

## Town of Oakville Memorandum

---

**To:** Chair and Members of the Administrative Services Committee

**From:** Jim Barry, Director  
Municipal Enforcement Services

**Date:** December 5, 2016

**Subject:** **Item 10 - Transportation Network Company Licensing By-law 2016-083**

---

Please be advised that minor revisions to by-law 2016-083 have been identified and are highlighted in the attached copy of the by-law and outlined in the revisions table below. The purpose of the amendments are to ensure clarity and enforceability of the by-law.

Please replace Schedule "D" of the Transportation Network Company Licensing report, agenda pages 231-288, with the attached by-law and revise recommendation # 1 of the staff report as follows:

"1. That By-law 2016-083, being a by-law to licence and regulate Transportation Network Companies be passed as revised, in accordance with the memo dated December 5, 2016 from Municipal Enforcement Services"

Revisions to By-law 2016-083	
Agenda	Revised
<u>Section #1 Definitions</u>  "Insurance Certificate" means a Certificate of Public Liability Insurance in the amount of two million dollars (\$2,000,000). The Town of Oakville and address must appear on the certificate as a "Certificate Holder" in order to provide the Town at least thirty (30) days' notice in writing prior to cancellation, expiration or change of policy;	<u>Section #1 Definitions</u>  "Insurance Certificate" means a Certificate of Public Liability Insurance in the amount of two million dollars (\$2,000,000) and stipulating that the Town of Oakville will be provided with at least thirty (30) days' notice in writing prior to cancellation, expiration or material change of policy;
<u>Section #1 Definitions</u>  "TNC Identifier" means a sign, decal, emblem, symbol, or number displaying the logo or name of the TNC through	<u>Section #1 Definitions</u>  "TNC Identifier" means a sign, decal, emblem, or symbol displaying the logo or name of the TNC through which a TNC

**Subject: Item 10 - Transportation Network Company Licensing By-law 2016-083**

which a TNC Driver is providing transportation service to passengers and such other information as required by the Licensing Commissioner, in a form approved by the Licensing Commissioner;	Driver is providing transportation service to passengers and such other information as required by the Licensing Commissioner, in a form approved by the Licensing Commissioner;
<u>Section #19 Effective Date</u>  This By-law comes into force and effect on February 1, 2016.	<u>Section #19 Effective Date</u>  This By-law comes into force and effect on February 1, 2017.
<u>Schedule #2 section 1(a)</u>  ensure that every affiliated TNC Driver has submitted, prior to commencement as a TNC Driver and annually thereafter:	<u>Schedule #2 section 1(a)</u>  ensure that every affiliated TNC Driver has submitted to the TNC, prior to commencement as a TNC Driver and annually thereafter:
<u>Schedule #2 section 1(a)(vii)</u>  proof of at least one year driving experience with an unrestricted Class G Ontario driver's licence; and	<u>Schedule #2 section 1(a)(vii)</u>  Deleted
<u>Schedule #2 section 1(b)</u>  ensure that from the moment a ride is accepted up until the moment of passenger drop-off, all of its affiliated TNC drivers and the vehicle they operate shall maintain Automobile Liability Insurance with limits of not less than \$2,000,000.00 inclusive per occurrence for bodily injury, death and damage to property. The Automobile Liability Insurance shall be provided through an endorsement or an automobile liability insurance form approved by the Financial Services Commission of Ontario for use by a TNC or TNC Driver. Such coverage may be maintained by the TNC Driver, the affiliated TNC, or any combination of the two. In the event coverage maintained by a TNC Driver in satisfaction of this subsection lapses or fails to provide coverage, such coverage maintained by	<u>Schedule #2 section 1(b)</u>  ensure that from the moment a ride is accepted up until the moment of passenger drop-off, all of its affiliated TNC drivers and the vehicle they operate shall maintain Automobile Liability Insurance with limits of not less than \$2,000,000.00 inclusive per occurrence for bodily injury, death and damage to property. The Automobile Liability Insurance shall be provided through an endorsement or an automobile liability insurance form approved by the Financial Services Commission of Ontario for use by a TNC or TNC Driver. Such coverage may be maintained by the TNC Driver, the affiliated TNC, or any combination of the two. In the event coverage maintained by a TNC Driver in satisfaction of this subsection lapses or fails to provide coverage, such coverage maintained by

