

City of Ottawa

Taxi and Limousine Regulations and Service Review

Current Regulatory Regime

October 9, 2015

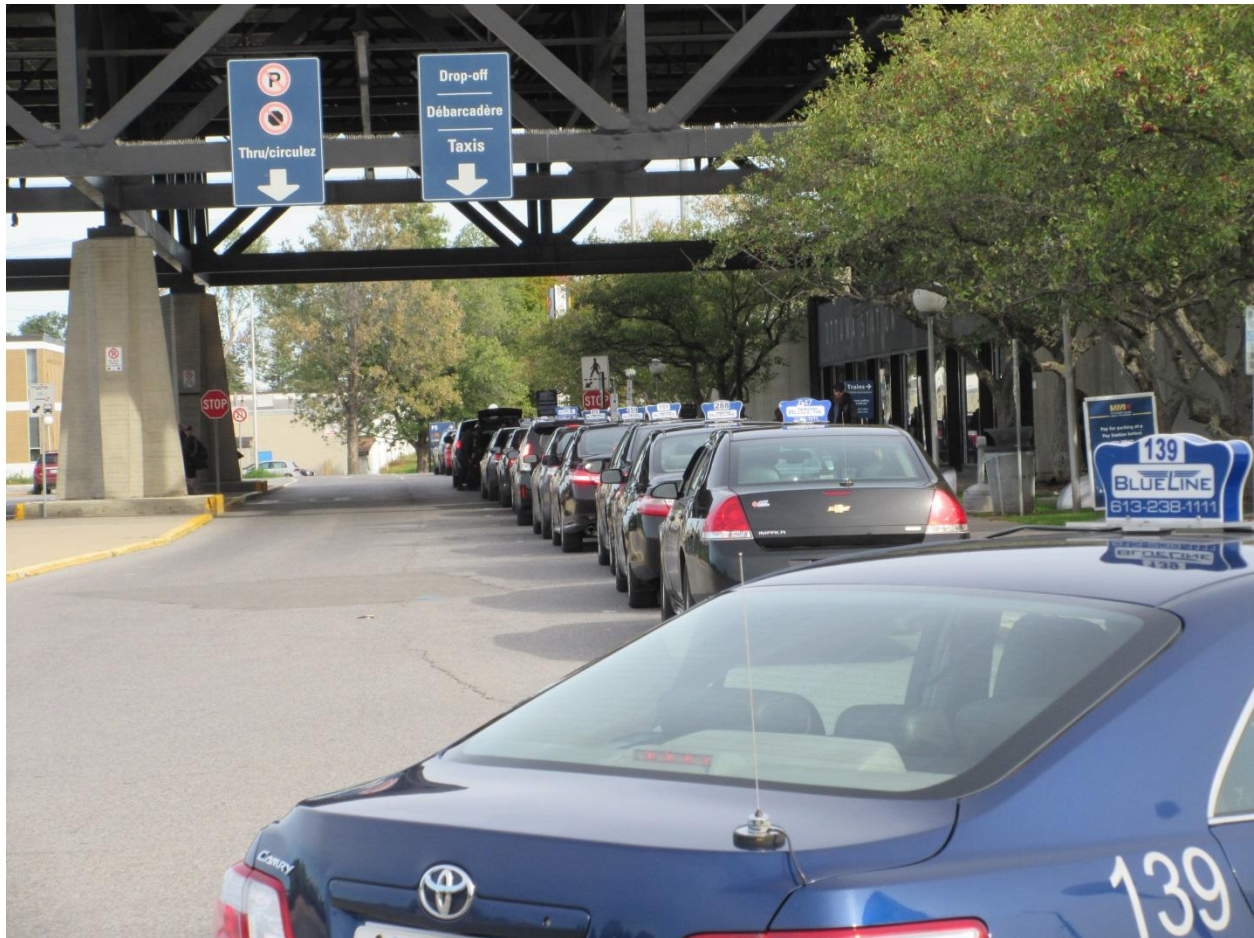


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This background paper is part of a comprehensive review of the City of Ottawa's taxi and limousine industry. It is intended to explain key elements of the current regulatory regime, and the practical functioning of the industry in Ottawa.

The paper is organized under these topics:

- **Legislative Authority** – the provincial legislation that empowers the City to licence taxis and limousines.
- **The Taxi By-Law** discusses the key provisions of the City of Ottawa Taxi and Limousine By-Law. These include the requirements for taxi plates, the standards for vehicles, the licenses for drivers and brokers and the meter rates.
- **Enforcement:** This section identifies the approach to enforcing the By-law.
- **Limousines & Regime Separation** documents how limousines are managed separately in the regulations.

1 Legislative Authority

Ontario's *Municipal Act* gives the city the power to license businesses, and specifically to license taxicabs and taxicab brokers.

