

# UBER

March 18, 2017

Barrie City Hall  
70 Collier Street, 1st Floor  
Barrie, ON  
L4M 1G8

Dear General Committee Members,

## **RE: Review of Transportation Industry (Taxi) By-Law 2006-265 and Regulating Ride Sharing/Driver for Hire Operations**

In reply to the City of Barrie Staff Report re “Review of Transportation Industry (Taxi) By-Law 2006-265 and Regulating Ride Sharing/Driver for Hire Operations” (“the staff Report”), Barrie staff are to be commended for their work outlining a pilot to be undertaken in Barrie with respect to ridesharing and Uber in the City, in addition to regulatory reforms for the existing taxi business to enable them to effectively compete in a changing ground transportation industry.

Uber Canada is supportive of the proposed pilot for ridesharing in Barrie as presented in the staff report and Appendix “A” Draft By-law Amendments -- By-law 2006265, with three concerns and proposed amendments outlined below. In addition to outlining these concerns and proposed solutions/draft bylaw amendments, further information is provided about Uber to elaborate on elements of the proposed pilot.

<b><u>Barrie Draft Bylaw Provisions</u></b>	<b><u>Barrie Draft Bylaw Concerns &amp; Proposed Amendments</u></b>
<p>Dated within 30 days of the date of receipt of the application:</p> <ul style="list-style-type: none"><li>• Criminal Record Check</li><li>• Ontario Driver’s Licence (MTO) Abstract</li></ul> <p>Valid within 36 days of application</p> <ul style="list-style-type: none"><li>• Vehicle Safety Standards Certificate</li></ul> <p>(See pg. 18 of the staff report, “Private Transportation Company”, Table 1 - Business Licence Inspections and Approvals)</p>	<p>Uber takes no issue with the requirement of a Criminal Record Check, Ontario Driver’s Licence (MTO) Abstract or Vehicle Safety Standards Certificate.</p> <p>In fact, Uber already requires these for every driver on the Uber platform and vehicle on an annual basis.</p> <p>The concern rests with the 30 and 36 days requirements related to these documents.</p> <ul style="list-style-type: none"><li>• Existing Uber drivers in Barrie already have these documents and checks that otherwise expire annually (if not renewed, Uber drivers lose access to the Uber platform).</li><li>• The 30 and 36 days requirement would mean unnecessary duplication -- Uber drivers with documents and checks completed within the last 12 months, would have to have these checks run again on commencement of the proposed pilot (twice within the same year when the intention of</li></ul>

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	<p>the bylaw is for annual checks).</p> <ul style="list-style-type: none"> <li>• If the City wanted to ensure documents and checks were up to date for the commencement of the proposed pilot, conceivably, they would have to require checks and documents to be rerun and updated daily after commencement of the pilot as the documents and checks would be outdated the very next day after they were completed.</li> <li>• However, bylaws across Ontario require these documents and checks to be rerun annually, with the ability to have drivers and vehicles removed throughout the year based on pending charges, criminal convictions, bylaw enforcement, poor customer service, etc.</li> </ul> <p><b>Proposed Solution/Amendment:</b></p> <ul style="list-style-type: none"> <li>• On initial licensing of the Private Transportation Company (PTC) / Uber under the proposed pilot, the City accepts documents and checks completed within the last 12 months, to be renewed on an annual basis (no document/check can be more than 12 months old after which the driver and/or vehicle would lose access to the Uber platform).</li> </ul>
<p>“Every person, while in charge of a private transportation company vehicle for hire shall:</p> <p>(a) produce daily trip records upon the request of any Municipal Law Enforcement Officer, Police Officer, or other duly authorized individual;</p> <p>(See pg. 25 of the Staff Report, section 13.2.8.0.0)</p>	<p>Uber takes no issue with making available daily trip records when requested.</p> <p>In fact, when requested, Uber already turns these trip records over to city staff for auditing purposes to ensure compliance with a bylaw or Police for investigation purposes.</p> <p>However, although the Uber driver-partner app stores all trips and related records, the Uber driver-partner is not best positioned to produce these records efficiently.</p> <p><b>Proposed Solution/Amendment</b></p> <ul style="list-style-type: none"> <li>• The Private Transportation Company [not the driver] shall produce daily trip records upon the request of any Municipal Law Enforcement Officer, Police Officer, or other duly authorized individual.</li> </ul>
<p>“The applicant shall provide to the Issuer of Licences at the time of application, proof of HST (Harmonized Sales Tax) registration”.</p>	<p>Uber as a company has an HST registration and takes no issue with producing that for the Issuer of Licences as contemplated by the draft bylaw.</p> <p>However, the Canada Revenue Agency (CRA) has</p>

