

Vehicle for Hire Bylaw Amendments – Plates and Licences

Options for the Addition of New Taxi Vehicle Licences

Recommendation:

That the July 13, 2011, Sustainable Development report 2011SCP030 be received for information.

Report Summary

This report outlines the options to increase the number of Taxi Vehicle Licences. Licences may be issued with or without conditions, and may be distributed with the existing lottery provisions, or with altered lottery conditions.

Previous Council/Committee Action

At the July 6, 2011, City Council meeting, the following motion was passed:

1. That Administration provide a report to Executive Committee with possible bylaw amendments to Bylaw 14700, Vehicle for Hire Bylaw, to allow for the issuance of additional plates and potential additional requirements for licences, as soon as possible.
2. That the discussion regarding Vehicle for Hire Service to International Airport remain private pursuant to Sections 18, 21, 23 and 24 of the *Freedom of Information and Protection of Privacy Act*.

Report

Need for new licences

- Bylaw 14700 currently sets limits on the number of licences. No more than 1,185 Taxi Vehicle Licences can be issued and no more than 45 Accessible Taxi Vehicle Licences can be issued.
- There is a desire to add additional Taxi Vehicle Licences in order to provide increased capacity in the City of Edmonton taxi market.
- In order to add additional Taxi Vehicle Licences, Bylaw 14700 will need to be amended.
- When amending Bylaw 14700, Council also has the option of creating conditions on the new Taxi Vehicle Licences issued. Such conditions, if desired, could require a new class of Taxi Vehicle Licences.

New Licence Class

- A new class of Taxi Vehicle Licence would allow for conditions to be imposed with minimal impact on existing Taxi Vehicle Licences.
- One condition could have owners being the only drivers of the Taxi displaying the Taxi Vehicle Licence. This would instil pride in ownership. This would also limit the value of the licence on the secondary market.
- Owner/drivers would, however, be limited in how often the Taxi could be in operation.
- Owner/drivers would also lose income during times of illness or other times when they are unable to operate a Taxi.
- Another potential condition could impose limitations on transferability.
- This would mean that the new Taxi Vehicle Licences would not impact the value of existing licences on the secondary market.

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- This could, however, leave some Taxi Vehicle Licences out of use if the current holder of the licence is unable to use that licence. See Attachment 1 for more details on placing conditions on new licences.

Distribution of Licences

- The current process for issuing new Taxi Vehicle Licences is to hold a lottery. Bylaw 14700 limits entry in the lottery to those holding a City issued Taxi Driver's Licence. A lottery entry fee of \$204 is also set in Bylaw 14700. If Council wishes to alter the manner in which Taxi Vehicle Licences are distributed, Bylaw 14700 would need to be amended.
- Some conditions that could be put on entry into the lottery include prohibiting entry for those who have held a Taxi Vehicle Licence; allowing those with taxi driver's licences from other municipalities to enter the lottery; altering the fee for entry into the lottery; or limiting entry on driver experience.
- Prohibiting those who have had a licence previously ensures new entries into the industry. It may, however, also exclude those with a strong interest in entering the lottery and those currently serving the industry.
- Allowing for those with taxi driver's licences from other jurisdictions will allow for more entry into the lottery.
- Those who are successful, however, may need an Edmonton Taxi Driver's Licence in any event.
- Altering the fee for entry could act as a barrier to entry for some.

- Limiting entry based on years of driving experience will limit who can enter the lottery.
- Administration will need guidance on which conditions Council would like to include in the lottery provisions.
- See Attachment 1 for more details on potential changes to the lottery provisions in Bylaw 14700.

Accessible Taxi Options

- Some or all of the new licences to be issued could be in the form of Accessible Taxi Vehicle Licences.
- Bylaw 14700 currently requires that Accessible Taxi Vehicle Licences be held in groups of 5.
- This rule was in response to a 2006 court decision finding the City in breach of the *Alberta Human Rights Act* as a result of having a limit on the number of Accessible Taxi Vehicle Licences and failing to take any other steps to ensure 24/7 access to Accessible Taxis.
- If Council is considering removing the "Rule of Fives," another means of ensuring 24/7 access to Accessible Taxis should be put in place.

