



Town of Whitby

By-law # 7398-18

Private Transportation Services

Being a By-law to license and regulate the operation of private transportation services in the Town of Whitby.

Whereas under Subsection 8(3) of the Municipal Act, 2001, S.O. 2001, c.25, as amended ("the Act"), the by-laws of a municipality may regulate or prohibit regarding a certain matter, and may require a person to do certain things or provide for a system of licences respecting that matter;

And Whereas Section 11 of the Act provides that a lower-tier municipality may pass by-laws respecting the health, safety and well-being of persons and respecting the protection of persons and property, including consumer protection;

And Whereas Section 151 of the Act provides that without limiting Sections 9, 10, and 11 of the Act, a municipality may provide for a system of licences with respect to a business;

And Whereas Section 156 of the Act provides further authority for the licensing, regulating and governing of the owners and drivers of taxicabs;

And Whereas Section 391 of the Act enables a municipality, without limiting Sections 9, 10, and 11 of the Act, to pass a by-law imposing fees or charges for services or activities provided or done by or on behalf of it;

And Whereas the Council of The Corporation of the Town of Whitby has determined that it is appropriate and desirable to license taxicabs, limousines, transportations network companies, and designated driving services for the purpose of ensuring the health and safety of both passengers and drivers, for the protection of persons and property, and to ensure consumer protection.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

About This By-law

This by-law provides for the regulation and licensing of private transportation services in the Town of Whitby. When interpreting this by-law, reference should be directed towards the general Vehicle-for-Hire requirements in conjunction with any regulations related to a specific private transportation service.

1. Definitions

- 1.1. **Accessible Taxicab** means a Motor Vehicle equipped as a physically disabled passenger vehicle in accordance with R.R.O. 1990, Reg. 629, made under the Highway Traffic Act, and the Canadian Standards Association CAN3-D409-M84 vehicle standards, all as amended, and identified through the issuance and display of an Accessible Taxicab licence plate as required in this by-law.
- 1.2. **App** means a mobile application that can be downloaded onto or accessed on a mobile phone, tablet or other digital electronic device to connect passengers with a licensed Vehicle-for-Hire.
- 1.3. **Applicant** means a Person applying for a new Licence or renewing an existing Licence.
- 1.4. **Commercial Safety Standards Certificate** means an Ontario Ministry of Transportation Commercial Safety Standards Certificate demonstrating compliance with Provincial commercial vehicle regulations issued by a provincially authorized mechanic.
- 1.5. **Licence** means a Licence issued for a Vehicle-For-Hire licensing category under this by-law.
- 1.6. **Licensee** means a Person holding a Licence in accordance with this by-law.
- 1.7. **Limousine** means any Motor Vehicle that provides pre-arranged transportation services to passengers pursuant to a written contract or invoice solely on an hourly or fixed fee basis with a minimum fee charged in accordance with Schedule 1 of this by-law.
- 1.8. **Motor Vehicle** means a Motor Vehicle as defined by the Highway Traffic Act, R.S.O. 1990, c. H.8.
- 1.9. **Municipal Clerk** means the Clerk of the Town or a designate.
- 1.10. **Officer** means a Police Officer as defined by the Police Services Act, R.S.O. 1990, c P.15 and shall include a Municipal Law Enforcement Officer, whose duties include the enforcement of this by-law.
- 1.11. **On-Demand** means that upon request for service, a Taxicab Broker will dispatch a Taxicab within a reasonable amount of time to provide service, 24

hours a day, 7 days a week, and 365 days a year, with the standard fare charged by the Taxicab Broker in accordance with this by-law applying regardless of the day or time.

