CRIMINAL RECORD CHECK

Bylaw Provision	**Concerns**

• Draft bylaw requires annually:
  ○ criminal record check
  ○ vulnerable persons sector search
  ○ child abuse registry check
	• Other taxi/ridesharing bylaws don't require Vulnerable Persons Sector Search (Ottawa is exception).
	• No city requires a Child Abuse Registry check.
	• Child Abuse Registry check is not coterminous with a criminal record check or a vulnerable sector check
	• Child Abuse Registry check wait times are long
	• Uber forbids use of app by persons under 18

Proposed Amendments

Keep requirement for criminal record + vulnerable persons sector search + child abuse registry check but modify as follows:

- Criminal record check required annually
- Vulnerable persons sector search and child abuse registry check required once for a PTP driver
  - Subsequent years provision for signed declaration confirming PTP driver does not have outstanding criminal charges or warrants pending before courts.
- PTP drivers with clear criminal record check + vulnerable persons sector check can drive pending outcome of child abuse registry check.

Criteria for driver registration with PTP dispatcher

33(1) A PTP dispatcher must not register an individual as a driver unless the individual provides the following:

(a) A birth certificate or other documentation proving that he or she is at least 18 years of age;

(b) Evidence that he or she holds a valid Provincial driver's licence applicable to the use of the vehicle being driven;

(c) a criminal record check ~~and a child abuse registry check~~ issued no more than 90 days before the application for registration was made;

(d) the applicant's driver's abstract issued by Manitoba Public Insurance.

33(3) A PTP dispatcher must <u>terminate</u> ~~not register~~ an individual as a PTP driver if he or she is listed on the child abuse registry.

Termination of PTP drivers' registration

34(1) At the conclusion of each 12 month period after an individual has been registered as a PTP driver, a PTP dispatcher must require that a registered driver provide a criminal record check, ~~child abuse registry check and~~ a driver's abstract from MPI which have been issued no more than 90 days prior to the end of the 12 month period~~.~~, <u>and a signed declaration confirming that he or she does not have any outstanding criminal charges or warrants pending before any courts or registration on the child abuse registry.</u> If the driver fails to do so, the dispatcher must terminate that driver's registration.

Precedent

s. 143(1), Ottawa Bylaw

REQUIREMENTS RELATING TO PTC DRIVER

143. (1) Every Private Transportation Company shall ensure that a PTC Driver meets the following requirements at all times when providing transportation services using a PTC Vehicle:

(a) holds a valid and current unrestricted Class G driver's license issued by the Province of Ontario pursuant to theHighway Traffic Act, or a current and valid driver's License of the appropriate class issued by the Province of Quebec;

(b) has provided to the PTC original documents from the issuing agency outlining acceptable results of investigations related to the applicant for a Police Record Check for persons seeking employment to serve the vulnerable sector of the population, dated less than 90 days prior to the date of commencement as a PTC Driver;

(c) has provided to the PTC an acceptable Statement of Driving Record dated within thirty (30) days prior to commencement as a PTC Driver **and then annually thereafter,** issued by the Ministry of Transportation of Ontario or the Contrôle de Transport Routier (Quebec); and,

(d) prior to commencement as a PTC Driver **and then annually thereafter**, provision of a signed declaration confirming that he or she does not have any outstanding criminal charges or warrants pending before any courts.

***NOTE - I added the emphasis in bold to point out how subsection 143(1)(b) related to VSCs does not contain the "annually thereafter" language that appears with respect to a Statement of Driving Record under subsection 143(1)(c) and signed declaration under subsection 143(1)(d). This means that a VSC is required on initial application to be a driver in Ottawa, but not each year. Instead a signed declaration is required by the driver confirming no outstanding criminal charges or warrants exist.**

BROAD DELEGATED AUTHORITY

Concerns

- No other taxi/ridesharing bylaw in Canada contains such sweeping delegated authority as Winnipeg draft bylaw.
- Such broad discretion delegated to the City's "designated employee" could presents challenges, particularly for a global app like Uber that operates with the same app around the world.
- Unfortunately, it is impossible to tailor one global app to the differing administrative requests of city staff in each and every city globally.
- Delegated authority under the draft bylaw is not necessary when bylaw changes can be duly mandated in the future through Committee and Council which provides regulatory certainty in the meantime and would provide an opportunity for the public to comment on any bylaw changes in the future.