The general powers of business licensing include requiring a license, refusing a license, setting conditions, regulating the use of property used in the business, and setting administrative penalties for non-compliance. Without limiting these general powers, municipalities may regulate taxicabs and drivers by¹

- Establishing rates or fares
- Providing for the means of collection of fares
- Limiting the number of taxicabs or any class of them

The *Public Vehicles Act* defines a taxicab as “ . . . a motor vehicle as defined in the *Highway Traffic Act*, having a seating capacity of not more than six persons, exclusive of the driver, hired for one specific trip for the transportation exclusively of one person or group of persons, one fare or charge only being collected or made for the trip.”² This definition does not include a manually powered rickshaw, although these are still subject to the general licensing powers of the municipality. Key to the definition is the service is provided for a single trip. Thus a vehicle hired by the hour may

not be a taxicab (although some cities use their general business licensing powers to allow taxicabs to charge hourly rate. The City of Ottawa By-Law does use its general by-law powers to extend the definition of taxicab to include vehicles “for hire for the purpose of transporting a person” without limitation by method of charge or to single origin and destination which more clearly makes all vehicles for hire subject to the by-law.

General powers of licensing also apply to taxicab brokers. Unlike taxicabs themselves, there are no specific provisions within the Municipal Act, but that Act does recognize and define them. A taxicab broker “means a person who accepts calls for taxicabs used for hire and owned by someone other than the person, his or her immediate family or the person’s employer.” The general powers of licencing are also used to support licencing of limousines.

The Municipal Act empowers municipalities to collect by-law fees and charges with respect to services provided.³ This power is constrained by Canada’s constitutional separation of powers, which courts have found limits the ability of municipalities to tax, except where specifically empowered by legislation (as in property taxes). In order not to be construed as a tax, the license fee must bear “a reasonable relation to” the cost of providing the service for which the fee is charged.⁴ This requirement is defined more by intention than by a specific fee-by-fee cost-accounting. In 2001, the Court of Appeal for Ontario found fees are not unauthorized taxes where their purpose is to defray the municipality’s costs and expenses in delivering the service in question, rather than to raise revenue.⁵

2 City of Ottawa Taxi By-law (By-law No. 2012-258)

The definitions of taxicab and taxicab broker in Ottawa’s By-Law (2012-258) are consistent with the definitions in provincial legislation.

The By-law requires:

- Motor vehicles providing taxicab service must have a current taxi license (generally referred to as a “plate”)
- Drivers of taxicabs must hold a current taxicab drivers license
- Drivers of an accessible taxicab must have an accessible taxicab driver’s license.
- A valid taxicab broker license is required to accept passenger calls for a taxi and to dispatch taxis (other than those belonging to one’s self or one’s immediate family).

Taxi Plate Holder Licenses

Ottawa limits the number of taxis by limiting the number of Taxi Plate Holder licenses it issues. Like many cities, it uses a population ratio.

The By-law formula is one taxi per 784 Ottawa residents within the regulated area (excludes parts of the former townships of West Carleton, Goulbourn, Rideau, Osgoode and Cumberland). Given Ottawa's population of 870,250 as of the last Census, the formula yields a maximum of 1,110 taxis. There are currently 1,188 taxi plates already issued as additional accessible plates were issued to ensure enough accessible taxis to provide a level of service reasonably comparable to that available to other taxi users. Under the By-law, more plates will not be issued until the population grows enough to require more under the formula.

The City has issued 1,001 standard taxi holder licenses. The By-law provides that the plates are to remain the sole and exclusive property of the City at all times, although it does allow, and charge a \$3,954 fee for, the transfer of the right to be the recognized holder of the plate. Interviewees confirmed the public discussion about some plates being transferred for hundreds of thousands of dollars between private parties, but the City is not involved in these transactions, beyond collecting the transfer fee.

No new Standard taxi plates are being issued. The existing plates must be renewed annually. Renewal requires the holder to provide proof of holding commercial insurance with a minimum of \$2 Million liability coverage, show a current valid motor vehicle permit for the vehicle, show a valid taxicab driver license if an individual (plates can be held by partnerships or corporations) and pay the renewal fee, currently \$584.02

As a matter of policy, since 2006, all new plates issued have been for Accessible Taxi Plate Holder Licenses, which can only be used on vehicles which meet the federal and provincial requirements applicable to the transportation of persons with a disability. Accessible taxicabs must affiliate with a taxicab broker that has a minimum fleet size of 25 taxicabs. – A new plate, if issued in 2015 would pay a license fee of \$584, and annual renewals would be a similar fee plus an inflationary adjustment.. At present 187 of the 1,188 taxis are accessible, or 15.7% of the fleet. The proportion will increase as new accessible plates are issued.