- 1.12. **Operate** means the act of picking-up passengers but shall not include the drop-off of passengers.
- 1.13. **Person** means an individual, association, firm, partnership, corporation, trust, organization, trustee or agent, and their heirs, executors or legal representatives.
- 1.14. **Registered Motor Vehicle Owner (or “Owner”)** means the Person shown to be the Owner of a Motor Vehicle according to the records maintained by the Registrar of Motor Vehicles for the Province of Ontario and includes a lessee of a Motor Vehicle pursuant to a written lease contract.
- 1.15. **Street Hail** means any appeal to pick-up passengers by any Person using sounds, words, signs, or gestures.
- 1.16. **Taxicab** means any Motor Vehicle providing transportation to passengers by way of Persons requesting services through a Taxicab Broker, or in response to a Street Hail or pick-up from a Taxicab Stand.
- 1.17. **Taxicab Broker** means any Person who carries on the business of accepting, advertising, brokering or dispatching orders for Taxicabs by way of a listed telephone line, and through other means not limited to an App or other electronic method.
- 1.18. **Taxicab Stand** means a Taxicab Stand as defined in the Town’s Traffic By-law.
- 1.19. **Town** means The Corporation of the Town of Whitby or the geographic area of Whitby, as the context requires.
- 1.20. **Transportation Network Company (or “TNC”)** means any Person that offers, facilitates, or Operates prearranged transportation services exclusively through an App that matches passengers requesting service to TNC Drivers who provide service using a TNC Vehicle.
- 1.21. **Transportation Network Company Driver (or “TNC Driver”)** means the driver of a TNC Vehicle but does not include a Person providing transportation that meets the definition of carpooling under the Public Vehicles Act, R.S.O. 1990, c. P.54.
- 1.22. **Transportation Network Company Vehicle (or “TNC Vehicle”)** means a Motor Vehicle that is Operated by a TNC Driver, used to provide transportation services to passengers, but does not include Taxicabs, Limousines, or DDS Vehicles under this by-law.

1.23. **Vehicle-for-Hire** means a driver, Owner or broker Operating as a private transportation service that is required to obtain a Licence in accordance with this by-law and may include a Person who is a driver, Owner or broker of a Taxicab, Limousine, or TNC, but does not include a Person providing transportation that meets the definition of carpooling under the Public Vehicles Act, R.S.O. 1990, c. P.54.

2. General

Prohibitions

- 2.1. No Person shall Operate a Vehicle-for-Hire in the Town without a Licence.
- 2.2. No Person shall Operate a Vehicle-for-Hire with a suspended or revoked Licence.
- 2.3. No Person issued a Licence in accordance with this by-law shall fail to conform to the requirements and conditions of the Licence.
- 2.4. No Person shall obstruct an Officer during the performance of a duty under this by-law.
- 2.5. Except for a licensed Taxicab, no Vehicle-for-Hire shall:
 - 2.5.1. Be equipped with a taximeter;
 - 2.5.2. Be equipped with a roof light;
 - 2.5.3. Be equipped with a two way radio or other similar device used for the purpose of dispatching;
 - 2.5.4. Use or permit the use of the words “taxi”, “Taxicab”, or any other word or words which indicate or could be reasonably interpreted to indicate that the Motor Vehicle is a Taxicab; or,
 - 2.5.5. Accept Street Hails or solicit business in a Taxicab Stand.

Insurance

- 2.6. Proof of insurance submitted in accordance with this by-law shall be provided at the time of application to the satisfaction of the Treasurer who may require additional types of insurance coverage or higher limits of insurance coverage.
- 2.7. All Licensees shall provide the Town of Whitby with no less than thirty (30) days prior notice of any cancellation, variation, or expiration to an insurance policy required under this by-law.

Licensing Procedures

- 2.8. Every application for a Licence under this by-law shall be completed and submitted on forms prescribed by the Municipal Clerk.
- 2.9. A Licence is not transferrable.
- 2.10. A Vehicle-for-Hire broker or owner Licence issued under this by-law is valid for one year from the date of issuance, unless revoked or suspended, save and except:
 - 2.10.1. A Taxicab Broker or Taxicab Owner Licence issued under this by-law is valid from May 1st until April 30th of the following year, unless revoked or suspended.
- 2.11. A Vehicle-for-Hire driver Licence issued under this by-law is valid for two years from the date of issuance, unless revoked or suspended.
- 2.12. A Licensee may renew their Licence up to and including the 15th day after the Licence expires, and if the Licensee fails to make a renewal application within 15 days and pay the application fees, the Licensee shall be required to pay a late penalty fee in accordance with the Fees and Charges By-law prior to renewing the Licence.
- 2.13. The Municipal Clerk shall refuse to issue or renew a Licence where:
 - 2.13.1. the application for a Licence fails to meet the requirements for issuance set forth in this by-law or any other Town by-law, Regional by-law, or Provincial or Federal law;
 - 2.13.2. the Applicant is not at least 18 years of age;
 - 2.13.3. the application is incomplete;
 - 2.13.4. the Licence was issued in error;
 - 2.13.5. the prescribed fee has not been paid; or,
 - 2.13.6. the Applicant has submitted false information in support of the application.
- 2.14. Where a Licence, plate or other documentation issued by the Town has been lost or destroyed, the Municipal Clerk may issue a replacement Licence, plate or document upon payment of the applicable fees as set out in the Fees and Charges By-law.
- 2.15. The Municipal Clerk may suspend or revoke a Licence if the Licensee fails to comply with any provision of this by-law and such non-compliance is not remedied following notice from an Officer specifying the particulars of the non-compliance.

