
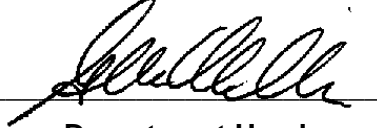
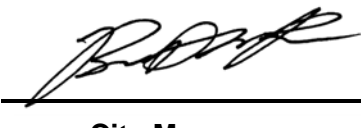


TITLE: TAXI BY-LAW No. 6884		
PRESENTER: Grant McMillan CITY TREASURER	AGENDA NO:	
DEPARTMENT: Treasury	DATE: March 5, 2008	
CLEARANCES: City Clerk	ATTACHMENTS: By-law No. 6884 (24 pages) Report (8 pages)	
APPROVALS:		
 Department Head	<u>2008/3/5</u> Date	 City Manager
		<u>06/03/08</u> Date

SUMMARY OF HISTORY

Due to the extensive changes proposed throughout the existing by-law it is recommended that the existing by-law be replaced with By-law No.6884 as attached.

Industry Consultation

A draft copy of this by-law and related revisions have been in circulation with the industry since August 2007. The significant areas where written opposition was received were fares and cellular dispatch. There is not consensus in the industry on these matters but Administration has proposed regulations that support public safety and ease of administration in every case.

Responsibility to Rest with Company Owners

The existing by-law is quite vague as to who is responsible for any non-compliance issues. The proposed by-law clarifies that the business owner is responsible for the actions of his/her drivers and for the condition of the vehicles in the fleet.

Handicabs

Handicab only services are now considered as a charter service under this proposed by-law. As such they are exempt from fare regulations and regulations surrounding hours of work.

Cell Phone Dispatch

Although it is acknowledged that the two smaller companies will find it more of a financial challenge to have fixed dispatch services it is believed that driver distractions, both physical and cognitive, should be minimized wherever possible. Safety was the main focus for many of the by-law changes and it is believed that commercial drivers should be held to a higher standard for the benefit of all citizens.

Rates

This by-law proposes to introduce a maximum schedule of fares to replace the existing absolute fares. If businesses choose to offer lower rates, Administration believes this should be their decision as it will not be harming the public. A rate increase has also been incorporated that represents 5.87% on an average 3 km trip when combined with the 2008 GST reduction.

RECOMMENDATION:

That draft Taxi By-Law No. 6884 attached to the report of the General Manager of Corporate Services dated March 5, 2008 be referred to the meeting of City Council to be held April 7, 2008 for consideration of 1st reading.

TAXI BY-LAW NO. 6884

BEING A BY-LAW of The City of Brandon to provide for the licensing, controlling, regulating and safety of taxicabs within the municipality.

WHEREAS Section 23 of The Highway Traffic Act provides, in part, as follows:

"23(1) The council of a municipality may, by by-law, require every person conducting or carrying on an automobile livery, or letting or having motor vehicles, including drive-yourself automobiles and taxicabs, for hire or gain, within the municipality, or using the streets thereof in connection with such a business, to take out an annual license from the municipality, and to pay a license fee therefor of such amount as is fixed by by-law for, or in respect of, each motor vehicle so used."

"23(2) The council of a municipality may, by by-law, make rules and regulations for prohibiting, limiting, controlling and regulating any such business or occupation, including, without restricting the generality of the foregoing, the definition of various classes of vehicles, the fixing of rates or tolls to be charged, either by zones, meters or any other method, the creation of zones, the installation and inspection of meters in taxicabs, the powers and duties of inspectors, the placing of insurance for the protection of persons and property, and the location or use of taxicab ranks or stands."

AND WHEREAS Subsection 232(1) of The Municipal Act, RSM 1996, c.M225, provides authority for the municipality to pass by-laws respecting the safety, health, protection and well-being of people;

AND WHEREAS it is deemed expedient and in the public interest to license the owners and drivers of taxicabs, to ensure the safety of the public in The City of Brandon;

NOW THEREFORE the Council of The City of Brandon, in open session assembled, enacts as follows:

PART I

TITLE AND DEFINITIONS

- 1.1 This by-law may be cited as "The Taxi By-law".
- 1.2 Words importing the singular or masculine only also include the plural or feminine or body corporate where the context requires.
- 1.3 In this by-law, unless the context thereof otherwise requires, the following definitions shall apply:
 - (a) "AFFILIATION AGREEMENT" means an agreement made between the holders of a Business License Certificate (Business Licensee) and independent holders of vehicle registrations, whereby a vehicle registrant agrees to operate, or have operated, the vehicles for which Taxicab Permits have been obtained by the Business Licensee, as part of the Business Licensee's Taxicab Business.
 - (b) "APPLICANT" means a person who applies for a License or Permit, and shall also mean a person who is appealing the refusal, revocation, or suspension of a license or permit.
 - (c) "BUS" means any motor vehicle which would qualify as a taxicab with the exception that:
 - i) such a vehicle must be designed to carry eleven (11) or more passengers unless otherwise stated; and
 - ii) the vehicle is not equipped with a taxi meter, and is not licensed with the

City of Brandon as a limousine or handicab vehicle.

