



WHISTLER

REPORT | ADMINISTRATIVE REPORT TO COUNCIL

PRESENTED: May 26, 2020

REPORT: 20-034

FROM: Corporate and Community Services

FILE: 4700

SUBJECT: INTER-MUNICIPAL BUSINESS LICENSING – RIDE HAILING BYLAWS

COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Corporate and Community Services be endorsed.

RECOMMENDATION

That Council consider giving first, second, and third readings to the “Inter-Municipal Transportation Network Services Business License Bylaw No. 2272, 2020”; and

That Council consider giving first, second and third readings to the “Inter-Municipal Transportation Network Services Business License Agreement Bylaw No. 2271, 2020”; and

That Council consider giving first, second and third readings to the “Business Licence and Regulation Amendment Bylaw (Partial Discount) No. 2273, 2020”; and further

That Council give notice of its intention to adopt “Inter-Municipal Transportation Network Services Business License Agreement Bylaw No. 2271, 2020”, “Inter-Municipal Transportation Network Services Business License Bylaw No. 2272, 2020”, and “Business Licence and Regulation Amendment Bylaw (Partial Discount) No. 2273, 2020” by publishing a notice on the Resort Municipality of Whistler’s website and on the public notice board at the Municipal Hall on or before May 28, 2020, which notice shall include a copy of the bylaws and advise that persons who consider themselves affected may make representations to council in writing by e-mail or letter to the Municipal Clerk by June 19, 2020.

REFERENCES

- Appendix “A” – List of Municipalities participating in IMBL
- Inter-Municipal Transportation Network Services Business License Agreement Bylaw No. 2271, 2020 (not attached)
- Inter-Municipal Transportation Network Services Business License Bylaw No. 2272, 2020 (not attached)
- Business Licence and Regulation Amendment Bylaw (Partial Discount) No. 2273, 2020 (not attached)

PURPOSE OF REPORT

This Report recommends that the Resort Municipality of Whistler (RMOW) participate in an Inter-Municipal Business Licence (IMBL) for ride-hailing companies (Transportation Network Services) on the basis of the terms noted in this Report, effective on the day of Bylaw adoption

in June 2020. The IMBL will streamline the licensing process across the region and allow ride-hailing companies to operate in all participating municipalities with a single business licence. This Report was originally prepared for the March 17, 2020 Council meeting but that meeting was cancelled due to the Covid-19 pandemic.

BACKGROUND/CONTEXT

Provincial legislation since September 2019 has reduced the municipal authority to regulate Passenger Directed Vehicles (PDV) such as taxis, limousines, ride-hailing vehicles. The Province now has sole authority to regulate company fleet size and operational boundaries, to set vehicle standards, and to issue driver Chauffeur Permits.

While the Province's new regulations surrounding PDV activities limit the role of municipalities in establishing local regulations, municipalities retain authority to:

- Issue business licences;
- Set business licence requirements; and
- Regulate business activities, such as street and curb use and pick-up and drop-off locations, through bylaws.

The Province regulates PDVs through the *Passenger Transportation Act*, the *Motor Vehicle Act*, and the *Commercial Transportation Act*. Companies that operate PDVs are licensed by the independent, provincially appointed BC Passenger Transportation Board (PTB). Municipalities may issue business licences to companies once those companies have been licensed by the PTB.

In November 2019, Council adopted bylaws to enable ride-hailing in Whistler that established business licence terms and conditions. The bylaws were enacted in anticipation of Passenger Transportation Board (PTB) authorization of ride-hailing companies and to ensure the RMOW could issue business licences as soon as companies received their Provincial authorizations and services could be initiated in Whistler without delay.

The PTB has the authority to determine operating boundaries, and has established a regional approach to ride hailing that allows companies to operate across municipal boundaries. Whistler is part of Region One (*Whistler-Lower Mainland*) which is comprised of 32 municipalities. In November 2019 RMOW staff was invited to attend a working group meeting with other Region One municipalities and TransLink to develop a region-wide inter-municipal business licence (IMBL) for ride-hailing businesses that could replace or complement the RMOW business licence.