Data Security • Like other large multi-national companies with important data to protect, Uber uses technical safeguards like encryption, authentication, fraud detection, and secure software development to protect information. • Uber also has an extensive team of data security and privacy experts working to prevent theft, fraud, or abuse of information. Read more here: https://privacy.uber.com/	**Proposed Amendments** Data security measures can be mandated in the future but would need to go through Committee and Council which provides regulatory certainty in the meantime. ~~**Data security measures and policies**~~ ~~10(1) A licenced dispatcher must comply with data security measures and policies for personal information about passengers and drivers proposed by the licenced dispatcher and approved as satisfactory by the designated employee.~~ ~~10(2) A licenced dispatcher may propose changes to its data security measures and policies at any time but these changes do not apply until and unless they are approved by the designated employee.~~ ~~10(3) The designated employee may order that a licenced dispatcher make changes to its data security measures and policies and, when doing so, must provide a reasonable time for compliance with the order. The licenced dispatcher must comply with such an order.~~ ~~10(4) This section does not apply to a dispatcher who is operating under a provisional licence issued under clause 73(2)(g) (Powers of designated employee).~~
Passenger Property Return • Uber has passenger property return policies/procedures in place • Small fee is charged to an Uber rider once lost item is returned. Uber drivers are independent contractors and this compensates them for their	**Proposed Amendments** Passenger property return processes can be mandated in the future but would need to go through Committee and Council which provides regulatory certainty in the meantime. ~~11(1) A licenced dispatcher must comply with a process proposed by the dispatcher and approved as satisfactory by the designated employee by which passengers can retrieve their property left in vehicles for hire registered with the dispatcher.~~

time. The entire fee is passed on to the driver. • Uber riders with a lost item(s) can contact their Uber driver by phone or writing into support via Uber app.	~~11(2) A licenced dispatcher may propose changes to its passenger property retrieval policy at any time but these changes do not apply until and unless they are approved by the designated employee.~~ ~~11(3) The designated employee may order that a licenced dispatcher make changes to its passenger property retrieval policy and, when doing so, must provide a reasonable time for compliance with the order. The licenced dispatcher must comply with such an order.~~
Complaints Processes • Uber has robust complaints process: riders can file complaint with Uber easily in app at a tap of a button. • In order to be held accountable, it is critical complaints are reported and properly investigated: Uber's technology can help to alleviate burden of making complaints. • With Uber, all information about a trip, including route taken, driver's name, photo, vehicle make and model and licence plate, is stored historically in rider's Uber app for easy retrieval for reporting incident or complaint to Uber, City official, or police. • Uber has customer teams specially trained and dedicated to safety and law enforcement.	**Proposed Amendments** Complaints processes can be mandated in the future but would need to go through Committee and Council which provides regulatory certainty in the meantime. ~~12(1) A dispatcher must comply with a process proposed by the dispatcher and approved as satisfactory by the designated employee for accepting, recording, reviewing and responding to complaints.~~ ~~12(2) As part of its complaints process, a dispatcher must maintain records required by the designated employee concerning~~ ~~(a) every complaint received;~~ ~~(b) evidence provided in respect of or in response to a complaint; and~~ ~~(c) the response of the dispatcher to the complaint;~~ ~~and must make these records available to the designated employee within 48 hours upon request.~~ ~~12(3) A licenced dispatcher may propose changes to its complaints process at any time but these changes do not apply until and unless they are approved by the designated employee.~~ ~~12(4) The designated employee may order that a licenced dispatcher make changes to its complaints process and, when doing so, must provide a reasonable time for compliance with the order. The licenced dispatcher must comply with such an order.~~ - OR IN THE ALTERNATIVE - ~~12(1) A dispatcher must comply with a process proposed by the dispatcher and approved as satisfactory by the designated employee for accepting, recording, reviewing and responding to Complaints.~~ 12(2) As part of its complaints process, a dispatcher must maintain records required by the designated employee concerning

