



Special Meeting of Council
Addendum Package

Date: November 30, 2021
Time: 6:30 pm
Location: Council Chambers - members participating remotely

Due to COVID-19 this meeting will be conducted as a virtual meeting, with no public attendance. Only the clerk and audio/visual technician will be in council chambers. With the Mayor, members of Council and all other staff participating in the meeting by calling in remotely. The meeting will be live web streamed, as usual, and archived on the city website.

Pages

5. Items to be considered at the Special Meeting of Council:

5.2. Amendments to Public Vehicle By-law 20-2009 (BB-12-21)

a. *Amendments to Public Vehicle By-law 20-2009 (BB-12-21)*

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Waive the Notice Requirement in City Policy CL-09-21, approved by Council on June 22, 2021, which requires that any changes to a Licensing By-law be posted on the City's website 7 days prior to the meeting at which the matter is to be considered; and

Approve the amendment to By-law 20-2009, otherwise known as the "Public Vehicles By-law", to temporarily modify the process in which new taxi owner licences are assigned and provide staff the ability to approve exemptions to requirements that no longer meet 2021 taxi business models, attached as Appendix A in a form satisfactory to the Director of Legal Services and Corporation Counsel.

7. Motion to Approve By-laws:

Enact and pass the following by-law which is now introduced, entitled and numbered as indicated below:

7.1. *67-2021- A by-law to amend By-law 20-2009, being a by-law to provide for the licensing, regulating and governing of Public Vehicles in the City of Burlington*

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SUBJECT: Amendments to Public Vehicle By-law 20-2009

TO: Mayor and Members of Council

FROM: Building and By-law Department

Report Number: BB-12-21

Wards Affected: All

File Numbers: 110-04-1

Date to Committee: N/A – Special Council Meeting

Date to Council: November 30, 2021

Recommendation:

Waive the Notice Requirement in City Policy CL-09-21, approved by Council on June 22, 2021, which requires that any changes to a Licensing By-law be posted on the City's website 7 days prior to the meeting at which the matter is to be considered; and

Approve the amendment to By-law 20-2009, otherwise known as the "Public Vehicles By-law", to temporarily modify the process in which new taxi owner licences are assigned and provide staff the ability to approve exemptions to requirements that no longer meet 2021 taxi business models, attached as Appendix A in a form satisfactory to the Director of Legal Services and Corporation Counsel.

PURPOSE:

To amend Public Vehicle By-law 20-2009 in order to allow exemptions to existing licensing requirements that may no longer meet modern taxi business operating models and to temporarily change the method in which new licences are granted.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
- Improve integrated city mobility
- Deliver customer centric services with a focus on efficiency and technology transformation

Background and Discussion:

On November 26, 2021, the main taxi service provider in the City of Burlington stopped operating. While this has left an unfortunate gap in service, it also provides opportunity for new business to enter the Burlington transportation market.

Unfortunately, the by-law that governs the issuance of new taxi licences (Public Vehicles By-law 20-2009) was written to meet the needs of the taxi business model that existed in 2009 and extensive changes and public consultation are required to update the by-law appropriately. In order to facilitate new business and close the operational gap in a timely manner, staff are recommending three main interim by-law amendments as follows:

1. Provide staff the authority to grant exemptions to by-law requirements that may no longer serve modern taxi business models (addition of Section 3.2 in the by-law).

The exemption provision is intended to provide flexibility in the application and vetting process to meet demands of current business models. Exemptions would only be granted if the overall health and safety intent of the by-law is being met and will not exempt any processes related to licence revocation, suspension or the refusal to issue or renew licences.

Exemptions will be documented in writing and can be made available to the public. Example of anticipated exemptions include:

- Allow the leasing of owner licence/plates to facilitate an independent operator model similar to 'rideshare' companies (e.g. Uber, Lyft). The current by-law does not allow for such a model which will limit the number of companies interested in operating in Burlington.
- Substitutions on documentation requirements. The by-law has very detailed requirements for documentation which may be excessive (e.g. requiring citizenship status documentation for drivers when all that may be required is proof they are legally able to work).
- Waiving of 'in Burlington' requirements which limit applications to those already operating a taxi business in Burlington.

Without the exemption process, a staff report to Council would be required to approve any requested deviations from the by-law which is time consuming and will delay the licensing approval process.

2. Allow operators to propose increases to the current tariff amounts and delegate approval authority to staff (addition of Section 27.1 (d) to the by-law).

The current tariff amounts in the by-law have not been changed since 2009. Given that neither the outgoing or current remaining taxi providers requested increases during that time, it is likely that market conditions support prices that are similar. However, in order to attract new business and facilitate quick approvals, staff believe it would be fair to consider increases should an operator request them.