- (d) **"BUSINESS LICENSE CERTIFICATE"** means a certificate issued by the Treasury Department of the City of Brandon, pursuant to the provisions of this by-law, authorizing the person named therein to carry on a taxicab business.
- (e) **"BUSINESS LICENSEE"** means a person who holds a subsisting Business License Certificate issued to such person by the Treasury Department pursuant to the provisions of this by-law.
- (f) **"CHARTER VEHICLE"** means a bus, limousine or handicab vehicle.
- (g) **"CITY"** means the City of Brandon, a municipal corporation in the Province of Manitoba, and where the context so requires means the area contained within the corporate boundaries of the said municipality.
- (h) **"CITY COUNCIL"** means the Municipal Council of the City of Brandon.
- (i) **"COMPENSATION"** or **"HIRE"** means the fare, toll, gain, fee or rate charged, collected, or intended to be charged or collected, from any person for the carriage of a person or persons or property by or in a taxicab and includes remuneration of any kind paid, promised or demanded, direct or indirect, as well as personal services or the sharing of any expense of the operation of, or of work done by or upon a taxicab.
- (j) **"CONTRACT"** means a pre-arranged written agreement between a business licensee and another person containing information as to the terms of service to be provided as well as the compensation for the service.
- (k) **"DEVELOPMENT PERMIT"** means a permit issued under the provisions of the City of Brandon Zoning By-law.
- (l) **"HANDICAB VEHICLE"** means a vehicle that is equipped with a wheelchair ramp or lift and is operated for the transportation of physically disabled persons and their attendants.
- (m) **"INTER-LIVERY LICENSE"** is a license issued by the Province of Manitoba authorizing the vehicle in question to operate as a taxicab outside the boundaries of any one municipality.
- (n) **"LICENSE"** means a license granted by the City of Brandon entitling the person to whom it is granted to carry on such activity therein named and includes taxicab and driver's permits issued pursuant to Part III and Part IV of this by-law. The said license shall either be in the form of a written certificate and showing thereon the type of business engaged in, or in the form of a decal on which is inscribed the type of service licensed.
- (o) **"LIMOUSINE"** means any motor vehicle:
 - (i) excepting vehicles registered with the City of Brandon as limousines at date of passage of this by-law, with seating capacity of seven persons or more, which would otherwise qualify as a taxicab, or bus with the exception that the vehicle has an extended wheel base, and
 - (ii) is unmarked and not equipped with taxicab signage, and is not equipped with a taxi meter or rate card.

This by-law shall not apply to the operation of limousines ancillary to other businesses where such limousines are not offered to the public for rental purposes other than for the transportation of persons required for the primary business.

- (p) **"PEACE OFFICER"** means a member of the Brandon Police Service , including By-law Enforcement Officers.
- (q) **"PERSON"** means a natural person or a body corporate and includes a partnership, a group of persons acting in concert, or an association, unless the context explicitly or by necessary implication otherwise requires.
- (r) **"PHYSICALLY DISABLED PERSON"** means an individual who by reason of illness, injury, age, congenital malfunctions or other permanent or temporary incapacity or disability, is unable, without special facility or special planning or design, to utilize available transportation facilities.
- (s) **"POLICE CHIEF"** means the Chief of Police of the Brandon Police Service and includes any person designated by the Chief of Police to perform his duties with respect to this By-law.
- (t) **"TAXICAB"** means a motor vehicle, with a minimum of four doors, equipped with a taxi meter for the purpose of transporting persons for compensation and includes charter vehicles unless otherwise exempted but, does not include:
- (1) a public service vehicle;
 - (2) a trolley bus or passenger carrying motor vehicle of a public transportation system operating in the streets of the City;
 - (3) a school bus;
 - (4) an ambulance;
 - (5) a hearse;
 - (6) a motor vehicle exempt under the provisions of this by-law;
 - (7) any motor vehicle owned and/or operated by a hotel or motel business in the City providing direct customer service without charge to or from the Brandon Municipal Airport;
 - (8) any vehicle owned and/or operated by an individual for the purpose of providing a passenger shuttle service shall be exempt from this by-law provided that such exemption is conditional on the owner/operator not transporting for compensation or hire any passenger from one point to another within the corporate limits of Brandon and that failure to comply with such condition shall cause the owner to be in violation of the provisions of this by-law.
 - (9) any vehicle operated ancillary to other businesses where such vehicles are not offered to the public for compensation or hire other than for the transportation of persons required for the primary business.
- (u) **"TAXICAB DRIVER"** means any person who is required to be licensed pursuant to this by-law to drive vehicles licensed under the provisions of this by-law.
- (v) **"TAXI DRIVER'S PERMIT"** means the permit issued by the Treasury Department, pursuant to the provisions of this by-law, authorizing the person named therein to drive vehicles licensed under the provisions of this by-law.
- (w) **"TAXICAB PERMIT DECAL"** means the permit decal issued annually or seasonally by the Treasury Department, pursuant to the provisions of this by-law, for attachment to the vehicle licensed under the provisions of this by-law.
- (x) **"VEHICLE REGISTRANT"** means the person to which a vehicle is legally registered with the Province of Manitoba Driver and Vehicle Licensing Office.

PART II

LICENSING OF TAXICAB BUSINESSES

- 2.1 Any business with its office located in another municipality that operates taxicabs pursuant to a Provincial inter-livery license and delivers passengers to or from a municipality other than the City of Brandon shall not be subject to this part of the by-law.