An IMBL is a business licence that allows mobile businesses to operate across participating municipalities with the purchase of a single business licence. An IMBL is formed through common bylaws enacted by each participating municipality.

1. The **IMBL Agreement Bylaw** allows municipalities to enter into agreement with the partner municipalities. It addresses terms such as the licence fee, revenue sharing formula and distribution, and overall administration of the licence.
2. The second bylaw, the **IMBL Bylaw**, is the formal mechanism through which the IMBL is implemented in each municipality and sets out the various terms and conditions that apply to the IMBL across the participating municipalities.

3. The **Business Licence and Regulation Amendment Bylaw** will be amended to allow for a 50 per cent discount on a new business licence if a business licence application is made after July 1 in each calendar year.

When implementing an IMBL participating municipalities work together to determine:

- the types of businesses eligible to be covered under the particular IMBL (e.g. trades/construction);
- how much to charge for an IMBL;
- the model for collecting and sharing revenue from the sales of the IMBL (e.g. seller retains revenue from sales or cost sharing among jurisdictions); and
- the terms of the bylaw to be enacted by each participating municipality.

In Region One, there are four existing sub-regional IMBL groups: Fraser Valley, Metro West, North Shore and Tri-Cities that cover mobile businesses such as trades, construction, and catering. None of these existing IMBLs apply to vehicles for hire or any other transport services.

The process of developing an IMBL generally takes six months to a year. For ride-hailing, a year-long process carried the risk that a patchwork of municipal licensing frameworks would emerge and have a potentially negative impact on the regional roll-out of the industry.

On December 12, 2019 the Mayors' Council on Regional Transportation directed TransLink to facilitate an expedited IMBL development process within Region One municipalities with agreement on bylaw terms by January 31, 2020.

Region One municipalities commenced work in late December 2019. An IMBL Working Group was established and met weekly throughout the month of January 2020 to develop the proposal for an IMBL for ride-hailing. The proposed IMBL bylaws establish licensing authority; licence fee and structure; licence conditions; and licence fee revenue sharing among participating municipalities. They represent the outcome of two-thirds majority based voting undertaken by the IMBL Working Group members.

Most participating municipalities brought reports to their Councils in March 2020 recommending approval of the bylaws as presented. The RMOW Council Report was delayed due to the cancellation of the March 17, 2020 RMOW council meeting. For any participating municipalities that enact the bylaw after April 2020, the licence will take effect in that municipality on the day of enactment. Currently there are 25 municipalities participating in the IMBL (Appendix "A").

Given the expedited process for development, the terms of the bylaw should be understood as interim. Participating municipalities will assess the effectiveness of the licence over the coming months, as more companies are licensed and operating.

As of May 6, 2020 the PTB has approved nine ride-hailing companies to operate in Region One. Two companies, Lyft and Whistle have applied for, and been issued, a RMOW business licence. Whistle is currently operating in Whistler. Should the IMBL be approved, all Region One PTB authorized companies will be able to apply to operate under that IMBL.

The RMOW's participation in an IMBL for ride hailing will not affect its ability to regulate street use under the Parking and Traffic Bylaw.

The terms of the IMBL were developed collectively by the participating municipalities in a fast-tracked process convened by TransLink at the direction of the Mayors' Council December 12, 2019.

LICENSING AUTHORITY

The City of Vancouver will be the licensing authority for this IMBL, which means that ride-hailing companies will need to purchase the licence from the City of Vancouver. The licence will allow companies to operate in all participating Region One municipalities.

Given the expedited timeframe to develop a licensing scheme, the working group agreed that the City of Vancouver is best positioned for this role as it has developed an infrastructure to support tracking and issuing TNS business licences.

LICENCE FEE

The annual IMBL fee will be \$155 per company plus vehicle fees of

- \$150 per standard vehicle
- \$30 per zero-emission vehicle
- \$0 per wheelchair accessible vehicle.

The proposed fees are set to be program cost recoverable and not to be prohibitive for companies.