As of May, 2015, 56% of plates are held singly by plate holders who may, or may not, be driving the actual vehicle as a taxicab driver. The largest single plate holder holds 7% of plates. Some of the larger holdings have

origins in the owners of the taxi companies providing service in the region prior to amalgamation of the municipalities into the City of Ottawa.

Figure 1: Ottawa Taxi Plate Owners by Number of Plates			
Category	Number of Individuals	Total Plates Held	% of Total Plates
Largest Plate Owner	1	87	7%
Second Largest	1	64	5%
<i>>20 plates</i>	4	116	10%
4 to 19 plates	10	74	6%
<i>With 3 plates</i>	10	30	3%
<i>With 2 plates</i>	75	150	13%
<i>Single Plate Owners</i>	667	667	56%
<i>Total</i>	768	1,188	100%

Source: City of Ottawa (as of May 2015)

Plate holders are organized into groups or brands, which are recognizable to the general public. These are BlueLine, Capital and West-Way (DJ's has merged with Capital). The City of Ottawa does not license these "roof lights" or "colours" separately, but the associated groups may hold broker licenses.

Vehicle Requirements

Standard Taxicabs:

- Must have air conditioning.
- Seat at least 5 but no more than 7 individuals including the driver.
- Comply with minimum size and leg room requirements
- Be less than 8 model years old for a standard taxicab or less than 14 model years old for a London Black taxicab
- Must be equipped with a security camera

Accessible taxicabs meet federal and provincial standards for accessibility and must also be equipped with GPS and a rear sensor

Both types of cabs must have an annual inspection for taxicab vehicles of less than 5 model years, and 2 annual inspections for taxicab vehicles older than 5 models years.

Taxicab Drivers

There are approximately 2,600 licensed taxicab drivers. The number varies by industry conditions. Ottawa is in a minority of cities in that drivers are members of a union, Unifor local 1688.⁶

Unifor has four bargaining units corresponding to the four groups, Blueline, Capital, Airport and Westway. The collective agreements include issues such as dispatch fees and the management of dispatch.

The relationship of the union to the broker and plate holders is unusual, in that it is the union members who pay the company for dispatch and other services, rather than the company paying the union members. This is because customers pay the driver, who in turn pays fees for dispatch service and other services.

Key elements in the collective agreement include:

- Stand rent (the monthly fee for dispatch and related services such as the use of taxi stands arranged at shopping malls and other private property)
- Plate rent (the monthly fee paid to the plate holder for the right to use a plate).
- Daily car rentals (for drivers who rent the car as well as the plate on a 24 hour or 12 hour basis).

These items will be discussed at more length in a subsequent discussion paper.

Not all drivers are in the same situation. Since taxis are run more than one shift, often 24 hours, the number of drivers will always exceed the number of taxis. Under any system, not all drivers can be owner-drivers.

In Ottawa, there are three main categories of drivers (category names are generic for the purposes of this background paper):

- **Owner-Drivers.** These are drivers who are also plate holders. They hold the license on their taxicab. As noted above, 56% of plates are held by single plate holders. Many of these will be owner-drivers. The owner-driver may also own more than one plate.
- **Principal Driver.** This driver may not own a plate, but they have the right to lease a plate under the collective agreement. These lease rights may be sold or transferred, similar to the plate itself. The identity of the principal driver (entitled to lease the plate) was

determined by seniority in early contracts. This is not necessarily the case at present given the transferability of lease rights.

- **Driver.** This individual does not own or have lease rights to a plate.

The net result is that some drivers pay other drivers for the lease of a plate or pay a shift fee that includes this consideration.

The fee schedule covers a number of potential arrangements for drivers.

Well established drivers may prefer to provide their own vehicle and insurance and simply pay the stand rent and the plate rent. If they are also plate holders themselves, they don't need to pay the plate rent.

Alternatively a driver may prefer to pay a 12 hour rental covering the entire package, including insurance, for their shift. The union represents both single plate owners and drivers who rent cars from the larger plate owners.

Where a driver provides the vehicle, the plate holder is still responsible for the vehicle meeting By-law requirements.

To receive a Standard Taxicab Driver's License, an applicant must:

- Be 18 years of age or older
- Hold a current valid Class G driver's license issued by the Province of Ontario or a driver's license of an equivalent class issued by the Province of Quebec that is not under suspension
- Provide the results of a Police Record Check for persons seeking employment to serve the vulnerable sector of the population
- Provide an acceptable Statement of Driving Record
- Have completed both the Taxicab Driver Education Program and the Accessible Taxicab Training Course within the last 2 years
- Provide a signed declaration confirming that he or she has no current outstanding criminal charges or warrants pending before any courts
- Identify the taxi plate holder they will work with
- Pay a taxicab driver's license fee of \$217 (annual renewal application fee is also \$217 in 2015)

To receive an Accessible Taxicab Driver Licence an applicant must also have completed the Accessible Taxicab Training within the last 2 years.