The intent of putting tariff information in the by-law is to protect consumers and allow enforcement/prosecution of owner/operators who may try to overcharge customers or 'undercut' competitors. All tariff amounts approved will be posted publicly and are required to be posted in the taxis/company literature and enforcement will commence should deviations from the approved tariffs occur.

The tariff amounts directly affect the ability to attract customers (similar to any other business) so it is expected that they will be set at reasonable market prices.

For reference, the Town of Oakville operates under a similar model for tariff approval where they approve tariffs suggested by operators rather than set the tariffs.

3. Waive the current licence approval process so that licences can be granted on a 'first come, first serve' model starting December 2, 2021 (addition of Section 29.10 in the by-law).

Similar to other cities, Burlington restricts the number of taxi licences that can be issued (currently based on a 1:2,800 population ratio). Prior to the introduction of 'rideshare' companies, this meant the demand for taxi licences greatly exceeded the supply and an extensive process was required in order to award licences when they were available.

The current by-law requires an RFP process which includes submission and approval of business plans and restricts applications to those who have been working in the Burlington taxi industry for several years. These requirements are a hindrance to new business licensing approvals in today's market.

The demand for taxi licences no longer exists as it did in 2009. Staff are recommending that the approval process be changed temporarily (until December 31, 2023 or until the by-law is repealed and replaced) so that licences can be awarded on a 'first come, first serve' basis (similar to other business licences).

Unlike 2009, it is not anticipated that the demand for licences will exceed availability and it is likely that anyone wishing to pay for a taxi owner/plate licence will be granted the opportunity to be approved.

Based on the latest population calculation, there are 65 taxi owner licences available in Burlington. Prior to COVID, there were 39 (or 60% of the available spaces) licensed. Just prior to the recent taxi business closure on November 26, 2021, there were only 8 licences renewed.

Owner licences/plates will be granted in the order that complete applications are submitted - including requests for any exemptions. Applications for new taxi owner licences/plates will open on December 2, 2021 until all spaces are full. Staff will work with Communications Staff to issue statements announcing the process for applications on the various communication channels.

Risks to Not Approving the By-law Amendments

The proposed by-law amendments provide the fastest opportunity to vet and licence new taxi vendors in the City which is required to ensure appropriate consumer protection and mitigate health and safety risks.

Burlington Transit uses taxi operators to augment accessible transit, school boards use taxis to supplement the school bus system and those with medical conditions who require specialized transportation are major taxi users. The gap in service is greatly affecting this vulnerable population so the sooner new companies can be legally operating, the better.

Anecdotal information is already being submitted that indicates outside taxi companies are operating illegally in Burlington and potentially taking advantage of customers. The City does not have appropriate enforcement resources to stop all such activity and the longer it is allowed to continue, the more difficult it may be to eliminate.

Next Steps

The by-law recommendations are intended to provide a temporary solution to quickly replace lost taxi service. A comprehensive review and consultation is required not only to determine appropriate taxi licensing requirements, but to investigate the 'rideshare' businesses and options for regulating that market.

Based on current resourcing, staff are aiming to have a new by-law created prior to December 31, 2023.

Financial Matters:

Taxi licensing results in average annual revenue of \$35,00-\$40,000 (based on renewal licence fees as new licences were not being issued). The majority (~90%) of this revenue was collected from the recently closed taxi service provider.

Providing staff with the ability to licence taxi operators in a timely manner will reduce future revenue loss.

Should the proposed by-law amendments be successful, an initial increase in revenue is expected in the short term as new taxi owner licences/plates cost \$3,451.68 versus the renewal fee of \$716.04 (rates remain unchanged for 2022). Given that COVID has affected all taxi businesses, the expected uptake in licences is unknown so it is difficult to estimate potential revenue.

Other Resource Impacts

Reviewing and approving new licence applications will put further strain on the staffing resources in the By-law and Licensing Sections. Customer service in these areas are already suffering due to heightened volumes. This will be one more item contributing to the current demands on these teams.

Climate Implications

Not applicable.

Engagement Matters:

Staff spoke with several taxi companies who reached out to discuss options for operating a taxi industry in Burlington which helped inform the requested by-law changes.

Conclusion:

The requested by-law changes are required in order to allow the issuance of new taxi owner/operator licences in a timely manner.

Respectfully submitted,

Kerry Davren

Manager of By-law

905-335-7600 Ext. 7800

Appendices:

- A. Amendments to By-law 20-2009

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.

The Corporation of the City of Burlington

City of Burlington By-law 67-2021

A by-law to amend By-law 20-2009, being a by-law to provide for the licensing, regulating and governing of Public Vehicles in the City of Burlington.