3. Vehicle-For-Hire Licensing Categories

3.1. The following Licences are available and may be issued by the Town in accordance with this by-law:

Vehicle-For-Hire Service	Licence Category
Taxicab	Broker
	Owner
	Driver
Limousine	Owner
	Driver
Transportation Network Company	Broker

4. Vehicle-For-Hire – Driver Licence

4.1. Every application for a Vehicle-for-Hire Driver Licence shall include:

- 4.1.1. A fee as prescribed in the Fees and Charges By-law;
- 4.1.2. Two (2) recent passport size photographs of the applicant, if issuance of such Licence will result in the provision of an identification card;
- 4.1.3. A valid G class driver's licence in good standing issued by the Province of Ontario permitting the Operation of a Vehicle-For-Hire;
- 4.1.4. A complete driver's record from the Ontario Ministry of Transportation, issued within the ninety (90) day period immediately preceding the date on which the application is submitted showing no more than eight (8) demerit points; and,
- 4.1.5. A current police reference check issued within the ninety (90) day period immediately preceding the date on which the application is submitted.

5. Vehicle-For-Hire – Owner Licence

5.1. Every application for a Vehicle-for-Hire owner Licence shall include:

- 5.1.1. A fee as prescribed in the Fees and Charges By-law;

- 5.1.2. A copy of the Motor Vehicle Registration issued by the Ontario Ministry of Transportation;
 - 5.1.3. For a Motor Vehicle that is three (3) model years or older, a current and valid Ontario Ministry of Transportation Safety Standards Certificate for the Motor Vehicle for which the Licence is applied, and issued by a provincially authorized Motor Vehicle inspection mechanic. A Commercial Safety Standards Certificate shall be required if an accessible Motor Vehicle is being licensed;
 - 5.1.4. Automobile Liability Insurance for owned/leased vehicles with limits of not less than Two Million Dollars (\$2,000,000) inclusive per occurrence for bodily injury, death and damage to property and standard accident benefits; and,
 - 5.1.5. For a Motor Vehicle that is eleven (11) model years or older, proof of inspection by a Town Municipal Law Enforcement Officer and payment of a fee for such inspection in accordance with the Fees and Charges By-law.
- 5.2. Every application for a Taxicab owner Licence shall, in addition to the requirements set out in Section 5.1, include:
- 5.2.1. Proof of inspection by a Town Municipal Law Enforcement Officer verifying that the Taxicab is equipped with a functioning taximeter that charges a rate and fare that is in accordance with Schedule 1 of this by-law.

6. Vehicle-For-Hire – Broker Licence

- 6.1. Every application for a Vehicle-for-Hire broker Licence shall include:
- 6.1.1. A fee as prescribed in the Fees and Charges By-law;
 - 6.1.2. The name, telephone, email, and business address in the Province of Ontario for the Person authorized to act on behalf of the broker;
 - 6.1.3. Proof of an Ontario Master Business licence and/or articles of incorporation; and,
 - 6.1.4. Commercial General Liability insurance submitted on the prescribed form with the Town as an additional insured subject to limits of not less than Five Million Dollars (\$5,000,000) inclusive per occurrence for bodily injury, death and damage to property including loss of use.
- 6.2. Every application for a TNC broker Licence shall, in addition to the requirements set out in Section 6.1, include:

- 6.2.1. Non-Owned Automobile insurance with limits of no less than Two Million Dollars (\$2,000,000) per occurrence.