**Subject: Item 10 - Transportation Network Company Licensing By-law 2016-083**

the TNC shall apply. The insurance coverage required herein shall be endorsed to the effect that the Town of Oakville shall be given at least 10 days' notice in writing of any cancellation or variation to the policy;	the TNC shall apply. The insurance coverage required herein shall be endorsed to the effect that the Town of Oakville shall be given at least 10 days' notice in writing of any cancellation or material variation to the policy;
<u>Schedule #2 section 1(g)(ii)</u>  the make, model, colour and license plate of every TNC Vehicle;	<u>Schedule #2 section 1(g)(ii)</u>  the make, model and license plate of every TNC Vehicle;
<u>Schedule #2 section 1(o)(iii)</u>  the TNC Driver shall charge the passenger the communicated and accepted fare in accordance with (i) and (ii) above and there shall be no additional charges after the conclusion of the trip; and	<u>Schedule #2 section 1(o)(iii)</u>  the TNC Driver shall charge the passenger the communicated and accepted fare in accordance with (i) and (ii) above; and
<u>Schedule #2 section 1(w)(ii)</u>  the make, model, colour, and license plate number of the TNC Vehicle used by the TNC Driver, and,	<u>Schedule #2 section 1(w)(ii)</u>  the make, model and license plate number of the TNC Vehicle used by the TNC Driver, and,
<u>Schedule #2 section 2(g)</u>  fail to produce their the identification card required under subsection 1(w), driver's licence, proof of insurance, or evidence that they are operating pursuant to a TNC Platform immediately upon request of a Municipal Law Enforcement Officer or police officer; and	<u>Schedule #2 section 2(g)</u>  fail to produce their identification card required under subsection 1(w), driver's licence, proof of insurance, or evidence that they are operating pursuant to a TNC Platform immediately upon request of a Municipal Law Enforcement Officer or police officer; and



## THE CORPORATION OF THE TOWN OF OAKVILLE

### BY-LAW NUMBER 2016-083

A by-law to license, regulate and govern transportation network companies

**WHEREAS** pursuant to the provisions of Part IV of the *Municipal Act*, 2001, S.O. 2001, c. 25 ("*Municipal Act*") the Council of the Corporation of the Town of Oakville ("Council") may provide for a system of licences with respect to businesses;

**WHEREAS** pursuant to the provisions of Part IV of the *Municipal Act*, 2001, S.O. 2001, c. 25 ("*Municipal Act*") the Council of the Corporation of the Town of Oakville ("Council") may provide for a system of licences with respect to businesses;

**WHEREAS** Council considers the regulation of these transportation services to be important in promoting public safety, consumer protection, and the economic, social, and environmental wellbeing of the Town of Oakville;

**WHEREAS** Sections 390 to 400 of the *Municipal Act* authorize a municipality to pass by-laws imposing fees or charges for services or activities provided or done by it or on behalf of it; and

**WHEREAS** pursuant to Section 151(1)(g) of the *Municipal Act*, Council considers it desirable to provide for a system of administrative penalties and fees as an additional means of encouraging compliance with this By-law;

### **COUNCIL ENACTS AS FOLLOWS:**

#### **1. DEFINITIONS**

In this By-law,

**"Appeals Committee"** means a Committee or Tribunal duly appointed by by-law to conduct hearings under this By-law;

**"Applicant"** means the person applying for a licence or renewal of a licence under this By-law and "application" has a corresponding meaning;

**"Applicant Information"** means fulsome details of a person applying for or the renewal of a licence under this By-law and shall include their full name, date of birth, municipal address, telephone number, and email address;

**“Article of Incorporation”** means documents related to an incorporated business pursuant to the *Business Corporations Act*, R.S.O. 1990 c. B.16, or the *Corporation Act*, 1990 c. C.38;

**“Business”** means any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality, and includes trades and occupations, exhibitions, concerts, festivals and organized public amusements; the sale or hire of goods or services on an intermittent or one-time basis; and the display of samples, patterns or specimens of goods for the purpose of sale or hire;

**“Business Address”** means the place from which the business operates including a number, street name, municipality and postal code;

**“Corporation”** means a body corporate incorporated pursuant to the *Business Corporations Act*, R.S.O.1990 c. B. 16, or the *Corporations Act*, R.S.O 1990, c. C. 38;

**“Council”** means the Council for The Corporation of the Town of Oakville;

**“Criminal Reference Check”** means a Canadian Criminal Record Check issued by an accredited Canadian Police Service, no more than 30-days old at the time of the licence application, or by a third party approved by the Licensing Commissioner that provides Criminal Record Checks;

**“Fare”** means the sum charged to a passenger or passengers for transportation provided in a TNC Vehicle for a single trip;

**“Fee”** means as set out in the Town of Oakville Annual Rates and Fees Schedule, which is not prorated and non-refundable;

**“Hearings Officer”** means a person from time to time appointed by Council pursuant to the Hearings Officer By-law;

**“Insurance Certificate”** means a Certificate of Public Liability Insurance in the amount of two million dollars (\$2,000,000) and stipulating that ~~the Town of Oakville will be provided with and address must appear on the certificate as a “Certificate Holder” in order to provide the Town~~ at least thirty (30) days’ notice in writing prior to cancellation, expiration or material change of policy;

**“Licence”** means the certificate issued under this By-law as proof of licensing under this By-law;

**“Licensee”** means a person licensed under this By-law or a person required to be licensed under this By-law;

**“Licensing Commissioner”** means the Town Clerk for the Town or designate;

**“Licensing Section”** means the Licensing Section of the Clerk’s Department of the Town of Oakville;

**“Limousine”** means as defined in the Town’s Licensing By-law 2015-075;

**“Officer”** means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers, Halton Regional Police Officers;

**“Operate”** means, when used in reference to a TNC vehicle, driving a vehicle and making it available to the public for transportation service and includes when the TNC driver is logged into or otherwise accessing a TNC platform;