- 2.2 Any person who owns, operates or otherwise engages in the operation of taxicabs in the City, other than by affiliation with an existing business licensee, shall be required for such purpose, to be the holder of a valid and subsisting Business License Certificate for such purpose, issued by the Treasury Department and to pay the fee specified in the City's annual Fee Schedule By-law. A Business License Certificate shall be valid only for the calendar year for which it is issued.**
- 2.3 Any Business License Certificate issued under the provisions of this by-law shall be issued in lieu of a license issued under the City's Business Licensing By-law and the holder of such license shall be subject to all other provisions set out in the City Business Licensing By-law.**
- 2.4 Compliance with the provisions of this by-law does not negate the requirement to comply with the provisions of other City by-laws including but not restricted to, the Business Licensing By-law and Zoning By-law.**
- 2.5 Any person desiring to obtain a Business License Certificate, or to renew such certificate, to operate a taxicab business in the City shall apply in writing on a form to be supplied by the Treasury Department and attached hereto as Schedule "D".**
- 2.6 A Business License Certificate shall only be issued to or renewed for a person who:**
- (a) excepting businesses that operate charter vehicles only, is the holder of sufficient taxicab vehicle permits so that there are at least six (6) duly licensed metered taxicab motor vehicles for use in the operation of the taxicab business (see also paragraph 2.7 effective until December 31, 2011 only);**
 - (b) establishes a taxi business office located in the City of Brandon, in compliance with the City's Zoning By-law, for the operation of the said taxicab business. Consideration will be given to businesses that operate charter vehicles only wishing to establish their business office outside of the City;**
 - (c) excepting businesses that operate charter vehicles only, is affiliated by formal written arrangement with a radio dispatch service provider that is staffed without interruption or establishes a radio dispatch centre that is staffed without interruption located in the City of Brandon, in compliance with the City's Zoning By-law, for the operation of said taxicab business. This may be the same location as the business office referred to in subparagraph (b);**
 - (d) has provided a list of the motor vehicles which will be used in the operation of the taxicab business in accordance with Schedule D of this by-law to the Treasury Department as soon as possible after each vehicle has been licensed with the Province of Manitoba Driver and Vehicle Licensing;**
 - (e) has been recommended by the Brandon Police Service and the Planning and Building Department; and**
 - (f) has no outstanding municipal fines or debt, other than property taxes and/or utilities, related to any part of their business whether directly or by affiliation.**
- 2.7 An exception to Paragraph 2.6 (a) shall be made whereby the number of duly licensed metered taxicab motor vehicles for use in the operation of the taxicab business shall be four (4) for Angel Taxi and 1-United Taxi. Any additions to these fleets will nullify the grandfathering for that company. Any transfer of ownership of a company will nullify the grandfathering for that company. Grandfathering, in all other cases, will expire December 31, 2011.**

- 2.8 In the event that a Business License Certificate is issued to a person, and during the currency thereof the person ceases to qualify for such certificate under Section 2.6 of this Part, then the Business License Certificate is automatically cancelled.
- 2.9 If a business licensee ceases to be the holder of a valid and subsisting Business License Certificate, then such licensee shall immediately cease to operate the taxicab business, and all permits related to that business licensee will be cancelled in accordance with Section 2.18 of this by-law.
- 2.10 A Business License Certificate issued in accordance with the provisions of this Part shall be a valid license only for the person therein named, and any transfer of ownership shall invalidate the Business License Certificate.
- 2.11 Where a business licensee named in the Business License Certificate changes the trade name of the business, sells or otherwise assigns the taxicab business or becomes disposed of it by bankruptcy or operation of law, or sells or otherwise assigns any interest in the taxicab business specified in the business license other than as security for a loan, then the business licensee shall within seven (7) days notify the Treasury Department of such occurrence.
- 2.12 A business licensee shall have available for inspection, either by the Treasury Department or by a Peace Officer, an up-to-date list of drivers with associated addresses.
- 2.13 A business licensee shall provide to the Treasury Department an annual listing of the motor vehicles which will be used in the operation of the taxicab business, and shall also inform The Treasury Department of any deletions to the listing within three (3) days of any such occurrence.
- 2.14 A business licensee shall not change the fixed location of its business office without first having obtained any required permit, memorandum or other authority in accordance with the City's Zoning By-law. A copy of such authority shall be filed with the Treasury Department within seven (7) days of its issuance.
- 2.15 A business licensee shall ensure that at all times any affiliated drivers have a valid Province of Manitoba Class 4 license, are duly permitted by the City of Brandon, and are at all times fit to drive a public conveyance.
- 2.16 A business licensee shall maintain at all times a listing of valid registrations for all affiliated vehicles and shall ensure that only vehicles with valid registrations and those that are duly licensed by the City of Brandon are used in the taxi business operations.
- 2.17 A business licensee shall ensure all affiliated vehicles are inspected in accordance with Part V of this by-law. If a vehicle is not presented for inspection said vehicle will be suspended until such time as the business licensee provides to the Treasury Department an approved Certificate of Inspection that is dated no more than fifteen (15) days prior to presentation to the Treasury Department and the business licensee may be guilty of an offence.
- 2.18 Upon the termination of affiliation with a vehicle registrant, the business licensee shall cause the license decal and equipment (including taxi meter, lights, signs, etc.) to be immediately removed from the vehicle. Proof of such removal shall be provided by the business licensee to the Treasury Department within seven (7) days following such termination of affiliation.
- 2.19 A business licensee, shall provide seven (7) days a week, a twenty-four (24) hour per day service to the residents of the City directly, or by arrangement with another licensed taxicab business in the City, excepting businesses that are operating charter vehicles only.