Figure 2: Annual Fees to Operate a Taxicab in Ottawa	
Fee Category	Fee
Taxi Driver	\$217
Taxi Plate Holder	\$584
Total per Vehicle	\$801
(With 2 drivers)	\$1018

Ottawa fees for taxi drivers are lower than those of Toronto and Hamilton but higher than several other cities. For plate holders, Ottawa rates are about the middle of the rates sampled.

Figure 3 Comparing Ottawa Fees with Other Cities		
Municipality	Driver	Plate Holder
Toronto	\$329	\$1,247
Calgary	\$135	\$877
London	\$120	\$750
Hamilton	\$256	\$578
Ottawa	\$217	\$584
Mississauga	\$160	\$438
Windsor	\$110	\$400
Brampton	\$89	\$396
Kingston	\$135	\$250
Niagara Falls	\$75	\$325

Operating a Taxicab

When providing service, taxi drivers must:

- Be neat and clean in personal appearance and well dressed
- Behave civilly and courteously at all time

- Display and use the current tariff card obtained from the Chief License Inspector and only charge passengers a fare calculated using the rates described in the tariff card
- Charge only a single fare for each trip
- Accept Canadian or US currency or any other acceptable method of payment
- Accept debit and credit card payments subject to the prescribed transaction fee
- Ensure taxicab ID card is prominently displayed in the vehicle
- Provide taxicab service with the taximeter in operation
- Take the most direct route possible to the requested destination unless otherwise directed by passenger
- Keep all appointments and engagements punctually
- Examine taxicab daily for visible or audible mechanical defects
- Taxicabs are to have a clean exterior. The interior is to be clean, odor free, dry, free from articles or debris left by passengers after each trip and free from personal articles of the taxicab driver that are not required for ordinary driving duties
- Taxicabs need to be equipped with a roof sign
- Taxicab drivers must provide, if requested, a receipt showing the following:
 - Name and signature of taxicab driver
 - Taxicab driver's #
 - Taxicab taxi plate #
 - Date and time of trip
 - Trip origin and destination
 - Cost of trip, indicating that tax is included in the fare
- When using a taxicab stand, the taxicab driver must go to the back of any line formed by taxicabs.
- Open the trunk and assist passengers with loading and unloading of articles
- Open the door of the taxicab for any person requesting taxicab service
- Have a current street guide of the City of Ottawa and the City of Gatineau available in the taxicab at all times
- Wear uniform clothing that clearly identifies them as a standard or accessible taxicab driver, whichever the case may be.

Additional Requirements for Accessible Taxicab Drivers When a Disabled Person Has Requested Service

- Bring accessible taxicab as close as lawfully possible to the building's entrance
- Notify the person upon arrival and wait at least 3 minutes for a response
- Accompany the person to and from the immediate interior of the building;
- Provide support and carry items for the person
- Politely inquire and address any of the person's needs or concerns before assisting the person into the taxicab and commencing the ride
- Carefully fasten the passenger seat belt and secure the person's mobility aids
- Request and wait for paramedic services if needed during the trip if a friend or family member of the person is not present

Taxicab Brokers

A taxicab broker is one "who accepts calls in any manner for the dispatch of taxicabs". A taxicab broker license is required for this activity, except for those dispatching a taxi operating under their own plate, or the plate of immediate family members. At present, dispatch service under the various roof signs is provided through a single dispatch operation, Coventry Connections.⁷

Coventry Connections is a firm headquartered in Ottawa that provides fleet dispatch services to municipalities throughout Ontario. It provides technologically advanced, GPS-enabled, computer dispatch. When introduced to Ottawa some years ago, it represented leading edge technology, and remains an example of a technology leader in taxi dispatch. Coventry Connections holds 5% of Ottawa taxi plates itself, and dispatches most of the balance of Ottawa's fleet as a broker for the other taxi plate holders.