7. Operating Requirements – Vehicle-for-Hire Driver

- 7.1. Every Vehicle-For-Hire Driver shall:
 - 7.1.1. Not Operate a Vehicle-For-Hire for more than eighteen (18) hours in any twenty-four (24) hour period;
 - 7.1.2. Not smoke or have a lit product while driving any passenger; and,
 - 7.1.3. Take the shortest possible route to the destination desired by the passenger, unless the passenger designates another route or an alternate route is agreed to via an App.
- 7.2. The number of passengers at any given time within a Vehicle-For-Hire shall not exceed the capacity of the Motor Vehicle as set by the manufacturer and as the driver may be permitted to transport with a valid G Class driver's licence.
- 7.3. If a Person's provincial driver's licence is suspended or revoked, the Person's ability to Operate a Vehicle-For-Hire under this by-law shall be deemed suspended for the entirety of the period that the individual's provincial driver's licence is suspended or revoked and that Person shall report such suspension or revocation within one (1) business day to the Municipal Clerk.

8. Operating Requirements – Vehicle-for-Hire Owner

- 8.1. Every Vehicle-for-Hire Owner shall ensure their Motor Vehicle is:
 - 8.1.1. Clean and in good repair;
 - 8.1.2. Free from mechanical and safety defects;
 - 8.1.3. Equipped with seat belts plainly visible and accessible to passengers;
 - 8.1.4. Equipped with fully functioning air-conditioning and heating systems; and,
 - 8.1.5. Free from major rust or body damage.

9. Operating Requirements – Vehicle-for-Hire Broker

- 9.1. As required by Ontario Regulation 191/11 made under the Accessibility for Ontarians with Disabilities Act, every broker Licensed under this by-law shall ensure that all drivers affiliated with the brokerage are provided with accessible customer service training and for drivers of an accessible Motor Vehicle, training regarding the operation of the Motor Vehicle's accessibility features.

- 9.2. Every broker shall maintain an electronic record of every service request received and filled for a period of not less than twelve (12) months following the conclusion of the service provided and which shall include:
 - 9.2.1. The Vehicle-for-Hire driver and vehicle information;
 - 9.2.2. Commencement and destination point of each trip;
 - 9.2.3. The date and time of pick-up and drop-off;
 - 9.2.4. The fare charged; and,
 - 9.2.5. In addition to the requirements above, in the case of request for accessible service, the total number of trips requested and fulfilled.
- 9.3. All records required to be maintained in accordance with this by-law shall be made available for audit within forty-eight (48) hours following a request of the Municipal Clerk.

10. Taxicab

- 10.1. Every Taxicab driver, Owner, and Broker issued a Licence in accordance with this by-law shall at all times adhere to the following:
 - 10.1.1. Have the Taxicab plate with validation sticker issued by the Municipal Clerk securely affixed to the right rear bumper on the Taxicab;
 - 10.1.2. Display a current and valid driver identification card and tariff card on the interior of the Taxicab so they are visible to all passengers;
 - 10.1.3. Ensure every Taxicab contains a working taximeter which shall:
 - 10.1.3.1 Be operational with the seal affixed thereto at all times unless being inspected or altered by an Officer;
 - 10.1.3.2 Register distances travelled, record trips and units, and compute fares to be paid;
 - 10.1.3.3 Be in plain view of passengers; and,
 - 10.1.3.4 Be illuminated at all times.
- 10.2. Every Taxicab shall be equipped with an operational roof light and be painted in a colour scheme and display an emblem/decal approved by the Municipal Clerk.
- 10.3. Every Taxicab Licence for which a Commercial Safety Standards Certificate is required shall be licensed as an Accessible Taxicab under this by-law.

Taxicab Licences – Limitations and Restrictions

- 10.4. No more than two (2) Taxicab Broker Licences shall be issued by the Municipal Clerk at any one time. Notwithstanding, the Municipal Clerk may issue additional Taxicab Broker Licences if the number of Licensed Taxicabs, including Accessible Taxicabs, held by the two Licensed Taxicab Brokers falls below thirty (30) Taxicabs.
- 10.5. Every Taxicab Broker licensed under this by-law shall:
 - 10.5.1. Be the licensed Owner of least ten (10) Taxicabs and at least three (3) Accessible Taxicabs;
 - 10.5.2. Ensure that at least seventy (70) percent of the total number of Taxicabs licensed, and two of three Accessible Taxicabs licensed, are at all times maintained for hire and in good operating condition; and,
 - 10.5.3. Not use or employ any Taxicab other than a Taxicab for which a Taxicab Owner's Licence has been issued under this by-law.