PART III**LICENSING OF VEHICLES**

- 3.1 A business licensee shall allow a person to operate a motor vehicle as a taxicab only when:**
- (a) a taxicab permit decal has been issued for and affixed to such motor vehicle and the vehicle is not currently suspended or cancelled;**
 - (b) two (2) stickers ("IMPORTANT PUBLIC NOTICE") in the prescribed form attached hereto as Schedule "A" to this by-law, have been affixed to the inside of the licensed vehicle by the Treasury Department so as to be readily visible to all passengers with the exception of charter vehicles; and**
 - (c) the fee specified in the City's annual Fee Schedule By-law has been paid to the City.**
- 3.2 Annual taxicab vehicle permits shall take effect from the date of issue by the Treasury Department, and shall remain in force and effect until the last day of February following, unless the same has been forfeited, cancelled or suspended.**
- 3.3 Taxicab vehicle permits may be issued on or after the 1st day of September of each year at a reduced fee as specified in the City's annual Fee Schedule By-law. Such permits shall take effect from the date of issue and shall remain in force and effect until the last day of February following, unless the same has been forfeited, cancelled or suspended.**
- 3.4 Any business licensee desiring to obtain or renew a taxicab permit to operate a motor vehicle as a taxicab in the City shall apply in person to the Treasury Department.**
- 3.5 A taxicab permit decal shall only be affixed to a motor vehicle when the applicant for such license is a business licensee and:**
- (a) has acquired the right to use the vehicle pursuant to any written agreement with the vehicle registrant, and furnishes proof thereof whereby monthly registration renewals shall be subject to an additional fee of \$5 per month in 2008 and as specified in the City's annual Fee Schedule By-law thereafter;**
 - (b) produces a Certificate of Inspection for such vehicle in accordance with the provisions of Section 5.8 of this by-law, and such report shall be in the prescribed form supplied by the Province of Manitoba Driver and Vehicle Licensing Office;**
 - (c) by appointment only, causes to be produced for inspection by the Treasury Department and the Brandon Police Service, the motor vehicle proposed to be licensed for use as a taxicab which is safe, fit and useable as a taxicab and, excepting charter vehicles, is equipped with:
 - i) a vehicle roof light displaying the word "Taxi" and/or the name of the taxi business to which it is to be affiliated appearing on both sides of the light;**
 - ii) the name or logo of the taxi business with which it is to be affiliated, painted or affixed by decal on both the left and right sides of the vehicle; and**
 - iii) a taxi meter which is easily read at all times;****
 - (d) provides proof of taxi classification motor vehicle insurance which includes public liability coverage (passenger hazard to be included) in the minimum amount of \$2,000,000 and property damage coverage in the minimum amount of \$50,000;**
 - (e) has paid a license fee specified in the City's annual Fee Schedule By-law; and**
 - (f) if there are no related municipal fines attached to that vehicle.**

- 3.6** A missed initial appointment or any late arrivals for the motor vehicle inspection required in sub-section 3.5(c) shall be subject to a fee as specified in the City's annual Fee Schedule By-law;
- 3.7** Prior to the issuance of a taxicab permit decal, the Treasury Department shall assign a specified identification number to the vehicle, and the business licensee shall cause to have such number painted or affixed, in a size no less than four (4) inches high and in a black or white colour which contrasts clearly with the background colour of the vehicle, to such vehicle upon inspection referred to in Section 3.5 (c):
- (a) on the right and left front fenders; and
 - (b) upon the rear of the vehicle above the bumper, at a location to be clearly visible.
- 3.8** Notwithstanding any other provision of this by-law, and with particular reference to Section 2.18 of Part II, any change in the ownership of a taxicab shall require the business licensee to obtain a new permit if there has been a total change in ownership, and a revised permit if there has been a partial change in ownership. The business licensee shall immediately report to the Treasury Department any change in ownership along with any additional information as may be required by the Treasury Department.
- 3.9** A taxicab permit that is issued in accordance with the provisions of this Part shall be valid only for so long as the business licensee complies with the provisions of Subsection 3.5 (a) above, specifically only provided the vehicle registration and permission to use the vehicle has not expired.
- 3.10** A taxicab permit shall be the property of the City and where a business licensee, named in the vehicle permit issued by the City, breaks affiliation with the vehicle registrant, sells or leases or otherwise assigns his or her interest in the taxicab vehicle, including by bankruptcy or operation of law, other than as security for a loan, without notifying the Treasury Department within seven (7) days, the said taxicab permit issued for the vehicle shall be considered void.
- 3.11** Should a business licensee desire to substitute another motor vehicle for any taxicab for which a permit has been issued, the said licensee shall deliver to the Treasury Department proof that the permit decal issued for such taxicab has been removed from the vehicle, and where the Treasury Department is satisfied that the motor vehicle proposed to be substituted is in compliance with the provisions of Section 3.5 of this by-law, a new permit decal shall be issued to the licensee.
- 3.12** Effective March 1, 2008 and continuing until February 28, 2010 in each year, an age restriction not to exceed 12 vehicle model years shall be placed on all vehicles used in conjunction with the taxi industry with the exception of chartered vehicles.
- 3.13** Beginning March 1, 2010 and continuing until February 29, 2012 and effective March 1st in each year, an age restriction not to exceed 10 vehicle model years shall be placed on all vehicles used in conjunction with the taxi industry with the exception of chartered vehicles. All vehicle additions or replacements will be required to meet the 10 year age restriction excepting vehicles already permitted under 3.11 of this by-law. Vehicles already permitted under 3.11 of this by-law are subject to a 12 year age restriction.
- 3.14** Beginning March 1, 2012 and effective March 1st in each year thereafter, an age restriction not to exceed 8 vehicle model years shall be placed on all vehicles used in conjunction with the taxi industry with the exception of chartered vehicles.