File: 110-04-1, BB-12-21

Whereas Part IV of the *Municipal Act, 2001* provides that a local municipality may provide for a system of licences with respect to businesses; and

Whereas sections 8, 9 and 11 of the *Municipal Act, 2001* authorize the City of Burlington to pass by-laws necessary and desirable for municipal purposes, and in particular, paragraphs 6 and 8 of subsection 11(2) authorize by-laws respecting the health, safety and well-being of persons, the protection of persons and property, including consumer protection; and

Whereas on March 9, 2009, Council of The Corporation of the City of Burlington passed By-Law 20-2009, being a by-law to provide for the licensing, regulating and governing of Public Vehicles in the City of Burlington; and

Whereas the Council of The Corporation of the City of Burlington deems it appropriate to amend By-law Number 20-2009 to allow for flexibility in the administration of By-law and to attract new taxi businesses to the City of Burlington; and

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

1. Section 1.1(26) of By-law 20-2009 definition of “Licensing Manager” is deleted in its entirety and replaced with the following:

(26) “Licensing Manager” means the Director of Building and By-law and or their designate.

2. Section 1.1(27) of By-law 20-2009 definition of “Licensing Office” is deleted in its entirety and replaced with the following:

(27) “Licensing Office” means the department of the City of Burlington responsible for issuing licences under this By-law.

3. Section 1(44) of By-law 20-2009 definition of “Tariff Card” is amended by deleting the words “issued by the Licensing Manager” located after the word “tariff”.

4. By-law 20-2009 is amended by adding a new Section 3.2 immediately after Section 3.1 of Part 3 – Licensing Office as follows:

3.2

- (a) The Licensing Manager may provide exemptions to the requirements of By-law 20-2009 provided the intent of the By-law can be met and health and safety

requirements are preserved.

- (b) Exemptions contemplated under subsection (a) are intended to provide flexibility in the application and vetting process of licence applications and to reflect current operations. The exemptions contemplated under (a) are not intended to exempt any health and safety requirements, or legal processes related to licence revocation, suspension or the refusal to issue or renew licences.
 - (c) Requests for exemptions to By-law 20-2009 must be submitted in writing and detail each section for which an exemption is sought.
5. Section 4.2 (a) of By-law 20-2009 is amended by deleting the words “Schedule “A” to this By-law” and replaced with the words “the City’s Rates and Fees By-law”.
 6. Section 4.4 of By-law 20-2009 is amended by deleting the words “Schedule of fees under this by-law” and replaced with the words “City’s Rates and Fees By-law”.
 7. Section 10.3 (a) of By-law 20-2009 is amended by deleting the words “Schedule “A” of this by-law” and replaced with the words “the City’s Rates and Fees By-law”.
 8. By-law 20-2009 is amended by deleting Section 11.2 in its entirety and replacing it with the following:
 - 11.2 The Licensing Committee is hereby established pursuant to Section 23.5 of the *Municipal Act, 2001*, as amended, which shall be composed of not fewer than three members of the Council who are appointed by resolution of Council, and one such member shall be designated as the chair of the committee.
 9. Section 16.2 of By-law 20-2009 is amended by deleting the words “Schedule “A” to this By-law” located after the word “in” and replaced with the words “the City’s Rates and Fees By-law”.
 10. Section 16.3 of By-law 20-2009 is amended by deleting the words “Schedule “A” to this By-law” and replaced with the words “the City’s Rates and Fees By-law”.
 11. Section 16.6 of By-law 20-2009 is amended by deleting the words “Schedule “A” of this Businesses By-law” located after the word “in” and replace with the words “the City’s Rates and Fees By-law”.
 12. By-law 20-2009 is amended by adding a new Section 27.1 (d) immediately after Section 27.1 (c) as follows:
 - 27.1 (d) The Licensing Manager may approve changes to the tariff schedule if requested by the taxi brokerage or independent operator in writing at least one month in advance of the proposed change. Any approved changes will be posted on the City’s website.

13. By-law 20-2009 is amended by adding a new Section 29.10 immediately after Section 29.9 as follows:

29.10 Despite sections 29.5 to 29.9, new Taxicab Owner Licenses and Owner Plates may be issued by the Licensing Manager outside of the procurement and Council approval process contemplated in those sections, until December 31, 2023.

14. Despite the amendments made in this by-law, Public Vehicle By-law 20-2009, as it read prior to this amendment shall continue to apply to proceedings in respect to offences that occurred before the amendment.

15. Subject to the amendments made in this by-law, in all other respects, By-law 20-2009 is hereby confirmed unchanged.

16. This By-law comes into force on the date of its passing.

Passed this 30th day of November, 2021

Mayor Marianne Meed Ward _____

City Clerk Kevin Arjoon _____

The Corporation of the City of Burlington

City of Burlington By-law 67-2021

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