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<p>(See pg. 26 of the Staff Report, section 14.2.3.0.0 and elsewhere throughout draft bylaw)</p>	<p>confirmed that Uber drivers as independent contractors fall under the “small supplier” exemption, and need not obtain an HST registration unless their income as an independent contractor exceeds \$30,000 annually. (CRA correspondence to this effect was shared with City staff after the release of this staff report).</p> <p>As such, no municipality in Ontario has required an HST registration by Uber drivers under their bylaw, including Toronto, Ottawa, London, Hamilton, Waterloo Region, Niagara Region, and Oakville.</p> <p>It would be unfair to require an HST registration as a condition of participation under the proposed pilot where it may not ultimately be required by an Uber driver. (The average Uber driver-partner drives 5-10 hours a week on the Uber platform to supplement their income, making an HST registration unnecessary).</p> <p>It is my understanding that the CRA removed the taxi industry from the \$30,000 “small supplier” exemption because historically most transactions, if not all at the time, were cash based which created the opportunity and concern that some taxi drivers may not claim appropriate taxes.</p> <p><b>Proposed Solution/Amendment</b></p> <ul style="list-style-type: none"> <li>• Delete section 14.2.3.0.0 - remove the requirement for an applicant [i.e. ridesharing/Uber driver] to provide to the Issuer of Licences at the time of application, proof of HST (Harmonized Sales Tax) registration”.</li> </ul>
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## Further Information

The elements of the proposed pilot in Barrie are consistent with bylaw requirements in other Ontario cities that have passed bylaws recently to regulate ridesharing/Uber. See summary table below:

Bylaws	Toronto	Ottawa	Niagara Region	Waterloo Region	London	Hamilton
<b>PTC Framework</b>	Yes	Yes	Yes	Yes	Yes	Yes

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<b>Criminal Record Check</b>	Yes Annually	Yes Annually	Yes Annually	Yes Annually	Yes Annually	Yes Annually
<b>Ontario Driver's Licence (MTO) Abstract</b>	Yes Annually	Yes Annually	Yes Annually	Yes Annually	Yes Annually	Yes Annually
<b>Vehicle Safety Standards Certificate</b>	Yes Annually	Yes Annually	Yes Annually	Yes Annually	Yes Annually	Yes Annually
<b>Driver HST registration</b>	No	No	No	No	No	No
<b>Insurance</b>	\$5 million Commercial Liability + \$2 million Non-Owned Automobile insurance	\$5 million Commercial Liability + \$2 million Non-Owned Automobile insurance	\$5 million Commercial Liability + \$2 million Non-Owned Automobile insurance	\$5 million Commercial Liability + \$2 million Non-Owned Automobile insurance	\$5 million Commercial Liability + \$2 million Non-Owned Automobile insurance	\$5 million Commercial Liability + \$2 million Non-Owned Automobile insurance
<b>Surge Pricing Permitted</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Vehicle Supply Capped</b>	No	No	No	No	No	No
<b>Licensing Fee Model</b>	Annual fee + per trip fee	Annual fee + per trip fee	Annual fee + per trip fee	Annual fee + per trip fee	Annual fee + per trip fee	Annual fee + per trip fee
<b>Decal</b>	Yes	No	Yes	Yes	Yes	Yes

## PTC regulatory framework

The key change with ridesharing regulations is the move from dual-licensing (with companies and drivers both needing a license) to a unified regime where only companies are licensed and where local residents can become a driver as long as they meet/pass standard criteria outlined

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by the City (criminal background checks, vehicle safety inspection, motor vehicle reference check, etc.).

Under Private Transportation Company (PTC) regulatory frameworks adopted across Canada and Ontario (and North America), the PTC collects information related to drivers and vehicles and retains it for the purposes of data sharing with cities and audits performed to ensure compliance with bylaw regulations. A PTC risks its licence to operate if not in compliance with a PTC bylaw.

## Uber and Safety

Beyond the criminal background screening, motor vehicle inspections, driver abstract checks and [insurance](#) in existence for every Uber ride, Uber takes safety steps further:

- **No more street hails or waiting outside to find a ride.** A rider can start the Uber app from anywhere and wait safely inside for the car to arrive.
- **Trips are no longer anonymous.** When a driver-partner accepts a request, a rider sees his or her first name, photo, vehicle model, and license plate number. Riders can also check whether others have had a good experience with him or her
- **Share your location.** Riders can easily share their trip details -- including the specific route and estimated time of arrival -- with selected friends or family at the touch of a button.
- **No need for cash.** Because payments can be made automatically and securely via the credit card, debit card, or PayPal account on file, riding with Uber significantly reduces the potential risk and conflict that can stem from disputed fares, lack of cash, or fare evasion. This is particularly good for drivers because carrying large quantities of cash can make them a target for crime.
- **Feedback and ratings after every trip.** Riders and driver-partners are asked to rate each other and provide feedback for every trip before requesting or accepting another ride.
- **24/7 support.** If riders or driver-partners have any questions about their trip, or if they need to report an incident, our customer support team is ready to respond to any issues.
- **Easy Access to Driver Information:** Information about your trip (driver name and photo + make and model of the car + licence plate) is always available before you enter the Uber vehicle and is stored afterwards in the email receipt and within a passengers Uber account for easy retrieval at any time).
- **Rapid response.** We have a dedicated Incident Response Team to answer any urgent issues. If we receive a report that there has been an accident or incident, we can suspend the relevant parties and prevent them from accessing the platform until the matter is resolved.
- **Always on the map.** Global Positioning System (GPS) data for all rides on the Uber platform are logged so we know which driver-partners and riders are riding together and where they are for the duration of their trip. GPS also enables us to verify the efficiency of every route being used, which creates accountability and a strong incentive for good behavior.

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- **Working with law enforcement.** In cases where law enforcement provides us with valid legal process, we collaborate with them on investigations, e.g. by providing trip logs.

## Insurance

While rides on the Uber platform have always been insured, in July 2016, the Ontario government approved a [regulatory change](#) under the Insurance Act to allow commercial fleet insurance to be offered for vehicles that can be hired through an online application. With the regulatory change, insurance companies like Intact could develop insurance policies for purchase by ride-share companies, similar to what ridesharing companies in the U.S. could purchase.

In Ontario, recently passed bylaws that address ridesharing require the PTC to obtain minimum insurance at \$5 million Commercial Liability + \$2 million Non-Owned Automobile insurance. These quantum's are consistent with quantum's for taxi insurance products.

In Ontario, every ridesharing driver operating on the Uber platform is automatically covered under the commercial policy provided by Intact Insurance Company, a subsidiary of IFC, and purchased by Uber. This coverage applies from the moment drivers make themselves available to accept a ride request until passengers have exited the vehicle. In addition, IFC's two largest brands, Intact Insurance and belairdirect, Canada's digitally driven insurer, have modified their underwriting guidelines to allow customers to participate in ridesharing at no additional cost for drivers.

This insurance regime makes sense for the ridesharing industry given the fact that most Uber driver-partners drive commercially only a few hours a week on the Uber platform, unlike taxis which are generally on the road commercially 24-hours a day in two 12-hour shifts.

See here for the Ontario government press release:

<https://news.ontario.ca/mof/en/2016/07/ontario-modernizing-auto-insurance-system-to-protect-ride-sharing-consumers.html>

See here for more information from the Financial Services Commission of Ontario (the highest regulator of insurance in Ontario) on ridesharing insurance:

<http://www.fSCO.gov.on.ca/en/auto/pages/ridesharing-info.aspx>

See here for a blog post from Uber with links to the insurance policy and certificate:

<https://newsroom.uber.com/canada/insurance-for-ridesharing-with-uber-in-ontario/>

## Surge pricing

Uber's algorithms monitor demand and supply in real time all over a city. When our systems notice an increase in wait times (because there aren't enough drivers nearby), surge pricing

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automatically kicks in. This has two effects: people who are not in a hurry wait until the price falls—reducing demand; and drivers who are nearby go to that neighborhood to get the higher fares—increasing supply. As a result, the number of people wanting a ride and the number of available drivers starts to balance out, ensuring that wait times do not increase.

Uber uses fare multipliers—1.5X the standard fare, 2X, and so on—to balance supply and demand. The system updates the multiplier every five minutes to adjust the fares in light of the latest conditions. If wait times continue to rise, the multiplier rises; when wait times fall, the multiplier falls. To ensure that any fare increase is accurate and effective, Uber divides cities into zones called “geofences”.

Uber provides an “estimate your fare” feature so riders can always check the price in advance. But when surge pricing kicks in, we are extra careful to ensure that riders know how much more they will be charged.

When riders open the app, they instantly see whether their Uber ride is surging thanks to the lightning bolt icon at the bottom of the screen. If they request a ride, a popup alerts them to the surge multiplier at that time, and they’re then asked to confirm the fare increase or given the option to be notified when the price drops. When the multiplier is unusually high, riders will be asked to manually type-in the multiplier to ensure they really are OK to pay the higher fare.

## Supply Caps

In many cities, the restricted number of for-hire vehicle licences has not kept pace with population or economic growth. This means there may be an unmet demand for point-to-point transportation services. Prices or wait times — and often both — rise because the supply of cars does not increase. And longer wait times disproportionately impact people outside the central or business districts and areas traditionally underserved by existing transport options. This is bad for passengers.