**“Partnership”** means an association of two or more persons to carry on, as co-owners, a business or other activity;

**“Passenger”** means any person other than the driver seated in a TNC vehicle;

**“Penalty Notice”** means a notice issued pursuant to section 10;

**“Person”** includes an individual, a corporation, a partnership, and an association, and includes a licensee or an applicant for a license under this By-law as the context requires;

**“Safety Standard Certificate”** means that a motor vehicle complies with the equipment and performance standards prescribed by the *Highway Traffic Act*;

**“Screening Decision”** means a decision made by a Screening Officer;

**“Screening Officer”** means a person from time to time appointed by Council; pursuant to the Screening Officer By-law;

**“Taxicab”** means as defined in the Town’s Licensing By-law 2015-075;

**“Taxicab stand”** means an area set aside and designated by the Town to be used by a taxicab while it is waiting for or picking up goods or passengers;

**“Town”** means The Corporation of the Town of Oakville in the Regional Municipality of Halton;

**“Trip”** means the distance and time travelled or the distance and time to be travelled, measured from the time and point at which the passenger first enters the TNC vehicle to the time and point at which the passenger finally leaves the TNC vehicle;

**“TNC Driver”** means an individual who is affiliated with a Transportation Network Company to transport passengers for compensation using a TNC Vehicle;

**“TNC Identifier”** means a sign, decal, emblem, ~~or symbol, or number~~ displaying the logo or name of the TNC through which a TNC Driver is providing transportation service to passengers and such other information as required by the Licensing Commissioner, in a form approved by the Licensing Commissioner;

**“Transportation Network Company”** or **“TNC”** means any Person who offers, operates, or facilitates prearranged transportation services using a TNC Platform to connect passengers with TNC Drivers;

**“TNC Platform”** means any software or application or telecommunications platform to connect passengers with TNC Drivers;

**“TNC Vehicle”** means a motor vehicle for hire for transportation of passengers from place to place, whose transportation services are arranged through a Platform, but does not include a Taxicab dispatched electronically in a manner similar to a TNC;

**“Vehicle Ownership”** means the Motor Vehicle Owners Certificate, issued pursuant to the *Highway Traffic Act*.

## 2. PROHIBITIONS

- (1) No person shall carry on the business of a Transportation Network Company, or permit a person to carry on the business, or hold themselves out as being licensed to carry on the business of a Transportation Network Company:
  - (a) without a licence to do so issued under this By-law;
  - (b) under any other name than the one endorsed on their licence issued under this By-law;
  - (c) except in accordance with the regulations set out in this By-law, including any applicable Schedule, all of which form part of this By-law;
- (2) No person shall,
  - (a) transfer or assign a licence issued under this By-law;

- (b) obtain a licence by providing mistaken, false or incorrect information; or
- (c) enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer, cancellation or suspension thereof, the licence shall be the property of the Corporation of the Town of Oakville.

### **3. EXEMPTIONS**

- (1) This By-law does not apply to:
  - (a) taxicab services dispatched by a licensed taxicab broker and taxicab services provided by a licensed taxicab driver in accordance with the Town's Licensing By-law 2015-075;
  - (b) limousine services provided by a licensed limousine service in accordance with the Town's Licensing By-law 2015-075;
  - (c) a person who facilitates "carpooling" as that term is referenced by the *Public Vehicles Act*; or
  - (d) a passenger transportation system provided by the Town.

### **4. LICENSING REQUIREMENTS**

- (1) A completed application for a licence or for renewal of a licence shall be submitted to the Licensing Commissioner accompanied by the requirements prescribed in Schedule 1, and any other information that the Licensing Commissioner may from time to time request.
- (2) The Licensing Commissioner may, for renewal applications, on a case-by-case basis review, waive any documentary requirements not related to public safety or consumer protection.
- (3) Every person licensed under this By-law shall at all times:
  - (a) comply with the regulations contained in any applicable Schedule/Appendices; and
  - (b) notify the Licensing Commissioner immediately of any change in any of the particulars required to be filed with the Licensing Section.

### **5. ISSUANCE OF LICENCE AND GROUNDS FOR REFUSAL**

- (1) The Licensing Commissioner shall:
  - (a) receive and process all applications for licences and for renewal of licences to be issued under this By-law;
  - (b) issue licences and renew licences, either conditionally or



unconditionally, to any person who meets the requirements of this By-law except where:

- i. the conduct of an applicant affords reasonable grounds for belief that the applicant has not carried on, or will not carry on the business in accordance with the law or with integrity and honesty;
    - ii. there are reasonable grounds for belief that the carrying on of the business may be adverse to the public interest; or
    - iii. the applicant is indebted to the Town in respect of fines, penalties, judgments, outstanding property taxes, or any other amounts owing, including an administrative penalty; and
  - (c) include in consideration of subsection 5(1)(b)(ii), whether the applicant has permitted a TNC Driver to access the TNC Platform where a Criminal Reference Check discloses an outstanding criminal charge or charges, or any record of offence that is less than three (3) years and relevant to the nature of the services of a TNC Driver, or any record of offence that directly affects the TNC Driver's ability to competently and responsibly carry on the services of a TNC Driver, including but not limited to: an offence under the *Criminal Code*, the *Narcotics Control Act* or the *Food and Drug Act*; and
  - (d) generally perform all the administrative functions conferred upon them by this By-law.
- (2) Licences issued pursuant to this By-law are conditional on compliance by the Licensee with all municipal by-laws and compliance with all Provincial and Federal legislation.