	(a) every complaint received; (b) evidence provided in respect of or in response to a complaint; and (c) the response of the dispatcher to the complaint; and must make a specific ~~these~~ record~~s~~ available to the designated employee where reasonably required for audit or investigative purposes within 72 ~~48~~ hours upon request. ~~12(3) A licenced dispatcher may propose changes to its complaints process at any time but these changes do not apply until and unless they are approved by the designated employee.~~ ~~12(4) The designated employee may order that a licenced dispatcher make changes to its complaints process and, when doing so, must provide a reasonable time for compliance with the order. The licenced dispatcher must comply with such an order.~~
Training • Bylaws passed to regulate ridesharing in Ontario and Alberta leave training to taxi brokers and ridesharing companies. • Traditional in-class training does not work for the ridesharing industry where majority of drivers drive 5-10 hours a week to supplement income working full- and/or part-time jobs elsewhere • Prospective Uber drivers receive online training + are rated on 5-star rating + real time written feedback by riders, monitored and responded to by Uber 24/7. • Uber makes remedial training available if driver 5 star rating falls. • Uber can permanently deactivate a driver for more ratings.	**Proposed Amendments** ~~33(8) If the designated employee requires that PTP drivers must undergo training before being dispatched, a PTP dispatcher must not register an individual as a PTP driver unless he or she has undergone the required training.~~ - OR IN THE ALTERNATIVE - 33(8) If the designated employee requires that a particular PTP driver~~s~~ must undergo training ~~before being dispatched~~, a PTP dispatcher must suspend access to the platform for that ~~not register an individual as a~~ PTP driver until ~~unless~~ he or she has undergone ~~the required~~ training.

Insurance • Ridesharing drivers operating on Uber platform in Alberta, Ontario, and Quebec are automatically covered under commercial ridesharing insurance policy provided by Intact Insurance as approved by Provinces. • Coverage applies from moment Uber drivers go online until passengers have exited vehicle. • Manitoba Public Insurance (MPI) is currently examining possibility of providing same blanket insurance coverage in Manitoba for ridesharing PTPs like Uber.	**Proposed Amendments** 13(1) It is a condition of being issued and maintaining a licence that a dispatcher must obtain and maintain policies of commercial general liability insurance and non-owned automobile insurance in an amount of $2 million non-owned auto and $5 million in corporate general liability ~~and with provisions determined by the designated employee to be sufficient~~ to adequately protect the City, drivers, vehicle for hire owners, and the general public. 73(3) Without restricting the general nature of subsection (1) or the authority given to the designated employee in other provisions of this By-law, the designated employee is also granted authority (a) upon payment of fees which are pro-rated to reflect shorter terms, to issue licences for a period of less than one year so that annual licences are renewable at various points throughout the year; ~~(a) to establish insurance requirements for dispatchers;~~ - OR IN THE ALTERNATIVE - 73(3) Without restricting the general nature of subsection (1) or the authority given to the designated employee in other provisions of this By-law, the designated employee is also granted authority (a) upon payment of fees which are pro-rated to reflect shorter terms, to issue licences for a period of less than one year so that annual licences are renewable at various points throughout the year; (a) to establish insurance requirements for dispatchers as provided for by MPI;

FEES: PER-TRIP FEE

Bylaw Provision

- The proposed fee structure (annual graduated fee + per trip fee) makes sense for the ridesharing business model (including the per trip fee of $0.07 in lieu of accessibility)
- More than 50% of Uber driver-partners drive on the Uber platform 10 hours a week or less to supplement their income. Fees placed directly on them rather than the PTP (Uber) and its riders would act as an economic deterrent to driving on a ridesharing platform.
- As a result, because start-up costs are low for prospective Uber drivers, some will never take a first trip or only a few trips, making it challenging or impossible for ridesharing companies to recoup costs if high start-up costs were placed on the PTP instead of being offset by its customers through a per-trip fee.

Concerns

- The per-trip fee portion of the licensing fees in Winnipeg is high compared to similarly sized cities that have regulated ridesharing. With the exception of cities like Toronto most cities have a per-trip fee between $0.06 - $0.11.
  - Niagara Region: $0.11 per trip
  - Waterloo Region: $0.11 per trip
  - Hamilton: $0.06 per trip
  - London: $0.11 per trip
  - Vaughan: $0.11 per trip
  - Oakville: $0.11 per trip
  - Barrie: $0.11 per trip
  - Toronto: $0.30 per trip

Proposed Amendments

Amend APPENDIX B to align it with majority of cities

	Unit/Frequency	Notes	2018
Dispatch Company - Personal Transportation Provider (PTP)			
1-10 Vehicles	Annual	3	2,000.00
11-25 Vehicles	Annual	3	5,000.00
26-100 Vehicles	Annual	3	20,000.00
100+ Vehicles	Annual	3	50,000.000
Accessibility Surcharge - PTP	Per Trip	4	$0.07
Per Trip Fee - PTP	Per Trip	5	~~$0.20~~ $0.11