11. Limousine

- 11.1. Every Limousine driver and Owner shall at all time adhere to the following:
 - 11.1.1. Have the Limousine plate issued by the Municipal Clerk securely affixed to the right rear bumper;
 - 11.1.2. Display a current and valid driver identification card on the interior of the Limousine so it is visible to all passengers; and,
 - 11.1.3. Shall not Operate under a business or trade name that is not on file with the Town.
- 11.2. Every Limousine Owner shall maintain a record of every service request received and filled in accordance with Section 9.2 of this by-law.
- 11.3. As required by Ontario Regulation 191/11 made under the Accessibility for Ontarians with Disabilities Act, every Limousine Owner Licensed under this by-law shall ensure that all affiliated Limousine drivers are provided with accessible customer service training.

12. Transportation Network Company (TNC)

- 12.1. No TNC Driver shall:
 - 12.1.1. Provide transportation services unless he or she is affiliated with a licensed TNC broker;
 - 12.1.2. Fail to display a decal or other similar identification supplied by the TNC that identifies the TNC Vehicle as being affiliated with the licensed TNC broker on whose App they are Operating;

- 12.1.3. Fail to advise their insurance provider that they will be using their Motor Vehicle as a TNC Vehicle; and,
- 12.1.4. Accept payment by any means other than through a TNC App.
- 12.2. Every TNC Driver and TNC Vehicle shall meet the licensing requirements as set out in Sections 4 and 5 of this by-law, and submit proof thereof to the TNC to which they subscribe or are a registered user on the App, on the same basis as if they were obtaining a Vehicle-for-Hire Driver or Owner Licence in accordance with this by-law save and except for the payment of a fee in accordance with the Fees and Charges By-law.
- 12.3. It shall be the responsibility of the TNC to intake and review documentation to ensure compliance of each TNC Driver and TNC Vehicle. Documentation received by the TNC for each TNC Driver and TNC Vehicle shall be retained for a period of two (2) years following the last day that a TNC Driver or TNC Vehicle is no longer a TNC Driver.
- 12.4. Every TNC shall provide to the Municipal Clerk, in accordance with a schedule established by the Municipal Clerk, a list of TNC Drivers who have picked up passengers within the Town. The Municipal Clerk may request that the TNC furnish all documentation retained by the TNC as proof of TNC Driver and TNC Vehicle compliance, and such documentation shall be made available to the Municipal Clerk for audit and verification purposes in accordance with Section 9.3 of this by-law.
- 12.5. A TNC shall, upon request, create passenger accounts for use by an Officer to investigate compliance with this By-law, and the TNC shall not obstruct, in any manner, the use of such accounts or the purpose for which they have been established.
- 12.6. Every TNC shall provide the following information through their App or on their website:
 - 12.6.1. The screening process applied to TNC Drivers and TNC Vehicles;
 - 12.6.2. Information on the categories of services available to passengers through the App and the distinctions between these categories or types of service, if any; and,
 - 12.6.3. A plain language explanation of their insurance coverage, including detailed information on how to initiate a claim.

TNC App

- 12.7. An App used by a TNC shall:

- 12.7.1. Direct passengers looking for accessible transportation services to a licensed Taxicab Broker if an accessible TNC Vehicle is not available through the App at the time of request;
- 12.7.2. At the time of arranging the trip, disclose to the passenger requesting service:
 - 12.7.2.1 The TNC Driver's name and a recent photograph that clearly shows the TNC Driver's facial features;
 - 12.7.2.2 The TNC Vehicle's make, model, and licence plate number; and,
 - 12.7.2.3 An estimate of the applicable rate and any surcharge being charged and confirmation of the rate once the trip is confirmed.
- 12.7.3. Show the location and route of the TNC Vehicle that will be providing the requested service;
- 12.7.4. Allow the customer to rate the TNC Driver and TNC Vehicle being used to provide the requested service;
- 12.7.5. Provide a secure payment mechanism; and,
- 12.7.6. Create a trip information log that the passenger can access or generate an electronic receipt at the end of each trip or shortly thereafter that includes information confirming:
 - 12.7.6.1 The total amount paid;
 - 12.7.6.2 The date and time of the trip;
 - 12.7.6.3 The start point and end point; and,
 - 12.7.6.4 Information to identify the TNC Driver and TNC Vehicle.