## **6. TERM OF LICENCE**

A licence issued under the provisions of this By-law shall expire on February 1<sup>st</sup>, unless it is renewed or revoked in accordance with the provisions of this By-law.

## **7. REVOCATION AND SUSPENSION**

- (1) The Licensing Commissioner shall provide notice of intention to revoke or suspend a licence and shall advise the Licensee of their right to appeal where:
- (a) the Licensee would be disentitled to a licence or a renewal of a licence for the reasons set out in this By-law;

- (b) the Licensee has failed to comply with the regulations required by this By-law; or
  - (c) the licence was issued in error.
- (2) Notwithstanding section 7, the Licensing Commissioner, if satisfied that the continuation of the licence poses an immediate danger to the health or safety of any person, may, for the time and such conditions as are considered appropriate and without a hearing, suspend a licence for not more than 14 days, and, prior to suspending the licence, shall provide the Licensee with the reasons for the suspension, either orally or in writing, with an opportunity to respond to them.

## **8. APPEAL**

- (1) Where the Licensing Commissioner has denied an applicant a licence or a request for renewal, or suspended or revoked a licence, the Licensing Commissioner shall inform the applicant or Licensee by way of written notice setting out the grounds for the decision with reasonable particulars, and advise of the right to appeal such decision to the Appeals Committee.
- (2) Persons or applicants may appeal to the Appeals Committee in relation to matters noted in subsection (1). Appeals will not be permitted for any matters that have already been heard or are pending before the Hearings Officer. A request for an appeal shall be made in writing to the Licensing Commissioner setting out the reasons for the appeal within 7 days after service of the written notice.
- (3) Where no request for an appeal is received in accordance with subsection (2), the decision of the Licensing Commissioner shall be deemed to be affirmed.
- (4) Where a request for an appeal is received, a hearing of the Appeals Committee shall be convened and the applicant or Licensee shall be provided reasonable written notice thereof.
- (5) After such opportunity to be heard is afforded the applicant or Licensee, the Appeals Committee may make a decision in respect of which the hearing was held or the opportunity for hearing afforded. The Appeals Committee's decision is final and not subject to review. The Appeals Committee may refuse to issue or renew a licence, revoke, suspend, or impose any conditions upon a licence. The Appeals Committee may consider any matter pertaining to the licensing requirements in Section 3 or the grounds for refusal in Section 4, or any other matter that relates to the general welfare,

health or safety of the public.

- (6) Where the Appeals Committee conducts a hearing, the rules set out in the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 shall apply.

## **9. ORDER**

- (1) Where the Licensing Commissioner has reasonable grounds to believe that a contravention of this By-law has occurred, the Licensing Commission may serve an order on the Licensee setting out the reasonable particulars of the contravention and directing:
- (a) compliance within a specified timeframe;
  - (b) any work that is required to be done, and in default of such work being done, the work may be done at the Licensee's expense and the Town may recover the expense by in the same manner as municipal taxes; or
  - (c) the activity be discontinued.
- (2) Any Person who contravenes an order under this By-law is guilty of an offence.
- (3) An order under this By-law may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.

## **10. ADMINISTRATIVE PENALTIES**

- (1) Each person who contravenes any provision of this By-law, including any provision of the Schedules, shall, upon issuance of a penalty notice be liable to pay to the Town an administrative penalty in the amount of \$300 or as revised in the rates and fee schedule approved by Council as part of the annual budget approval process.
- (2) An Officer who finds or has any reasonable cause to believe that a person has contravened any provision of this By-law, including any provision of its Schedules, may issue a penalty notice addressed to the person.
- (3) The Penalty Notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:
- (a) date of the penalty notice;

- (b) the penalty notice number;
  - (c) particulars of the contravention;
  - (d) the amount of the administrative penalty;
  - (e) information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and
  - (f) a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the person to the Town.
- (4) No Officer may accept payment of an administrative penalty.
- (5) Any person who is served a penalty notice may request a review by a Screening Officer within 15 days after the penalty notice date.
- (6) Any person may request that the Screening Officer extend the time to request a review within 45 days after the penalty notice date, failing which, the administrative penalty shall be deemed to be affirmed.
- (7) The Screening Officer may extend the time to request a review of the administrative penalty when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- (8) On a review of the administrative penalty, the Screening Officer may affirm the administrative penalty, or may cancel, reduce or extend the time for payment of the administrative penalty, including any additional administrative fees, on the following grounds:
  - (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
  - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce hardship.
- (9) Every person who has a review by the Screening Officer shall receive a Screening Decision and may request a review of the Screening Decision by a Hearing Officer within 15 days after the Screening Decision was issued.
- (10) Where the person fails to appear at the time and place scheduled for a review of the Screening Officer:
  - (a) the person shall be deemed to have abandoned the review;
  - (b) the administrative penalty shall be deemed to be affirmed;