Licence fee revenue will be shared among participating municipalities. The City of Vancouver will first retain funds sufficient to recover costs for set-up and administration of the licence program and remaining revenues will be shared based on the percent of total regional pick-ups and drop-offs that occur within each municipality. The information on pick-ups and drop-offs occurring in each municipality will be provided by the licensees.

The discounted fee for zero emission vehicles provides a meaningful incentive while acknowledging that these vehicles do have an administrative cost and physical impact on streets. Wheelchair accessible vehicles are understood to be more expensive to purchase and maintain than non-accessible vehicles, and municipalities want to encourage their participation in ride-hailing as much as possible. Therefore, a \$0 per vehicle fee is proposed.

Companies will self-report monthly all new vehicles operating under their licence, and whether they are standard, zero emission or wheelchair accessible. Once a vehicle has been reported and the associated fee paid, the vehicle may operate for the remainder of the calendar year.

The "per vehicle" fee structure was agreed upon as it can be implemented immediately; it enables incentives for specific vehicle types; and it is equitable among companies of all fleet sizes.

The per vehicle fee of \$150 was set with the aim of achieving administrative program cost recovery, and recovery of costs to participating municipalities associated with monitoring business activity and impacts in their communities. Because ride-hailing is a new business type the full costs of licensing and monitoring are not yet known. The licence fee is comparable to licensing fees in other Canadian jurisdictions such as the City of Calgary.

LICENCE CONDITIONS

Companies will be required to comply with the municipal bylaws and regulations of each participating municipality. Each municipality retains authority to enforce its own bylaws, for example street and traffic regulations, as well as the ability to suspend or cancel an IMBL. Staff in participating municipalities have established a shared protocol for escalating enforcement and have agreed to communicate enforcement actions between each other prior to any municipality considering suspension or cancellation of a licence.

Because the terms of the proposed ride-hailing IMBL were developed on a compressed timeline, the terms should be considered as interim. Staff of participating municipalities will continue to collaborate over the coming months on opportunities for future refinement. For example, there may be additional opportunities to encourage wheelchair accessible or zero emission vehicles, or to adjust the licence fee structure. As more companies are licensed and staff better understand the true costs for licensing and monitoring industry impacts, such changes can be considered.

The proposed IMBL for ride-hailing supports the RMOW commitment to regionally coordinated transportation.

LICENCE REQUIREMENTS

The Province will be enforcing compliance with provincial regulations and licence conditions. Field investigations will be carried out by the Commercial Vehicle Safety and Enforcement (CVSE) Branch; the Registrar of the Passenger Transportation Branch is authorized to investigate and audit companies for issues including compliance with licence conditions and public safety. At this time, the number of provincial enforcement staff that will be assigned to address potential issues in Whistler is not available.

MONITORING INDUSTRY IMPACTS – ACCESS TO DATA

Access to detailed trip data is critical for municipalities in understanding the impact of ride-hailing in their communities at both the system-wide and street levels. At the system-wide level it will assist in identifying changes in travel mode share like transit use, cycling and walking. At the street level it can be used to establish solutions to mitigate safety concerns and congestion impacts such as identification of ride-hailing pick-up and drop-off zones. It can also highlight locations that may require enforcement attention.

The BC PTB requires comprehensive vehicle and trip data from companies. In early February, the Province confirmed that municipalities will be able to access these data on a regular, on-going basis through a Partnership Agreement with the PTB. Consequently, detailed trip data will not be a requirement of the IMBL; municipalities will benefit from access to provincial data, and companies will benefit from not having to duplicate data submission efforts.

As a condition of the IMBL, licenced ride-hailing companies will still be required to report the total number of pick-ups and drop-offs occurring in each participating municipality so as to enable the City of Vancouver to calculate the share of revenue owed to each participating municipality.

NEXT STEPS

Should the proposed IMBL bylaws be approved by Council and by other participating municipalities, City of Vancouver staff are prepared to begin issuing IMBL licences in May 2020, prepare invoices, and to set-up revenue distribution.

Industry representatives requested a fee structure that more accurately reflects their business model such as a monthly fee based on active vehicles. As more companies are licensed and staff come to better understand the costs for licensing and for monitoring industry impacts, such changes may be considered.