Possible Motion

Should Committee wish to pursue changes to Bylaw 14700, a possible motion to Administration could read as follows:

That Administration prepare an amendment to Bylaw 14700, Vehicle for Hire Bylaw, that will:

- a. Increase the number of licences to _____.
- b. Create a new class of taxi vehicle licence, following the new text in Attachment 1 of the July 13, 2011,

Sustainable Development report
2011SCP030.

- c. Put some conditions on entry into the distribution process for new licences, as per the July 13, 2011, Sustainable Development report 2011SCP030.

Legal Implications

The *Municipal Government Act* allows for these amendments to Bylaw 14700.

Attachments

1. Details on the options outlined in this report.

New Licences

The most efficient way to provide more taxi vehicle licences is to simply raise the current limit on Taxi Vehicle Licences in Bylaw 14700. This would only require an amendment to Section 40 of Bylaw 14700 to change the current limit of 1,185 to a new limit. If Council wishes to add new licences a new limit would need to be set. If only the limit is changed, new licences will have the same requirements and restrictions that exist on current Taxi Vehicle Licences.

There are two conditions that Council may wish to add to any new Licences being issued: (1) limiting ownership to those who operate the Taxi; and (2) limiting the ability of licence holders to transfer licences. These both minimize the impact issuing new licences will have on existing Taxi Vehicle Licences. These conditions will require that a new class of Taxi Vehicle Licences be created with a new name.

In adding a new class of licence, Bylaw 14700 would need to be amended to add a new division outlining the limit on the number, the control, the conditions for the issue or renewal, the conditions for the transfer, the fees for the issue, renewal or transfer, and the process for distributing the new class of Licences. The proposed text for such an amendment is found at the end of this section.

Driver Limitations

A new class of Licence could be limited to owner/drivers. This would help build pride in the appearance and operation of the Taxi as owners are generally more careful with their property. This limitation would also create a different secondary market and would therefore have little impact on existing Taxi Vehicle Licences. The risk in limiting the operation to owners is that any illness or other inability to drive for a period of time may impair the ability of the driver to earn a living. A potential remedy to this problem would be to allow non-owners to operate the vehicle in certain conditions. It would be most enforceable if non-drivers could only operate a new class of Taxi if permission had been granted by the City Manager or his delegate. Bylaw 14700 could also set limited conditions in which such permission could be granted, such as illness.

Transfer Limitations

A new class of Licence could also be limited in its transferability. Transfer could be prohibited, which would mean that it would only be when a new class of Licence expires or the licensee dies that a new Licence would be available. In this way the release of new class of Licences would not impact the secondary market for existing Taxi Vehicle Licences.

Transfers could alternatively be time limited. For instance, a requirement that a licence must be held for 10 years before being eligible for transfer could be put in place. This would have a future impact on the secondary market for Taxi Vehicle Licences. It would,

however, allow for some movement in the new class of Licences, ensuring that they remain used.

Proposed Text for a new Licence Class

The following definitions would need to be added:

"Name to be Determined" means a motor vehicle displaying a valid Name to be Determined Taxi Vehicle Licence;

"Name to be Determined Taxi Vehicle Licence" means an Name to be Determined Taxi Vehicle Licence issued pursuant to this bylaw;

Division 1.1 - Name to be Determined Taxi Vehicle Licence

- 42.1 Every Name to be Determined Taxi Vehicle Licence issued under this bylaw remains at all times the sole property of the City and the Licensee or person in possession of an Name to be Determined Taxi Vehicle Licence shall return it to the City when so requested by the City Manager.
- 42.2 (1) Unless otherwise cancelled, every Name to be Determined Taxi Vehicle Licence expires on April 30 each year.
- (2) An Name to be Determined Taxi Vehicle Licence may be renewed subject to the provisions of this bylaw.
- 42.3 A person applying for the issue of an Name to be Determined Taxi Vehicle Licence must provide all of the following to the City Manager:
- (a) a completed application for issue in the form prescribed by the City Manager;
 - (b) the fee for the issue of an Name to be Determined Taxi Vehicle Licence prescribed by Schedule B of this bylaw;
 - (c) the Name to be Determined Taxi Vehicle Licence fee prescribed by Schedule B of this bylaw;
 - (d) proof in a form satisfactory to the City Manager that the person is the owner of the vehicle on which the Name to be Determined Taxi Vehicle Licence will be displayed;
 - (d) proof in a form satisfactory to the City Manager that the vehicle on which the Name to be Determined Taxi Vehicle Licence will be displayed has a valid