- (c) the administrative penalty shall not be subject to review; and
  - (d) the person shall pay the applicable fee.
- (11) Any person who has received a Screening Decision may request a review of the Screening Decision by a Hearing Officer within 15 days after the Screening Decision was issued.
- (12) Any person may request that the Hearing Officer extend the time to request a review within 45 days after the Screening Decision was issued, at which time the Screening Decision shall be deemed to be affirmed.
- (13) The Hearing Officer may extend the time to request a review of the Screening Decision when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- (14) The person shall be issued or served notice of the date, time and place of the review by the Hearing Officer.
- (15) On a review of the Screening Decision, the Hearing Officer may affirm the Screening Decision, or may cancel, reduce or extend the time for payment of the administrative penalty, including any administrative fees, on the following grounds:
- (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
  - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including additional administrative fees, is necessary to reduce hardship.
- (16) Where a person fails to request a review of the Screening Decision or extension of time before the Hearing Officer in accordance with this By-law:
- (a) the Person shall be deemed to have waived the right to a hearing;
  - (b) the Screening Decision and the administrative penalty shall be deemed to be affirmed; and
  - (c) the Screening Decision and the administrative penalty shall not be subject to any further review.
- (17) Where a person fails to appear at the time and place scheduled for a review by the Hearing Officer:
- (a) the person shall be deemed to have abandoned the hearing;

- (b) the Screening Decision and administrative penalty shall be deemed to be affirmed;
  - (c) the Screening Decision and administrative penalty and associated fees shall not be the subject of any further review; and
  - (d) the person shall pay to the Town a fee in the amount of \$100 or as revised in the rates and fee schedule approved by Council as part of the annual budget approval process.
- (18) Where an administrative penalty and any applicable administrative fees are not paid within 15 days after the date that it becomes due and payable, each person to whom the penalty notice was issued or served shall pay to the Town a fee in the amount of \$50 or as revised in the rates and fee schedule approved by Council as part of the annual budget approval process.
- (19) A Hearing Officer shall not make any decision respecting a review of the Screening Decision unless the Hearing Officer has given the person and the Town an opportunity to be heard.
- (20) The decision of a Hearing Officer is final.
- (21) The Screening Officer and the Hearing Officer have no jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.

## **11. NOTICES**

- (1) Any penalty notice or any other notice pursuant to this By-law may be given in writing in any of the following ways and is effective:
- (a) on the date on which a copy is delivered to the person to whom it is addressed;
  - (b) on the fifth day after a copy is sent by mail to the person's last known address;
  - (c) upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number; or
  - (d) upon the sending of a copy by e-mail transmission to the person's last known e-mail address.
- (2) For the purpose of subsection (1), the person's last known address, last known facsimile transmission number and last known e-mail address shall be deemed to include those provided pursuant to Schedule 1 of this By-law.

## **12. INSPECTION**

- (1) The Licensing Commissioner, or an Officer may at any reasonable time inspect:
  - (a) any premises/vehicles or place where a business which is subject to this By-law is carried on or where there are reasonable or probable grounds to believe a business is being carried on; or
  - (b) any goods, equipment, books, records or documents used or to be used by the applicant or Licensee under this By-law.
- (2) It shall be an offence to obstruct or permit the obstruction of such inspection.

## **13. DELEGATION**

Pursuant to Section 23.2 of the *Municipal Act*, Council hereby delegates to the Appeals Committee the power to make the final decision in respect of which a hearing was held, and it is the opinion of Council that this delegated power is of a minor nature. This delegation may be revoked by Council at any time.

## **14. OFFENCES**

- (1) Every person who contravenes any of the provisions of this By-law, including those contained in any of the Schedules and every director of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction liable to a fine not exceeding \$25,000 for a first offence and \$50,000 for any subsequent offence.
- (2) Where a corporation is convicted of an offence under this By-law, the maximum penalty is \$50,000 for a first offence and \$100,000 for any subsequent offence.
- (3) Pursuant to Section 447 of the *Municipal Act*, where an owner is convicted of knowingly carrying on or engaging in a business in respect of any premises or any part of any premises without a licence required by this By-law, or a person is convicted of any other contravention of this By-law and the court determines that the owner or occupant of the premises or part of the premises in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part of the premises be closed to any use for a period not exceeding two years.