PART IV**LICENSING OF TAXICAB DRIVERS**

- 4.1 A business licensee shall obtain for each affiliated driver a valid Taxi Driver's Permit issued by the Treasury Department prior to allowing any person to drive or operate a taxicab from point of origin to point of destination within the City. Further, the business licensee shall obtain for each affiliated driver a valid Taxi Driver's Permit issued by the Treasury Department prior to allowing any person to drive or operate any taxicab duly permitted pursuant to Part III of this by-law regardless of its point of origin or point of destination.
- 4.2 A City of Brandon Taxi Driver Permit shall take effect from the date of issue and shall remain in force and effect until the last day of August following, unless the same has been forfeited, suspended or cancelled.
- 4.3 Notwithstanding Section 4.1 hereof, a mechanic or any person in his employment may drive a taxicab while engaged in repairs or routine maintenance or inspection of the taxicab without holding a current Taxicab Driver's Permit.
- 4.4 Notwithstanding Section 4.1 hereof, a person may drive a taxicab to any inspection of the taxicab scheduled by the City without holding a current Taxicab Driver's Permit provided that person holds a Provincial Driver's License that is, at minimum, Class 4.
- 4.5 Any business licensee desiring to obtain or renew a Taxi Driver's Permit, shall apply in writing on a form as set out in Schedule "B" hereto and supplied by the Treasury Department.
- 4.6 An application for a Taxi Driver's permit, or renewal of such permit, shall include a signed release authorizing the Brandon Police Service to conduct periodic investigations of the driver for any convictions under statutes from any jurisdictions, and to release to the City any such records should an appeal hearing be necessary. The City will conduct such periodic investigations every three (3) years or more frequently if deemed necessary.
- 4.7 An application for a Taxi Driver's permit, or renewal of such permit, shall include one copy of a Driver's Abstract obtained from the Driver and Vehicle Licensing Branch of the Manitoba Department of Infrastructure and Transportation as well as one copy of Driver's Abstracts from any other jurisdiction(s) so as to provide a five year driving record that is dated no more than two (2) weeks prior to the date of application. Exceptions will be made where the driver does not have a five year driving history.
- 4.8 A Taxi Driver's permit shall only be issued or renewed for a person who:
- (a) has included in his or her application the signatures of the business licensee with whom the driver will be employed by and/or affiliated with as a taxi driver;
 - (b) pays the required fee as set out in the City's annual Fee Schedule By-law;
 - (c) produces for inspection a Provincial Driver's License issued under the provisions of The Drivers and Vehicles Act of Manitoba, and such license shall be of a minimum Class 4;
 - (d) provides two (2) passport photos that are dated no more than two weeks prior to the application;
 - (e) has no outstanding debts to the City other than property taxes and/or utilities; and
 - (f) is legally entitled to work in Canada.

- 4.9** Upon receipt of an application for a Taxi Driver's Permit, the Treasury Department shall refer the application to the Chief of Police, who after conducting an investigation shall recommend the issuance of a Taxi Driver's Permit pursuant to the application for the Taxi Driver's Permit or alternatively, not recommend the issuance of same where, in the opinion of the Chief of Police, to do so would be contrary to the public interest. No permit shall be issued prior to the recommendation of the Chief of Police. The Treasury Department may, on renewal applications for Taxi Driver's Permits, waive the requirements for obtaining a recommendation from the Chief of Police for a period of up to a maximum of three (3) years from the initial application or the date of the most recent criminal record check per Section 4.6 of this by-law.
- 4.10** No permit shall be issued for any person who,
- (a) within a ten (10) year period immediately preceding the date of application, has been convicted of any of the following offences contrary to The Criminal Code of Canada, The Controlled Drugs and Substances Act, or otherwise, or of similar offences from any other jurisdiction:
 - i) a sexual offence or offence relating to corrupt public morals;
 - ii) an offence relating to criminal negligence, homicide, bodily harm, assault, kidnapping or abduction; or
 - iii) an offence relating to robbery or extortion;
 - iv) driving while over .08 blood alcohol level, impaired driving or refusal to provide a breath or blood sample;
 - v) trafficking, possession for the purpose of trafficking, or cultivation of a controlled substance;
 - vi) dangerous driving;
 - (b) within a five (5) year period immediately preceding the date of application, has been convicted of careless driving pursuant to The Highway Traffic Act;
 - (c) within a two (2) year period immediately preceding the date of application, has been convicted of any offence contrary to the Criminal Code of Canada, the Controlled Drugs and Substances Act, the Food and Drug Act, or any similar acts of any other jurisdiction;
 - (d) has been convicted of a total of three (3) offences under The Highway Traffic Act, The Drivers and Vehicles Act, or any similar acts of any other jurisdiction within a two (2) year period immediately preceding the date of application.
- 4.11** A permit shall not be issued where the character or conduct of the taxicab driver is such that he or she is unfit to drive a public conveyance.

PART V**GENERAL OPERATING PROVISIONS FOR TAXICABS**

- 5.1** A business licensee shall only allow duly permitted drivers under the authority of Part IV of this by-law to operate a taxicab vehicle from point of origin to point of destination within the City. Further, a business licensee shall only allow duly permitted drivers under the authority of Part IV of this by-law to drive or operate any taxicab duly permitted pursuant to Part III of this by-law regardless of its point of origin or point of destination.
- 5.2** A business licensee shall only permit the operation within the City of those taxicabs that are duly permitted under the authority of Part III of this by-law.
- 5.3** Dispatch operations are strictly prohibited from being carried out in a vehicle. Dispatch operations are to be provided by radio only and only from fixed locations as prescribed by Section 2.6 (c) of this by-law.

