Uber drivers identified that 57 per cent of drivers would continue to provide services if in-person criminal record checks conducted by RPS were required. The current process allows potential drivers to apply for their CRC online through the Uber driver App, a convenience applicants' view as a benefit. RPS has recently changed the process for criminal record checks and applicants no longer have to attend in person. It is possible that the 42 per cent of survey respondents that said they would reconsider driving for Uber if in-person checks were required would be satisfied with the ability to apply online for an RPS conducted check.

SGI has confirmed that having RPS process CRC and including a requirement for a VS will not change their process. SGI only requires a CRC, not VS and will continue their process of reviewing the CRC regardless of what law enforcement agency performs the check.

A bylaw amendment would be needed to require that RPS conduct CRC and VS checks for all TNC drivers. In order to ensure no disruption of their service that would impact residents' access to transportation options, a reasonable amount of time would need to be provided to currently operating TNC to facilitate the change.

DECISION HISTORY

CPS20-6 Taxi Bylaw Review was presented to the Community and Protective Services Committee at its February 6, 2020 meeting. During consideration of the report, a request for a supplemental report to discuss an option to create an exemption from the general rules for the use of technology for data collection and submission for single vehicle, accessible taxi only brokers.

CR20-15 was presented to Council at the February 26, 2020 meeting. The report was referred back for Administration to provide additional information comparing the regulations for taxi and transportation network companies.

CPS20-10 was presented to the Community and Protective Services Committee at its June 3, 2020 meeting. The report was recommended to be forwarded to the June 24, 2020 Council meeting as an informational report.

CPS20-9 Transportation Network Company Review was presented to the Community and Protective Services Committee at its June 3, 2020 meeting. The report was referred back to Administration to return to the Community and Protective Services Committee by Q4 of 2020 with a report to respond to additional questions.

CM20-16 Taxi Bylaw Review Report was presented to Council at the June 30, 2020 meeting. The recommendations contained in the report were approved.

Respectfully submitted,



Dawn Schikowski, Manager Licensing & Parking Services 2/10/2021

Respectfully submitted,



Byron Werry, City Solicitor

2/11/2021

Prepared by: Dawn Schikowski, Manager, Licensing & Parking Services

ATTACHMENTS

- Appendix A Uber Submission
- Appendix B Uber Survey Results
- Appendix C Accessible Fees