In considering adjustments to the ride-hailing IMBL, staff will consider opportunities to include limousines as they are also authorized by the PTB to operate across municipal boundaries. The PTB has announced that it will review its regulations with regard to taxi operating areas, but taxis cannot be considered for an IMBL at this time as the PTB restricts their operations to be within municipal boundaries.

BUSINESS LICENCE AND REGULATION BYLAW AMENDMENT

The Business Licence and Regulation Amendment bylaw is included to allow for a 50 per cent discount on a new business licence if a business licence application is made after July 1 in each calendar year. This provision is added to mirror our Animal Responsibility Bylaw licensing schedule. Renewals would be subject to the regular business licence fee.

WHISTLER 2020 ANALYSIS

W2020 Strategy	TOWARD Descriptions of success that resolution moves us toward	Comments
Transportation	Regional partnerships enhance the journey to the resort as part of the experience.	The IMBL bylaw is a partnership with the Lower Mainland and Sea to Sky municipalities that supports regional transportation.
Transportation	The transportation system efficiently meets both the short and long-term needs of all users.	Ride hailing will assist transporting users within the Resort and to the lower mainland.
Transportation	Whistler's local and regional transportation systems minimize encroachment on nature.	No street or infrastructure changes are required at this time to accommodate ride hailing.

The Inter-Municipal Business Licensing bylaws do not move our community away from any of the adopted Whistler2020 Descriptions of Success.

OTHER POLICY CONSIDERATIONS

N/A

BUDGET CONSIDERATIONS

Legal expenses to draft and prepare the bylaw were included in the 2019 and 2020 operating budgets.

COMMUNITY ENGAGEMENT AND CONSULTATION

The working group held an industry information session on January 22, 2020 inviting the 17 TNS operators who had applied to the PTB to operate in Region One at that time. Participants were informed about the proposed IMBL framework, including specifics, such as fee structure and data requirements. At the time of the consultation, the proposed IMBL included data submission requirements that have since been removed. Fifteen of the applicants invited sent representatives.

In addition to the comments given during the information session, three companies submitted written comments following the session. The working group reviewed and considered all comments submitted.

The TNS industry representatives were generally appreciative of the expedited IMBL process, particularly as two of the applicants received PTB approval during the process and had a more urgent need for an IMBL.

The key concerns heard by the working group were:

1. Fee structure and smaller operators: The working group heard concerns that the fee structure disadvantaged smaller operators who are less able to absorb the per-vehicle charges compared to larger operators.
2. Fee structure and TNS fluidity: The working group heard concerns that the way that fees are charged – based on vehicles that sign on with the company rather than number of vehicles in operation – do not match the fluid nature of the ride-hailing industry which tends to have high driver turnover.
3. Data requirements and granularity: The working group also heard concerns about the level of granularity required for data submissions, with respect to customer privacy.

The working group will take the first two key concerns under advisement and consider options to address these concerns as part of the ongoing development of a permanent IMBL. The concerns are significant enough and industry perspectives varying enough that further work and consultation is required, and was not possible prior to the January 31 deadline for the interim IMBL.

Regarding data requirement concerns, the working group has since determined that detailed data submission will not be required as part of the IMBL. Municipalities will access provincially collected data through a Partnership Agreement with the Provincial Transportation Branch.

An ad will be placed in the Pique Newsmagazine to allow for public comments until June 19, 2020. The RMOW website will have the information with the draft bylaws and Council Report.

SUMMARY

The proposed IMBL for ride-hailing will support the regional rollout of the industry as companies will be able to operate in participating municipalities with a single business licence. Should Council approve the recommendation to participate in an Inter-Municipal Business Licence (IMBL) for ride-hailing companies under the terms noted in this Report, the licence will be effective when the bylaws are adopted by Council.

Respectfully submitted,

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PROTECTIVE SERVICES PLANNING ANALYST

for

Ted Battiston
GENERAL MANAGER OF CORPORATE AND COMMUNITY SERVICES