- 5.4 When a taxicab is involved in an accident, the business licensee shall report the incident to the Treasury Department within seventy-two (72) hours of the occurrence. At the request of the Treasury Department, the taxicab vehicle shall be made available for inspection of damage caused by such accident. Copies of all accident reports relating to damage to taxicabs shall be provided to the Treasury Department by the Brandon Police Service.
- 5.5 Notwithstanding Clause (b) of Section 3.5 of this by-law, a business licensee shall twice annually at a time prescribed by the Treasury Department submit to the Treasury Department a Certificate of Inspection for every vehicle affiliated with the business. Failure to produce such a report by the aforementioned date may result in the Treasury Department ordering such taxicab out of service until a Certificate of Inspection, as approved in accordance with Section 5.8, is received by the Treasury Department.
- 5.6 When the Treasury Department is of the opinion that a taxicab is not in a safe mechanical condition, it may order the business licensee to cause the vehicle to be produced for inspection, and if not satisfied the vehicle is in a safe mechanical condition, shall order the said vehicle out of service until such time as the licensee provides a Certificate of Inspection. The Certificate of Inspection shall be dated subsequent to the Treasury Department inspection and shall be completed in the prescribed form supplied by the Province of Manitoba Driver and Vehicle Licensing Office in accordance with the guidelines and regulations of the Province of Manitoba by an independent mechanic who is at arm's length from the business licensee and from the vehicle registrant that shows the vehicle is safe and fit to continue operating as a taxicab.
- 5.7 Notwithstanding Section 5.6 of this Part, the Treasury Department may, where it is obvious that a taxicab is not in a safe or fit condition, order such vehicle from service immediately without a mechanical inspection and such vehicle shall remain out of service until such mechanical defects are repaired and an approved Certificate of Inspection has been delivered to the Treasury Department. The Certificate of Inspection shall be dated subsequent to the date of suspension and shall be completed in the prescribed form supplied by the Province of Manitoba Driver and Vehicle Licensing Office in accordance with the guidelines and regulations of the Province of Manitoba by an independent mechanic who is at arm's length from the business licensee and from the vehicle registrant that shows the vehicle is safe and fit to continue operating as a taxicab.
- 5.8 A Certificate of Inspection required under the provisions of this by-law shall be completed, in the prescribed form supplied by the Province of Manitoba Driver and Vehicle Licensing Office, in accordance with the guidelines and regulations of the Province of Manitoba, by an independent mechanic who is at arms-length from the business licensee for the vehicle and the vehicle registrant. Such report must have been prepared and completed within fifteen (15) days of presentation to The Treasury Department.
- 5.9 (a) Should a Certificate of Inspection indicate that a motor vehicle licensed as a taxicab, or intended to be licensed as a taxicab, is not safe, fit or suitable for such use, the business licensee in whose business the taxicab is or will be operated shall not use it in such business unless and until all deficiencies have been corrected and repaired and until a Certificate of Inspection certifying that the required repairs or alterations have been carried out has been delivered to The Treasury Department.
- (b) The Treasury Department may from time to time require any licensed taxicab to submit to a mechanical inspection. The cost of such inspection will be assumed by the City of Brandon if no irregularities are found and by the Business Licensee if the vehicle fails the mechanical inspection.

- 5.10 Every taxicab driver shall at all times when in charge of a taxicab:**
- (a) prominently display in such vehicle his or her Taxi Driver's Permit issued by the City in a holder supplied by the business licensee, and such holder shall be placed in a position whereby the Taxi Driver's Permit is clearly visible to passengers in all seats of the licensed vehicle;**
 - (b) whenever carrying a passenger or passengers in the vehicle, have the taxi meter in "time and distance" operation or the ride is FREE unless the vehicle is licensed as a charter vehicle;**
 - (c) not demand payment of any fee not specifically authorized by the tariff of fees established by Part VIII of this by-law;**
 - (d) not allow alcoholic beverages to be transported in the taxicab that is under hire unless the property of the passenger, and the alcohol is stored in accordance with The Highway Traffic Act;**
 - (e) not operate a taxicab with a blood/alcohol level in excess of 0.00;**
 - (f) not operate a taxicab under the influence of drugs or like substances;**
 - (g) determine the number of passengers to be transported safely and comfortably in the vehicle but shall not permit at any time a greater number of passengers than there are available functioning seatbelts in the vehicle, with the exception of buses designed to carry twenty-five (25) or more people;**
 - (h) not carry any gasoline, explosives or noxious substances within the passenger compartment of the said vehicle;**
- 5.11 Business offices, taxi dispatch centres and garages where taxicabs are kept, hired, stored or repaired and related accounts, records or documents which are required to be kept, are subject to inspection by the Treasury Department or any Peace Officer.**
- 5.12 Every business licensee or taxicab driver shall, upon being requested by a Peace Officer, give the full information concerning the address to or from which any passenger has been driven.**
- 5.13 Only motor vehicles licensed as taxicabs by the City shall be equipped with a taxi meter or any other related taxicab equipment.**
- 5.14 Scanners for monitoring other communication devices shall be prohibited from being operated in taxicabs licensed by the City of Brandon with the exception of two-way radios for communications between a taxi dispatch office and its associated motor vehicles.**
- 5.15 Cellular telephones shall be prohibited from being operated in licensed taxicabs.**

PART VI**REGULATIONS FOR TAXI METERS**

- 6.1 For the purpose of this Part, the term "taxicab" shall exclude vehicles licensed as charter vehicles.**
- 6.2 Every taxicab, before being licensed, and during the time it is so licensed, shall be equipped with a taxi meter so adjusted as to calculate and register fares based on time and distance at a single tariff only as established in Section 8.1 of this by-law.**
- 6.3 Every taxi meter shall be installed in such a position in the taxicab so as to be in plain view of the passengers in order for them to see the tariff or fare to be paid and whether or not the meter is registering.**