13. Rates and Fares

- 13.1. Where a maximum or minimum rate or fare is established in Schedule 1 attached hereto and forming part thereof, a Person Operating a Vehicle-for-Hire to which such rate or fare pertains shall charge no more than the maximum or no less than the minimum established, as applicable.

14. Schedule(s)

- 14.1. Schedule 1 - Vehicle-for-Hire Rates and Fares
- 14.2. Schedule 2 – Vehicle-for-Hire Regulation and Licensing Highlights

15. Enforcement and Penalties

- 15.1. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33 and/or the Municipal Act, 2001.
- 15.2. An Officer may request, at any time, that a Licensed Vehicle-for-Hire driver or Owner submit a Vehicle-for-Hire for inspection by an Officer.

16. Short Title

- 16.1. This by-law shall be referred to as the "Private Transportation Services By-law".

17. Repeal of Existing By-law

- 17.1. Schedule 7 of By-law #5545-04 is repealed upon expiry of all Licences issued in accordance with Schedule 7, and until such time as it is repealed, shall only apply to Licences that were issued in accordance with Schedule 7.

18. Effective Date

- 18.1. This by-law shall come into force and effect on May 1, 2018. All current broker, owner and driver Licences in accordance with Schedule 7 of By-law #5545-04 may continue operating under the provisions of By-law #5545-04 until said Licence expires, wherein the licence will be renewed in accordance with this by-law.

By-law read and passed this 16th day of April, 2018.

Original Approved and Signed.

Don Mitchell, Mayor

Original Approved and Signed.

Christopher Harris, Town Clerk

Schedule 1 to By-law Number 7398-18

Vehicle-for-Hire Rates and Fares

Taxicab

1. No Taxicab Broker shall charge more than the following base fare:
 - a. \$3.80 base fare plus \$0.22 for each one tenth (1/10) kilometre (H.S.T. included); and,
 - b. \$0.10 for each twelve (12) seconds of waiting time while under engagement (H.S.T. included).
2. Notwithstanding Section 1 of Schedule 1, a Taxicab Broker may offer a lower base fare provided that:
 - a. A revised tariff card is provided to the Municipal Clerk showing the base fare to be charged; and,
 - b. The Taxicab Meter is inspected by an Officer to validate that the lower fare has been correctly programmed.

Limousine

3. The minimum fare for the services of a Limousine under this by-law shall be \$50.

Transportation Network Company

4. A TNC shall not charge any rate or fare that exceeds the amount agreed upon and recorded through the App prior to providing transportation services.

Schedule 2 to By-law Number 7398-18
Vehicle-for-Hire Regulation and Licensing Highlights

Regulation	TNC	Taxicab	Limousine
Limit on the number of passengers per trip	✓	✓	✓
Annual inspections for vehicles 11 model years or older	✓	✓	✓
Annual Vehicle Safety Standards Certificate submitted by vehicle owner	✓	✓	✓
Biennial Police Reference Check submitted by vehicle driver	✓	✓	✓
Biennial Driver's Record submitted by vehicle driver	✓	✓	✓
Accessible customer service training required	✓	✓	✓
Driver required to display Driver's I.D or Licence	X	✓	✓
Decal/Logo on vehicle required	✓	✓	X
FSCO Insurance Policy required for ridesharing services	✓	X	X
Proof of \$2M Auto insurance required	X	✓	✓
Proof of \$5M CGL Insurance required	✓	✓	X
Applicable Driver Licence Fees	X	✓	✓
Applicable Owner Licence Fees	X	✓	✓
Applicable Broker Licence Fees	✓	✓	X
Fares for service provided regulated by By-law	X	✓	✓
Street Side Hailing permitted	X	✓	X

* - Please refer to the body of the by-law for the specific regulations under each regulation item