A broker must:

- Maintain a permanent office from which dispatching of taxicabs is conducted
- Provide dispatch service 24 hours per day, 7 days per week

- Ensure that every taxicab dispatch is capable of accepting debit and credit card payments
- Inform individuals requesting taxicab service of any potential delays in service prior to accepting request for service
- Ensure that their employees behave civilly and courteously in performance of their duties
- Ensure accessible taxicab service from or for a person with a disability is dispatched on a priority basis to the next available accessible taxicab located nearest to the location requested for service
- Refer requests for accessible taxicab service to another taxi broker who can immediately provide service where such service cannot be provided immediately
- Cannot permit any driver other than a licensed taxicab driver to provide taxicab service
- Cannot dispatch a taxicab that does not have a plate licensed under the By-law
- Brokers with fleets of at least 25 taxicabs must maintain a minimum 15% of accessible taxicabs in their fleet. These brokers must also ensure that a minimum number of accessible taxicabs are available for on-demand service at all times (1 for a fleet of 25-99 taxicabs, 2 for a fleet of 100-249 taxicabs and 3 for fleets of 250 or more taxicabs)

The annual fees for a Taxicab broker's licence are:

- Taxicab broker 1-24 taxicabs \$741
- Taxicab broker 25-88 taxicabs \$2,270
- Taxicab broker 100 or more taxicabs \$6,671

Taxi Dispatch – How it Works

For a full understanding of the industry, it is helpful to review how dispatch requests are handled.

When You Call for a Taxi

A traditional telephone call for a taxi involves these steps:

- **The Call.** The passenger makes a call to their preferred company by the brand name known and preferred by (e.g. BlueLine, West-Way, or Capital Taxi).

- **The Answer.** The call is answered by a licensed taxicab broker. In Ottawa, the majority of calls are answered by Coventry Connections, who answers in the name of the brand.
- **Hand-off to Dispatch.** A call to a modern dispatch system, such as Coventry Connections, may be answered with a live operator, or computer software. The answering system is capable of handling the entire call if it recognizes the phone number and address from previous calls. At one point, a call to BlueLine would offer the customer an associated address to their phone number based on past calls, after which pressing a button on your phone resulted in a taxi being dispatched directly. Whether this capability is used depends on how busy the human operators are, and customer service style choices of the brand.

A second possibility is that the customer makes a call directly to a driver's cell-phone. Long term successful drivers may cultivate a client base to supplement the calls received through dispatch. Some of these drivers may band together and offer premium service (e.g. Executive Cabs in Ottawa).

Computer dispatch software is widely available and affordable to small firms. Thus any smaller operation that has moved beyond their personal cell phone(s) will likely also use computer dispatch with GPS. The principal difference is that they will only answer their phone with live operators.

- **The Offer.** Whether booked by a live operator, or computer, the call is entered into the dispatch system and offered either to the nearest driver, or to taxis registered in the queue of waiting drivers for that dispatch zone. The offer is normally made by computer. The dispatcher takes a human supervisory role, with the system flagging unserved calls or other problems. The dispatcher has a set of screens showing the map location and status of individual taxis, and monitoring overall system performance and exceptions.
- **Driver Acceptance.** The taxicab driver who is offered the call has a choice whether to accept. Drivers may decline. For example, if the address is an office building with high traffic, there is an appreciable risk for the driver that the passenger may be picked up by another taxi before they arrive. Such addresses may have difficulty getting

dispatch service. If a call is not picked up by drivers, the system will flag it to the dispatcher for attention.

- **The Vehicle Arrives.** The vehicle that arrives is required to be a taxi provided by a licensed taxi plate holder and driven by a licensed taxicab driver.
- **Payment.** The trip is charged by the meter, plus extra charges where relevant. Acceptance of payment by debit or credit is required, for which a fee of \$1.50 is charged for use of the taxi system. The driver gets a portion of this fee under their collective agreement.

Features that some may find surprising are who actually handles the dispatch; that the closest driver is not necessarily the one dispatched; and that drivers are independent agents who can and will decline calls.

Taxi Apps

The taxi companies have recently introduced apps that assist the dispatch process, using some of the concepts that ABSMs like Uber have introduced. In principle a taxicab app can do much of what is done by Uber and Lyft. The main differences are the licensed vehicle and driver that arrive, and the relative ability of companies to create immediate consequences for poor customer satisfaction through the driver rating system.

There are companies offering a universal app for taxis (e.g. Flywheel). Taxi companies may also develop their own.

Ottawa taxi companies are in the process of offering parallel apps under the respective roof lights of BlueLine, Capital, and West-Way. The apps are tied to the Coventry Connection dispatch systems. The driver end is managed by the terminals and GPS already installed in each taxi. The app downloads are available to users now. Functionality continues to increase. At present, the app has some of the features of the Uber app, but with some differences. For example, there is not direct communication between driver and passenger prior to arrival and the app does not handle payments or accommodate driver ratings.

Meter Rates

Taxis must charge the rate specified in the By-law, and must have the meter running to calculate the appropriate fare whenever they carry a passenger. Taxi meter rates are based on a combination of distance and time. At present it is \$3.45 for the first 150 meters, and 16 cents per 86

meters thereafter. The distance charge for a 10 kilometre fare is \$21.78. The meter charges either time or distance, but not both at the same time. The time charge occurs when the vehicle slows or stops, resulting in a minimum charge of 16 cents per 24 seconds.