- 6.4 Every taxi meter shall be clearly and continuously illuminated while it is in operation.
- 6.5 A taxi meter shall be inspected, tested for accuracy and registration, and sealed by the Treasury Department before being used in a taxicab.
- 6.6 While every taxi meter should be accurate, the tolerances on taxi meters shall not exceed the following:
- (a) Road Tests: With respect to distance computed or actually travelled, a tolerance of Two percent (2%) short of a kilometre and a tolerance of Three percent (3%) over a kilometre;
 - (b) On Time Tests (On Individual Time Intervals): A tolerance of Five percent (5%) in deficiency and a tolerance of Ten percent (10%) in excess.
- 6.7 Notwithstanding Section 6.5 of this by-law, a taxi meter is subject to inspection and testing by the Treasury Department at any time, and any taxicab equipped with an inaccurate or faulty meter may be ordered out of service. The taxicab may be returned to service when it has been equipped with a taxi meter that has been re-inspected, re-tested and re-sealed by the Treasury Department.
- 6.8 No business licensee or driver of a taxicab shall use a taxi meter unless the seal placed thereon is unbroken and intact. When it is necessary for such licensee or driver to break the seal which has been affixed to the taxi meter, the Treasury Department shall be notified immediately in order that the said meter may be tested and re-sealed. If the seal is broken at a time when City Hall is not open, the business licensee shall cause the taxicab to be presented to the Treasury Department for meter testing and re-sealing on the next day that City Hall is open for business.
- 6.9 Business licensees will be held responsible for the accuracy of taxi meters installed in their affiliated taxicabs and it shall be an offence for a taxicab to be operated when the said meter fails to comply with the provisions of this by-law.

PART VII**SPECIAL PROVISIONS FOR CHARTER VEHICLES**

- 7.1 An applicant for a Charter Vehicle Business License who has already acquired a Taxicab Business License shall not be required to obtain a new separate Charter Vehicle Business License.
- 7.2 Vehicles licensed as charter vehicles are prohibited from parking at taxi stands or in taxi loading zones.
- 7.3 Vehicles licensed as charter vehicles are required to pre-arrange the pickup of all passengers a minimum of two hours in advance and are prohibited from the unsolicited pickup of passengers.
- 7.4 Vehicles licensed as a chartered vehicle shall not have a roof light or meter as referred to in Part III, subsection 3.5(c) attached to the vehicle.
- 7.5 Vehicles licensed as a charter vehicle shall only operate under written contracts with passengers.
- ~~7.6~~ Vehicles licensed as a charter vehicle must only use common points of pickup and destination for all passengers.

PART VIII**FARE REGULATIONS**

- 8.1** The tariff of fares, inclusive of GST, which business licensees shall permit their affiliated drivers to charge or collect from passengers carried in a metered taxicab shall be, at a maximum:
- (a) \$3.20 for the first 100 m or fraction thereof;
 - (b) \$0.14 for each additional 100 m or fraction thereof;
 - (c) \$0.10 for each 10 seconds or fraction thereof of metered waiting time while under engagement.
- 8.2** A business licensee shall ensure that there are posted in every taxicab two (2) Tariff of Fares cards showing the tariff of fares authorized under this by-law.
- 8.3** Charges may commence from the notification to the customer of the arrival of a taxicab at the place of call and shall cease when the vehicle has been discharged after payment, and shall apply to all trips commencing and terminating within the City.
- 8.4** Where a passenger requests a receipt or there is a dispute over the amount of the fare, a driver of a metered taxicab shall provide forthwith the passenger with a receipt that sets out
- (a) the amount of the fare and that it includes applicable taxes;
 - (b) the place of pick up and discharge of the passenger;
 - (c) the date of the trip;
 - (d) the driver's signature;
 - (e) the driver's permit number.

PART IX**POWERS OF PEACE OFFICERS AND THE TREASURY DEPARTMENT**

- 9.1** Peace Officers and the Treasury Department are hereby authorized and directed to administer and enforce all requirements of this by-law and empowered to refuse to issue or renew, to suspend, or cancel:
- i) a Business License Certificate;
 - ii) a Taxicab Permit; or
 - iii) a Taxi Driver's Permit
- if in the opinion of the Peace Officer or the Treasury Department, the requirements of this by-law have not been complied with.
- 9.2** The Treasury Department is hereby further empowered to suspend or cancel a driver's permit issued pursuant to the requirements of this by-law where, in the opinion of the Treasury Department:
- (a) the taxicab driver acquires a driving record which makes him or her unfit to drive a public conveyance;
 - (b) the taxicab driver has operated the taxicab under his control in a manner which makes him or her unfit to drive a public conveyance;
 - (c) the character, conduct or state of health of the taxicab driver is such that he or she is unfit to drive a public conveyance; or
 - (d) the taxicab driver does not comply with the requirements of this by-law.

- 9.3 The Treasury Department shall provide the business licensee and in the case of a Business License Certificate, all vehicle registrants affiliated therewith, a written notice of its decision pursuant to Sections 9.1 or 9.2 and such notice shall include the following statement:
- (a) the reason for actions as per Sections 9.1 and/or 9.2; and
 - (b) the duration of any resulting suspension.
- 9.4 Notwithstanding anything in this by-law, and before or in the course of a hearing into a matter, the Treasury Department may, by order, suspend the holder's license or permit, if in the opinion of the Treasury Department, the suspension is necessary for the immediate protection of the public.

PART X**RIGHT OF APPEAL**

- 10.1 Any person aggrieved by any decision or action of the Treasury Department or Brandon Police Service to refuse to issue or renew, to suspend or cancel a Business License Certificate under Section 2.6 (e), or a Taxi Driver's Permit under Section 4.9 or 4.11 may appeal to the Taxi Appeal Committee by filing with the City Clerk a written notice of appeal within fourteen (14) days of the occurrence being appealed.
- 10.2 The City Clerk, upon receipt of an appeal or notice of objection against any order or notice issued pursuant to the provisions of this by-law, shall set a time and place for a hearing by the Committee, provided that in no case shall a hearing be held later than twenty-one (21) days following the filing of the appeal or notice of objection.
- 10.3 The City Clerk shall cause not less than five (5) days notice of the hearing to be served, by certified mail, registered mail, or personal service sworn to by affidavit, on the appellant at his address as shown on the notice of appeal form on Schedule "C", and such notice shall inform the appellant that he, and/or his agent, may appear at the hearing and make such representation as he so desires and that, in the event he or his agent does not appear at the said hearing, a decision may be made by the Committee in his absence.
- 10.4 Decision of the Treasury Department or of a Peace Officer will be in effect pending outcome of appeal at which time a permanent decision of Appeal Committee will take effect.