- provincial registration certificate and complies with all requirements prescribed by this bylaw and by the Commission; and
- (e) confirmation that the person has an agreement with a Taxi Broker to provide dispatch service for the vehicle on which the Name to be Determined Taxi Vehicle Licence will be displayed.
- 42.4 (1) A Licensee applying for the renewal of an Name to be Determined Taxi Vehicle Licence must provide all of the following to the City Manager:
- (a) a completed application for renewal in the form prescribed by the City Manager;
- (b) the fee for the renewal of an Name to be Determined Taxi Vehicle Licence prescribed by Schedule B of this bylaw;
- (c) the Name to be Determined Taxi Administration fee prescribed by Schedule B of this Bylaw;
- (d) the valid Name to be Determined Taxi Vehicle Licence to be renewed;
- (e) proof in a form satisfactory to the City Manager that the Licensee is the owner of the vehicle on which the Name to be Determined Taxi Vehicle Licence will be displayed;
- (f) proof in a form satisfactory to the City Manager that the valid Name to be Determined Taxi Vehicle Licence was displayed on a Taxi in operation for not less than 200 days in the 12 months preceding the expiry of the Name to be Determined Taxi Vehicle Licence;
- (g) proof in a form satisfactory to the City Manager that the vehicle on which the Name to be Determined Taxi Vehicle Licence will be displayed has a valid provincial registration certificate and complies with all requirements prescribed by this bylaw and by the Commission; and
- (h) confirmation that the Licensee has an agreement with a Taxi Broker to provide dispatch service for the vehicle on which the Name to be Determined Taxi Vehicle Licence will be displayed.
- (2) Notwithstanding the requirement in subsection (1) for an Name to be Determined Taxi Vehicle Licence to be valid in order to be renewed, an Name to be Determined Taxi Vehicle Licence may still be renewed if:
- (a) it is suspended as of April 30, however, the renewal does not validate the Name to be Determined Taxi Vehicle Licence and it remains suspended for the full term of the suspension; or

- (b) it has expired, however, it must be renewed no later than June 30 following the date of expiry and the fee for the late renewal of an Name to be Determined Taxi Vehicle Licence prescribed by Schedule B of this bylaw must be paid.
- (2) To renew a suspended or expired Name to be Determined Taxi Vehicle Licence pursuant to subsection (2) a Licensee must still comply with all other provisions of subsection (1).
- 42.5 An Name to be Determined Taxi Vehicle Licence may not be transferred.
- 42.6 (1) The City may issue up to _____ Name to be Determined Taxi Vehicle Licences.
- (2) If the total number of Name to be Determined Taxi Vehicle Licences issued by the City that are either:
- (a) valid; or
- (b) suspended
- falls below _____ the Commission may authorize the issue of new Name to be Determined Taxi Vehicle Licences in a number sufficient to bring the total to the limit described in this section.
- 42.7 An Name to be Determined Taxi may only be operated by the person named on the Name to be Determined Taxi Vehicle Licence displayed on that Name to be Determined Taxi.

Lottery Provisions

The current lottery process requires that in order to enter the lottery a fee of \$204 must be paid and the person entering the lottery must hold a Taxi Driver's Licence. The Taxi Driver's Licence can be either a Class A or Class B licence. Those wishing to enter the lottery who do not currently have a Taxi Driver's Licence would need to obtain at least a Class B licence.

In order to obtain a Class B licence a person must submit a \$46 fee, a valid Alberta Class 4 Operator's Licence, a driving abstract, a security check, proof of competency with the English language, completion of an introductory taxi driver training program, and completion of a defensive driving course. These requirements are not overly onerous. Therefore, those wishing to enter the lottery could simply obtain such a licence to enter the lottery.