Ottawa adjusts taxi meter rates annually on October 1, if an application for the meter rate increase is received (e.g. from industry stakeholders). October is also the fall inspection date for taximeters.

The percentage increase in the meter rate increase is not to exceed the percent increase in industry costs. The By-law estimates changes in industry costs through a formula provided in Schedule E, termed the Taxi Cost Index (TCI).

The TCI tracks the cost of operation of a typical Ottawa taxi-cab. It is similar to the Consumer Price Index, except that it tracks the cost of taxi operation instead of the cost of living for a consumer. The present formula is based on industry consultation that took place in 2011. Figure 4 shows the cost breakdown estimated for that year.⁸ For example an estimated 23% of taxi operating costs was fuel in that year. The driver too, is part of the cost operating a taxi. Net returns to drivers were estimated at 50.7% of total costs.⁹

To estimate change in taxi operating costs over time, the cost profile from 2011 is updated using publicly available information from Statistics Canada. For example, Statistics Canada tracks the price of fuel, and the cost of vehicle maintenance and repair. Driver returns are tied to increases in the average hourly wage rate for full time employees in Transportation and Warehousing (the category that includes taxi drivers). The total percentage increase in taxicab costs is the average percentage increase of all these components, weighted by their importance in the cost profile. By-law Schedule E lists all the components and their weights, reflecting the cost breakdown in Figure 4.

Figure 4 Taxi Cost Profile – Ottawa 2011	
Item	%
Stand Rent, Licenses, Union Dues, Other	9.9%
Insurance	6.2%
Fuel	23.0%
Repairs & Maintenance	6.8%
Amortized cost of vehicle, Radio & Equipment	3.4%
Earnings - all drivers	50.7%
TOTAL	100.0%

The net result is a year by year estimate of the change in taxi operating costs. This provides a ceiling for the approval of industry requests. The industry does not have to request an increase, even when entitled under the index. From time-to-time, depending on market conditions, the industry has chosen to forgo or post-pone meter-rate adjustments in the interest of promoting or retaining business volume.

Figure 5 shows the results of the Index since 2011. According to calculations, taxi operating costs have actually fallen, indicating a meter rate increase would not be due under the By-law ceiling.¹⁰ Thus, meter rates have not been increased since Oct. 1 2011.

Up until the most recent year, the reason for declining costs was the declining wages in the Transportation industry. Driver income accounts for more than half the cost of taxicab operation, so declining wages in comparable sectors outweighed the smaller increases in fuel and insurance over this period. In 2015, this was followed by the strong decline in fuel prices, resulting in a significant decline in estimated operating costs.

The cost index approach is used by regulators of many industries. It has the virtue of transparency, in that it relies on publicly available data after the initial cost profile has been agreed upon. However, it only tracks changes in cost *relative* to the base year. It does not make any statement on whether meter rates were too high or too low at the start.

Figure 5 Calculated Result – Taxi Cost Index		
Year (basis April)	TAXI COST INDEX	Cumulative % Change Since April 2011
2011	100.0	0.0%
2012	96.4	-3.7%
2013	97.4	-2.9%
2014	98.3	-2.8%
2015	93.6	-6.4%

A cost profile should be updated approximately every ten years to account for changes in technology used by the industry (e.g. increased fuel economy). The city has updated the index regularly since inception.

Another factor to be reviewed is the specific public series of data use to track cost changes. There is more than one possible series maintained by Statistics Canada to monitor wages, insurance costs, and other factors.

As shown below, fares in Ottawa are at the high end of fares in other cities. Toronto drop fares have recently been reduced by \$1, and that is reflected in the table.

Figure 6
Taxi Rates in Ottawa and Other Cities – 10 km Trip

Municipality	Drop Fare	Additional Distance	Idle Time	10 km fare
London	\$ 3.50 (57m)	\$ 0.25 (+130m)	\$ 0.25	\$ 22.62
Hamilton	\$ 3.90 (71.4m)	\$ 0.13 (+72.1m)	\$ 0.13	\$ 21.80
Ottawa	\$ 3.45 (150m)	\$ 0.16 (+86 m)	\$ 0.16 (24 secs.)	\$ 21.78
Mississauga	\$ 4.25 (141m)	\$ 0.25 (+141 m)	\$ 0.25 (30 secs.)	\$ 21.73
Toronto	\$ 3.25 (143m)	\$ 0.25 (+143m)	\$ 0.25 (29 secs.)	\$ 20.48
Calgary	\$ 3.80 (120m)	\$ 0.20 (+120m)	\$ 0.20	\$ 20.27
Edmonton	\$ 3.60 (135m)	\$ 0.20 (+135m)	\$ 0.20 (24 secs.)	\$ 18.11
Windsor	\$ 3.50 (105m)	\$ 0.10 (+69m) n/a	N/A	\$17.84