**15. COLLECTION OF UNPAID FINES**

- (1) Pursuant to Section 441 of the *Municipal Act*, if any part of a fine for a contravention of a business licensing By-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, including any extension of time for payment ordered under that Section, the Licensing Commissioner may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than 21 days after the date of the notice. If the fine remains unpaid after the final date specified in the notice, the fine is deemed to be unpaid taxes pursuant to Section 351 of the *Municipal Act* and may be added to the person's tax roll and collected in the same manner as property taxes.

**16. REFERENCES**

References in this By-law to any legislation or by-law means as may be amended or replaced from time to time, and include any regulations thereunder.

**17. SEVERABILITY**

In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

**18. TITLE**

This By-law may be known as the "TNC By-law."

**19. EFFECTIVE DATE**

This By-law comes into force and effect on February 1, 201~~6~~<sup>7</sup>.

PASSED this 12th day of December, 2016

---

MAYOR

---

CLERK



## **Schedule 1**

### **TNC LICENSING REQUIREMENTS**

1. A person wishing to carry on the business of a Transportation Network Company shall provide the Licensing Commissioner with the following:
  - (a) a completed application in the form required by the Licensing Commissioner containing all required Applicant Information;
  - (b) payment of the applicable licensing Fee;
  - (c) proof that the applicant is at least eighteen (18) years of age, if the applicant is an individual;
  - (d) proof that the corporation is legally entitled to conduct business in Ontario, if the applicant is a corporation, including but not limited to:
    - (i) Article of Incorporation or other incorporating documents, duly certified by the proper government official or department of the Province of Ontario or of the Government of Canada; and,
    - (ii) a certified copy of an annual return which contains a list of all shareholders of the corporation,
  - (e) the names and addresses of each member of the partnership as well as the name under which the partnership intends to carry on business, if the applicant is a partnership;
  - (f) the address and contact information of the TNC's registered business address in the Province of Ontario, which is not a post office box, to which the Town may send during business hours any notice or documentation or communication that may be required under this By-law and at which the applicant or the applicant's agent will accept receipt of such notice, documentation or communication together with the name, telephone, and email contact information for the person authorized to receive and respond on behalf of the TNC to any and all communications from the Town relating to the TNC's licence or the TNC's conduct of the business;
  - (g) a TNC Identifier for approval by the Licensing Commissioner;
  - (h) a list of all TNC Drivers in the Town affiliated with the TNC, which list shall include the following information in a searchable electronic database in a form satisfactory to the Licensing Commissioner:
    - (i) confirmation of the affiliation between the TNC and the TNC Driver;

- (ii) the full name, date of birth, address and phone number of the TNC Driver; and
  - (iii) the year, make, model and Ontario licence plate number of the vehicle affiliated with the TNC to be operated by the Driver as a TNC Vehicle;
- (i) A sworn declaration confirming that all TNC Drivers have provided the following to the TNC:
  - (i) a Criminal Reference Check confirming there are no outstanding criminal charges or warrants pending before any courts, or any record of offence that is less than three (3) years and relevant to the nature of the services of a TNC Driver, or any record of offence that directly affects the TNC Driver's ability to competently and responsibly carry on the services of a TNC Driver, including but not limited to: an offence under the *Criminal Code*, the *Narcotics Control Act* or the *Food and Drug Act*;
  - (ii) a Safety Standard Certificate issued under the *Highway Traffic Act* within the previous thirty-six (36) days, and if the TNC Vehicle has accumulated more than 50,000 km in any calendar year, an additional Safety Standard Certificate;
  - (iii) an Ontario driver's record issued by the Ministry of Transportation that is no more than 30 days old;
  - (iv) proof of automobile liability insurance required by the *Compulsory Automobile Insurance Act* and an endorsement or an automobile liability insurance form approved by the Financial Services Commission of Ontario for use by a TNC Driver;
  - (v) proof of a valid unrestricted Class G Ontario driver's licence issued under the *Highway Traffic Act*;
  - (vi) proof of at least one year driving experience with an unrestricted Class G Ontario driver's licence; and
  - (vii) proof that they are at least 18 years of age;
- (j) an Insurance Certificate; and
- (k) an indemnity in favour of the Town from and against claims, demands, losses, costs, damages, actions, suits, or proceedings that arise out of, or are attributable to, the TNC's business and services, which shall be in a form satisfactory to the Town.