Regulations that artificially restrict the number of for-hire licenses limit the number of people who can work as drivers, even if there is demand for additional rides. This has the negative effect of capping economic opportunities for drivers, and often concentrates economic power in the hands of corporate license holders.

Without concentrated economic power in the form of license caps, drivers decide where, when, and for how long to drive.

- Drivers choose to drive with Uber for the flexibility and control they have. They can dictate their own schedule, day-to-day, week-to-week. And they are free to turn off the app and stop working at any moment— and they can easily drive with other ridesharing apps with the touch of a button.

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License caps also impede progress towards reducing congestion and personal car ownership.

- This is because people will only give up their cars if they know that there's always a ride just minutes away. But when the supply of licences is restricted, the price of a ride will always be higher — and wait times will be longer. These kinds of artificial barriers have made it difficult for carpooling, a proven way to reduce congestion, to succeed. If governments want to encourage people who regularly drive to share their ride, then it will need to be easier for drivers to apply to use apps like Uber.

## Licensing Fee Model

Uber supports governments recouping the costs of regulatory compliance. A flat fee and per trip fee is an appropriate means to achieve regulatory cost recovery by a government. A tiered annual flat fee + per trip fee model works best with the ridesharing business model.

Cities across Canada that have passed bylaws to date to regulate the operation of ridesharing companies, such as Edmonton, Toronto, Ottawa, Niagara Region and Waterloo Region, have all adopted the flat annual fee + per trip fee model. For example, the Ottawa and Niagara Region By-law fee schedule is as follows:

- A Private Transportation Company (PTC) with 1 to 24 affiliated vehicles: \$807 annually;
- A PTC with 25 to 99 affiliated vehicles: \$2,469 annually;
- A PTC with 100 or more affiliated vehicles: 7,253 annually; and,
- \$0.11/per trip

The above annual fee + per trip fee structure model works for the business model of ridesharing:

- More than 50% of driver-partners drive on the Uber platform 10 hours a week or less.
- Many ridesharing driver-partners after going through the onboarding process to become a driver-partner, including all the requisite screening (criminal, etc.) never take a first trip or only a few trips as upfront costs are covered by Uber so it's low friction to onboard as an Uber driver partner, or drive for a period of several months for a specific purpose (during a period of unemployment, to earn additional income for a vacation, etc.).
- In this way, ridesharing, unlike taxi, is more of an income supplementing opportunity than a part-time or full-time earning opportunity.
- Vehicle and/or driver fees can add up to hundreds of dollars, which may never be recovered by a ridesharing company, effectively making it unworkable to operate in that City.

## HST

As a registered Canadian business, Uber Canada honours its obligation to pay applicable tax as any other Canadian business would operating in Canada. In addition, Uber Canada employs Canadians in our offices across the country and its Canadian employees pay income tax on



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their earnings in Canada to the Canada Revenue Agency (CRA) annually. Likewise, the thousands of drivers we partner with, like other Canadians earning income in Canada, are expected to file their income tax return with the CRA annually.

With respect to the GST (or the HST where applicable in Canada), it is a sales tax that is customarily charged to the purchaser of a service (passenger in an Uber driver partner vehicle) and remitted to the government by the service provider (Uber driver partner). Uber Canada takes into account GST and factors it into the price of fares, to enable driver partner-friendly economics.

Whether or not an independent contractor (in this case the Uber driver partner) is remitting GST depends on their own personal income. There is a \$30,000 threshold after which independent contractors must file and remit. Uber Canada explains to our Uber driver partners that any taxes due on trips are the responsibility of the partner to remit based on their own personal income situation and has run partnerships with Intuit Canada and H&R Block to assist driver partners with filing their taxes appropriately. However, like other contractors in various sectors of the Canadian economy, it is ultimately the Uber driver partner's responsibility to comply with relevant CRA tax related obligations.

The CRA has confirmed that Uber drivers as independent contractors fall under the "small supplier" exemption, and need not obtain an HST registration unless their income as an independent contractor exceeds \$30,000 annually. (CRA correspondence to this effect was shared with City staff after the release of this Barrie staff report).

As such, no municipality in Ontario has required an HST registration by Uber drivers under their bylaw, including Toronto, Ottawa, London, Hamilton, Waterloo Region, Niagara Region, and Oakville.

It would be unfair to require an HST registration as a condition of participation under the proposed pilot where it may not ultimately be required by an Uber driver. (The average Uber driver-partner drives 5-10 hours a week on the Uber platform to supplement their income, making an HST registration unnecessary).

It is my understanding that historically, the CRA removed the taxi industry from the \$30,000 "small supplier" exemption because historically most transactions, if not all at the time, were cash based which created the opportunity and concern that some taxi drivers may not claim appropriate taxes.