3 Enforcement

The Taxicab By-law is enforced by Ottawa's By-law Officers. Enforcement activities include:

- **Regular Vehicle Inspections.** Taxicabs five model years old or less must be inspected annually each fall. Older vehicles are inspected twice per year, in the fall and spring. Taximeters are also checked. The inspections are in addition to the required inspection by a licensed mechanic to obtain Safety Standards Certificate. If the

Inspector finds the vehicle to be unsafe they can require work and may suspend the license. Insurance and other paperwork are also inspected at this time.

- **Change of vehicle inspections.** Inspections of vehicle, meter, and paperwork must also be conducted when the plate is transferred to a new vehicle, and when a plate changes hand between plate holders.
- **Patrols.** By-law officers may go out on patrol, or randomly call in vehicles for inspection. The By-law gives the Chief License Inspector power to inspect business premises, books or records, and vehicles
- **Investigation of Complaints.** Complaints/compliments contact information is posted in each taxicab. By-law officers investigate complaints received. The subject of complaints range from lost and found service requests to driver conduct complaints, to vehicle condition. From 2010 to 2014, there was an average of 826 By-law service requests, of which the bulk were some form of complaint. Depending on the year, roughly 6% to 10% of complaints result in by-law charges being laid.

With the large number of vehicles and drivers, regulating the taxi industry takes a substantial portion of By-law officer time. Targeted enforcement activities may also be aided by Ottawa police.

Bandit & Uber Enforcement

Bandit is a term for unlicensed taxis. Bandits are a historic problem in most jurisdictions, and precede the entry of Uber into the Ottawa market. In 2013, 111 Bandit cab infractions were issued. Of these, 37 were issued by police and 74 by by-law officers.

October 2014 saw the entry of Uber into the Ottawa market. Cumulative until August of 2015, there have been 142 charges laid against unlicensed drivers believed working with Uber, and 116 convictions.

The low level of penalties hinders effective enforcement. The majority of charges are under the Taxi By-law for offences related to unlicensed taxi drivers (\$615 fine) and the operation of unlicensed taxicabs (\$260). In contrast, up until recently, Quebec police have been impounding vehicles of Uber Drivers.¹¹

Another challenge is the volume of Uber activity, compared to the cost and effective rate of enforcement. Identifying, ticketing, and prosecuting individual drivers is time consuming and expensive in terms of staff time. It

is also frustrated by Uber's ability to block phone numbers and credit cards from their system. This can mean requiring a new phone and a new credit card for each enforcement action. Stacked against this is the large volume of Uber activity in Ottawa, reducing the likelihood of prosecution for individual Uber drivers.

The low fine rate and low number of charges means that Uber can compensate drivers for their fines and CBC reported Uber did promise to cover fines drivers receive, at least in Toronto¹².

A private members bill to increase fines for bandit taxis, including Uber, has been introduced in the Ontario Provincial Legislature by Ottawa MPP John Fraser. It proposes to increase financial penalties, and add a demerit points penalty. For repeat offenders, there would also be suspension of driver and vehicle licenses for 30 days. The bill has been referred to Committee at the time of writing this report.

Jurisdiction and Toronto vs. Uber

Ottawa has been charging Uber drivers. Toronto, in addition to charging drivers, pursued Uber directly on the basis that Uber was acting as a taxi broker without the required license. Definitions are important to how or whether ABSMs like Uber fall under municipal regulation. Uber has often taken the position that they are just an "app" for smartphones, and are not a taxicab broker. This was put to a test when the City of Toronto sought a court injunction compelling Uber to register as broker under the Toronto By-law.¹³

The judge found in Uber's favor. The judgement ruled that Uber was not a broker because it did not "accept" a call (see use of accept in the definition of taxicab broker above). Instead, Uber's operation was compared to a telephone company connecting two parties – a passive role where the judge saw the caller and the Uber driver as independent agents contracting directly over the network provided. The judge found this to be different than when a taxicab company operator accepted a call and then the company sent the caller a taxi.

The judgement took care to note "*My conclusion does not imply any . . . conclusions as to what role the City may in the future play in regulating new entrants such as Uber if it chooses*" [Par 16]. For example, there remains the general business licensing powers of Ontario municipalities.

Ottawa's By-law does not share the same wording as the Toronto By-law. The Toronto judgement does raise issues which may need further tests in

court, but are not yet conclusive. Regardless of whether Uber itself falls under municipal jurisdiction, Uber drivers have been successfully prosecuted in Ottawa for violating the By-law.