It is open to Council, however, to impose other conditions on entry into the lottery for new Taxi Vehicle Licences. Some conditions to be considered include:

- 1) Prohibiting those who have previously held Taxi Vehicle Licences from entering the lottery;
- 2) Altering the current requirement that a person have a valid Taxi Driver's Licence;
- 3) Creating a minimum number of years driving experience; and
- 4) Altering the fee for entry into the lottery.

Previous Licensee Prohibition

In prohibiting those who have previously held Taxi Vehicle Licences it can be assured there will be new entry into the Taxi market. This prohibition also creates a smaller pool of candidates in the lottery and excludes those who have a current interest in the Edmonton market.

In order to prohibit those who have previously held Taxi Vehicle Licences from entering the lottery Section 41(2) of Bylaw 14700 would need to be amended. A proposed amendment would be to add a Section (d) stating "they have never been named on a Taxi Vehicle Licence." This prohibition would not be difficult to administer and does not pose any legal concerns.

Licence Requirements

There is some concern that those currently operating for brokers not located within the City should have access to the lottery. While it is currently open to anyone to obtain a Taxi Driver's Licence and meet the current requirements, it is also open to Council to amend Bylaw 14700 to allow those with licences from other municipalities to enter the lottery.

In order to alter the requirements for a Taxi Driver's Licence Section 41(2)(c) of Bylaw 14700 would need to be amended. Section 41(2)(c) currently requires a person to have a valid Taxi Driver's Licence to enter a lottery. Amendments could include "they have a minimum 3 years experience operating a taxi in Alberta" or "they have a valid Taxi Vehicle Licence or an equivalent licence issued by another Alberta municipality." These amendments should not be difficult to administer.

Driving Experience

It could be a requirement that those entering the lottery not only have a Taxi Driver's Licence, but that they also have a certain amount of experience operating a Taxi. This would ensure that those in the lottery have some experience operating a Taxi. It would also ensure that those in the lottery have some knowledge of the taxi industry, which would be useful should they be successful in the lottery. This would also limit the number of people eligible for entry into the lottery.

Section 41(2)(c) would need to be amended to create that barrier to entry. An affidavit, or other form of evidence, would be needed in order to ensure that the minimum requirements are met. Alternatively the requirement could be that a person has held a valid Taxi Driver's Licence for a certain period of time.

Entry Fee

In order to change the entry fee to the lottery Section 1(d) of Schedule B to Bylaw 14700. This fee could be set to any reasonable amount determined by Council.

Accessible Taxis

Some or all of any new Taxi Vehicle Licences issued could be issued as Accessible Taxis. There is currently no requirement for a lottery to issue new Accessible Taxi Vehicle Licences, though a lottery could be conducted if Council wished. An issue with Accessible Taxis is that Bylaw 14700 requires that anyone holding an Accessible Taxi Vehicle Licence must hold a group of five such licences. This is known as the “Rule of Fives”, and stems from a Human Rights complaint filed against the City.

In 2003 a complaint was filed with the Alberta Human Rights Commission on the basis that the complainant, a disabled person, was not able to receive the services of a wheelchair accessible taxi when requested. In 2006 the Alberta Court of Queen’s Bench found that the City was systematically discriminating against disabled persons by having a limit on the number of Accessible Taxi Vehicle Licences and not taking any other steps to ensure 24 hour a day, 7 days a week availability of Accessible Taxis.

In response to that decision the City introduced the “Rule of Fives” into Bylaw 14700. That rule requires that a person hold Accessible Taxi Vehicle Licences in groups of five with a condition that at least one of those five Accessible Taxis must be available at any given time. This provides a simply administered assurance that there will be Accessible Taxis available when needed.

If Council wishes to alter the “Rule of Fives” when issuing Accessible Taxi Vehicle Licences then another measure should be put in place to ensure 24/7 availability. Council should be mindful that a high degree of involvement in the day to day operations of a taxi may result in the City becoming, in law, the employer of that driver.