## SCHEDULE 2

### REGULATIONS

1. A TNC shall:

- (a) ensure that every affiliated TNC Driver has submitted to the TNC, prior to commencement as a TNC Driver and annually thereafter:
  - (i) a Criminal Reference Check confirming there are no outstanding criminal charges or warrants pending before any courts, or any record of offence that is less than three (3) years and relevant to the nature of the services of a TNC Driver, or any record of offence that directly affects the TNC Driver's ability to competently and responsibly carry on the services of a TNC Driver, including but not limited to: an offence under the *Criminal Code*, the *Narcotics Control Act* or the *Food and Drug Act*;
  - (ii) a Safety Standard Certificate issued under the *Highway Traffic Act* within the previous thirty-six (36) days, and if the TNC Vehicle has accumulated more than 50,000 km in any calendar year, an additional Safety Standard Certificate;
  - (iii) an Ontario driver's record issued by the Ministry of Transportation that is no more than 30 days old, which shows less than eight (8) demerit points for the TNC Driver;
  - (iv) proof that the TNC Vehicle used by affiliated TNC Driver is no more than seven (7) years old;
  - (v) proof of automobile liability insurance required by the *Compulsory Automobile Insurance Act* and an endorsement or an automobile liability insurance form approved by the Financial Services Commission of Ontario for use by a TNC Driver;
  - (vi) proof of a valid unrestricted Class G Ontario driver's licence issued under the *Highway Traffic Act*; and  
~~proof of at least one year driving experience with an unrestricted Class G Ontario driver's licence; and~~
  - (vii) proof that they are at least 18 years of age;
- (b) ensure that from the moment a ride is accepted up until the moment of passenger drop-off, all of its affiliated TNC drivers and the vehicle they operate shall maintain Automobile Liability Insurance with limits of not

less than \$2,000,000.00 inclusive per occurrence for bodily injury, death and damage to property. The Automobile Liability Insurance shall be provided through an endorsement or an automobile liability insurance form approved by the Financial Services Commission of Ontario for use by a TNC or TNC Driver. Such coverage may be maintained by the TNC Driver, the affiliated TNC, or any combination of the two. In the event coverage maintained by a TNC Driver in satisfaction of this subsection lapses or fails to provide coverage, such coverage maintained by the TNC shall apply. The insurance coverage required herein shall be endorsed to the effect that the Town of Oakville shall be given at least 10 days' notice in writing of any cancellation or material variation to the policy;

- (c) maintain commercial general liability business insurance coverage of at least \$5,000,000.00;
- (d) ensure that its TNC Platform incorporates a global positioning system (GPS) in which all trips are recorded and be accessible for persons with disabilities;
- (e) ensure that an affiliated TNC Driver has no access to the relevant TNC Platform in any of the following circumstances:
  - (i) a Criminal Reference Check discloses an outstanding criminal charge or charges, or any record of offence that is less than three (3) years and relevant to the nature of the services of a TNC Driver, or any record of offence that directly affects the TNC Driver's ability to competently and responsibly carry on the services of a TNC Driver, including but not limited to: an offence under the *Criminal Code*, the *Narcotics Control Act* or the *Food and Drug Act*;
  - (ii) the TNC Driver has had their driver's licence issued under the *Highway Traffic Act* cancelled, revoked or suspended for any reason;
  - (iii) the Ontario driver's record shows 8 or more demerit points for the TNC Driver;
  - (iv) the Licensing Commissioner has reasonable grounds to believe that the vehicle being operated by the TNC driver is unsafe;
  - (v) the Safety Standard Certificate relating to the TNC Vehicle is not renewed within 12 months or required by this By-law;
  - (vi) the TNC Driver does not maintain insurance as required by this By-law; or

- (vii) the TNC Driver does not display the TNC Identifier when operating as a TNC Vehicle;
- (f) notify the Licensing Commissioner when a TNC Driver is removed from the relevant TNC Platform for any reason;
- (g) keep a current list of every affiliated TNC Driver and TNC Vehicle in a readily accessible electronic format that includes:
  - (i) the full name and address of every TNC Driver; and
  - (ii) the make, model, ~~colour~~ and license plate of every TNC Vehicle;
- (h) ensure that driver training is available for all TNC Drivers on the use of the TNC Platform and driver expectations;
- (i) prior to the collection of any personal information, a TNC shall obtain a consent for such collection and potential disclosure to the Licensing Commissioner from any TNC driver with whom it is affiliated in the Town;
- (j) retain all records respecting transportation services offered, operated or facilitated by it in the Town for a period of at least three (3) years and produce to the Licensing Commissioner upon request any such records in electronic format within fourteen (14) days of the date of the request, including records required as part of random audits or investigations conducted by the Licensing Commissioner to evaluate compliance with this By-law. Where any records referenced herein are required for law enforcement purposes, a TNC shall make the requested records available to the requesting agency as soon as possible, and in any event within 7 days;
- (k) create passenger and driver accounts for use by the Licensing Commissioner and shall not obstruct any accounts created for law enforcement purposes;
- (l) provide a name, telephone number, email address, and address for service within Ontario, to which the Licensing Commissioner may send any communications, including any requests for information;
- (m) not impose any mandatory arbitration clause on TNC Drivers or passengers whose transportation is offered, operated or facilitated by the TNC, and further shall not require that the law of any jurisdiction other than Ontario be applied in relation to the use of the relevant TNC Platform in the Town by TNC Drivers or passengers;
- (n) disclose on its website and/or TNC Platform used to communicate between passengers and drivers, and make available for the public:

- (i) fares to be charged, together with an explanation of the method used to calculate those fares;
  - (ii) the criteria applied by the TNC to drivers and vehicles allowed to operate on or through the relevant TNC Platform;
  - (iii) information on the types or categories of services available to passengers through the relevant TNC Platform;
  - (iv) a clear explanation of insurance coverages of a TNC and the TNC Vehicle, including detailed information on how to submit a claim; and
  - (v) advise that personal information collected by the TNC may be disclosed to the Town for the purposes of licensing enforcement when the passenger obtains transportation services within or from the Town;
- (o) set fares to be charged to passengers transported by TNC Drivers subject to the following conditions:
  - (i) the fare for a trip shall be communicated to a potential passenger clearly and transparently prior to the start of the trip;
  - (ii) the TNC Driver shall not commence the trip until the passenger has provided electronic acceptance of the fare communicated in accordance with (i) above;
  - (iii) the TNC Driver shall charge the passenger the communicated and accepted fare in accordance with (i) and (ii) above ~~and there shall be no additional charges after the conclusion of the trip~~; and
  - (iv) a TNC shall ensure that a record is maintained of the passenger's acceptance of the fare provided;
- (p) provide passengers with the following information prior to the start of a trip:
  - (i) the vehicle make and model;
  - (ii) TNC Driver's first name;
  - (iii) Ontario licence plate number of the TNC Vehicle; and
  - (iv) photograph of the TNC Driver;
- (q) at the conclusion of every trip, or require its TNC Driver, provide the passenger an electronic receipt containing at least the following information:
  - (i) the fare charged;
  - (ii) the date and total time of the trip;

- (iii) the start and end locations of the trip; and
  - (iv) the TNC Driver name and provincial licence plate number of the TNC Vehicle;
- (r) that all of its affiliated TNC Drivers affix securely to their TNC Vehicle a TNC Identifier when operating as a TNC Vehicle;
- (s) only permit passengers requesting transportation to submit a request for transportation through a TNC Platform;
- (t) not permit, encourage, or condone the acceptance of hails or the solicitation of passengers by TNC Drivers, whether on the street or at a taxicab stand or in any other manner or at any other location;
- (u) ensure that all affiliated TNC Drivers have an ongoing duty to disclose:
  - (i) any criminal charges relevant to the nature of the services of a TNC Driver, or directly affects the TNC Driver's ability to competently and responsibly carry on the services of a TNC Driver, including but not limited to: a charge under the *Criminal Code*, the *Narcotics Control Act* or the *Food and Drug Act*;
  - (ii) any suspension of their Ontario driver's licence;
  - (iii) any change in insurance; and
  - (iv) any accidents while operating as a TNC Vehicle;
- (v) ensure there is a dispute resolution process for dealing with any complaints regarding fees, customer service, or any other issues arising from the TNC operations;
- (w) issue to all affiliated TNC Driver a current identification card in written or accessible electronic form bearing the following information:
  - (i) the first and last name and photograph of the TNC Driver;
  - (ii) the make, model, ~~colour~~, and license plate number of the TNC Vehicle used by the TNC Driver, and,
  - (iii) the name and contact information of the TNC with which the TNC Driver is affiliated;
- (x) ensure that all affiliated TNC Drivers have the identification card required under subsection (w) in the TNC Vehicle at all times when transportation services affiliated with the TNC are offered and provided, and, is produced immediately upon request of a Municipal Law Enforcement Officer or police officer;
- (y) ensure all affiliated TNC Drivers are operating TNC Vehicles that are no more than seven (7) years old; and

- (z) not offer or facilitate prearranged transportation service for compensation using TNC Platform to connect any passenger with a TNC Driver or with a TNC Vehicle that do not meet the requirements of this By-law.

2. A TNC Driver shall not:

- (a) solicit or accept requests for transportation services that are not prearranged using the TNC Platform of which the TNC Driver is affiliated, including street hails or picking up fares at taxi stands;
- (b) provide transportation services affiliated with the TNC if the TNC Driver does not have the insurance required under this By-law;
- (c) accept payment by cash for a transportation service facilitated by the TNC of which the TNC Driver is affiliated;
- (d) fail to notify the TNC in writing of any change in any of the information required by the TNC prior to access to the TNC Platform;
- (e) operate a vehicle as a TNC Vehicle unless the vehicle:
  - (i) is not more than seven (7) years old;
  - (ii) has four doors;
  - (iii) displays the TNC Identifier when operating as a TNC Vehicle; and
  - (vi) has no roof light or markings that have the effect of making it look like a taxicab or identify it as being available for hire;
- (f) deviate from the shortest possible route to the destination requested by a passenger as determined by GPS unless the passenger designates another route;
- (g) fail to produce their ~~the~~ identification card required under subsection 1(w), driver's licence, proof of insurance, or evidence that they are operating pursuant to a TNC Platform immediately upon request of a Municipal Law Enforcement Officer or police officer; and
- (h) leave any passenger at any location other than the destination requested by the passenger unless the driver is unable to take the passenger to the requested destination by reason of:
  - (i) the TNC Vehicle being incapable of being operated safely;
  - (ii) the TNC Driver being incapable of operating the TNC Vehicle safely; or
  - (iii) the conduct of the passenger being such that the TNC Driver can no longer operate the TNC Vehicle safely and in such cases, the TNC Driver has requested the attendance of the police.