4 Limousine By-law (By-law No. 2002-189)

The City of Ottawa licenses limousines and limousine services under its general licensing powers. Limousines are subject to different restrictions than taxis.

Unlike taxis, the total number of limousines is not limited. To prevent limousines from acting as taxicabs, the By-law requires limousine services must be pre-arranged at least 2 hours in advance; and sets a minimum charge is \$67.50, exclusive of tax, for the first 90 minutes or less and \$45 for each hour after the initial 90 minutes. A limousine may not have a taxi meter in the vehicle and cannot charge the taxi rates.

With no limitation on the number of licenses that can be issued, there are a large number of small participants. There are currently 18 licensed limousing operations, with a total of 107 vehicles. The majority provide the stretch vehicles serving the special event market or the high end vehicles that serve a predominantly corporate market, although others provide speciality or vintage vehicles. The largest limousine company is owned by interests also involved in taxi operations. Half the limousines are with the three largest companies, with the other operations having between 2 and 5 vehicles each.

License Requirements

Every owner or operator of a business that provides limousine service within the City must have a license.

The conditions for issuance of a Limousine Service License are:

- the applicant is at least eighteen years of age;
- the applicant has filed a complete list of business or trade names used in the limousine service and the respective addresses and telephone numbers;
- the applicant has provided a Police Records Check for the Service with the Vulnerable Sector;
- the applicant has filed proof of insurance for public liability of at least \$1 million for each motor vehicle to be used in the limousine service.

- the applicant has filed proof of good repair in respect of each motor vehicle to be used in the limousine service

The license holder must:

- Ensure that a limousine to be used in the business is:
 - in a clean condition as to its interior and exterior,
 - in good repair as to its interior and exterior,
 - dry as to its interior,
 - free from mechanical defects,
 - in fit condition for the purpose for which the vehicle is used to be driven; and
 - in safe driving condition.
- Ensure driver searches vehicle for lost or other items left in the vehicle after each ride and that the driver turns the items over to the licensee. The licensee is required to make all reasonable efforts to contact owner of goods.
- Ensure vehicle has a valid decal to identify as a limousine

Another difference between taxicab regulation and limousine regulation is that the City does not issue licenses for limousine drivers. It puts the onus on the limousine owner to ensure drivers meet minimum requirements. The owner/license holder must:

- Ensure that every limousine driver has a valid Ontario driver's license with a class of G or higher, or an equivalent driver license issued by the Province of Quebec
- provide a complete list of the names, telephone numbers, addresses and a copy of a driver's license issued by the Ministry of Transportation or an equivalent for every limousine driver employed by or affiliated with the limousine service;
- Ensure that each driver of the limousine keeps a trip sheet in the vehicle at all times which contains the following:
 - the date of the engagement,
 - the name of the driver of the limousine,
 - the name of the engaging person or organization,
 - the service being provided and the corresponding rate being charged,
 - the intended destination,
 - the starting time and length of time for which the vehicle has been reserved, and

- the time at the conclusion of the engagement

Vehicle Requirements

As a further step to keep the limousine market distinct from taxi service, it is common for municipalities to set higher vehicle standards consistent with a premium service. Ottawa's By-law requires that service in vehicles other than classic, vintage or specialty vehicles must be provided in a limousine with seating for not more than 9 passengers, not including the driver, which has at least 5 of the following:

- a glass partition separating the rear and front seats,
- top quality interior appointments such as leather or plush upholstery,
- power windows,
- air conditioning,
- television,
- stereo system in the passenger compartment,
- tinted windows,
- cellular telephone for passenger use,
- refrigerator,
- work desk or table; and
- deluxe wheels and wheel covers.

Limousines must be inspected annually.

¹ 156(1) *Municipal Act*

² 1(1) *Public Vehicles Act*

³ (391) ***Municipal Act***

⁴ For example, the Supreme Court of Canada in the 1998 case *Eurig Estate*

⁵ *Urban Outdoor Trans Ad v. Scarborough (City)*

⁶ Unifor was formed in 2013 from the merger of the Canadian Auto Workers and Communications, Energy and Paperworkers unions.

⁷ *Ibid.* Definitions Section.

⁸ The estimate is a weighted average between double-shifted and double-shifted taxis.

⁹ This refers to income earned from actually driving, and does not include other income such as lease revenue from holding a taxi plate.

¹⁰ Based on calculation by City of Ottawa staff.

¹¹ For example, <http://www.cbc.ca/news/canada/montreal/montreal-taxi-bureau-has-seized-40-uberx-vehicles-1.3050713>

¹² CBC report at <http://www.cbc.ca/news/canada/toronto/uber-canada-says-it-will-pay-its-drivers-tickets-1.3147654>

¹³ Court File No. CV-14-516288