PART XI**TAXI APPEAL COMMITTEE**

- 11.1 There is hereby established a Taxi Appeal Committee.
- 11.2 The Committee shall be comprised of three Councillors, and two additional Councillors who shall act as alternate members for the purpose of hearing any appeal, when necessary, in the absence of any member.
- 11.3 The membership, including the alternate members, shall be appointed annually by resolution of Council for a term of one year with members being eligible for reappointment upon the expiration of their term of office.
- 11.4 Council shall appoint a Chairman and Acting Chairman at the time of making its appointments. In the event neither the Chairman nor Acting Chairman are in attendance at a hearing, the membership in attendance shall appoint an Acting Chairman for the purpose of that hearing.
- 11.5 Two members shall constitute a quorum of the Committee.

- 11.6 On the day and at the time set out in the notice of the City Clerk, the Committee shall conduct the hearing and receive representations from the Administration and the appellant or any person appearing on his behalf. The hearing may be adjourned from time to time and may be resumed at such time and place as the Committee may decide.
- 11.7 In the event there is no quorum present to conduct a set hearing, the City Clerk shall adjourn the hearing until the first available date, as established by the City Clerk, when a quorum will be available. Notice of the continued hearing date must be given in accordance with Section 10.3. However, the requirement for five (5) days notice may be waived if such time is not available, providing notice is by personal service sworn to by affidavit.
- 11.8 Upon hearing an appeal, the Committee may:
- (a) rescind the decision of Administration;
 - (b) confirm the decision of Administration;
 - (c) make such other order as in the circumstances of each case it deems just.
- 11.9 The order of the Committee, upon being communicated to the appellant, stands in place of, or confirms the decision against which appeal is made.
- 11.10 Any failure to comply with an order of the Committee is an offence and is subject to the penalty provisions and such further action as set out in this by-law.
- 11.11 The City Clerk, as soon as practicable following the conclusion of the hearing, shall provide written notice to the appellant and the Administration as to the order of the Committee.

PART XII**PENALTY SECTION**

- 12.1 Any person who violates, contravenes, disobeys, refuses, omits, neglects or fails to observe, obey or comply with any provisions of this by-law is guilty of an offence and is liable upon summary conviction to a fine not exceeding One Thousand Dollars (\$1,000.00) for each offence or at the discretion of The Treasury Department, a penalty in accordance with the City's Compliance By-law. Failing to pay the fine within thirty (30) days of conviction, or failing to pay in compliance with a court order, may result in automatic suspension of the applicable license or permit.

Where such contravention, refusal, neglect, omission, or failure to obey or observe continues for more than one day, the person is guilty of a separate offence for each day that it continues.

- 12.2 Any person who hinders, or seeks to hinder, or prevents The Treasury Department from exercising its authority and duty under any provision of this by-law is guilty of an offence.

PART XIII**REPEAL SECTION**

- 13.1 By-law No. 6781, as amended, is hereby repealed.
- 13.2 The repeal of the by-law in the last preceding section mentioned shall not revive any by-law or any provision of any by-law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said by-laws or the application of any of the said by-laws or any other by-law or provision of law formerly in force to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply.

13.3 The repeal of the said by-law should not affect:

- (a) any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal;
- (b) any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;
- (c) any act, deed, right, title, interest, grant, assurance, registry, rule, regulation, contract, lien, charge, matter, or thing had, done, made, acquired, established or existing at the time of such repeal;
- (d) any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal;
- (e) any bond, note, debenture, debt, or other obligation made, executed, or entered into by the Corporation at the time of such repeal;
- (f) or defeat, disturb, invalidate, or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

DONE AND PASSED by the Council of the City of Brandon in regular session assembled this day of A.D.

MAYOR

CITY CLERK

Read a first time this	day of	A.D.
Read a second time this	day of	A.D.
Read a third time this	day of	A.D.

SCHEDULE "A"

to City of Brandon Taxi By-law No. 6884

"IMPORTANT PUBLIC NOTICE"

1. If the taxi meter is not on, the ride is FREE.
2. The Taxicab Driver's Permit and maximum rates must be posted in the interior of the taxicab.
3. Driver has right to deny access to front passenger seat.
4. Passenger seat belt use is compulsory in Manitoba.
5. Consumption of alcohol in this vehicle is prohibited.
6. Driver may ask for fare in advance.
7. If you have a complaint or compliment to make, call the City of Brandon Treasury Department at 729-2230.

Please note the number on the side or rear of this taxicab and/or the number on the Taxicab Driver's Permit posted in this vehicle. Business licensees and drivers are required to comply with Items 1 and 2 of this Public Notice.

CITY OF BRANDON

410 – 9TH Street, Brandon, Manitoba, R7A 6A2

TAXICAB DRIVER PERMIT APPLICATION

DRIVER

**** driver - please print all necessary information ****

TRANSFER/RENEWAL _____ ORIGINAL APPLICATION _____

For transfer/renewal only:

Existing Permit No. _____ Date of issue: _____

Company currently driving for : _____

Name: _____
Surname First Name Middle Name

Address: _____

Postal Code _____ Telephone Number: _____

Date of birth _____ Place of birth: _____
(Day/Month/Year)

Driver's License Number: _____

Driver's License Classification (minimum class 4): _____

Have you driven a Taxi in the last three years? Yes _____ No _____

Have you been convicted of any criminal offence during the past ten years?

Yes _____ No _____

Are you legally entitled to work in Canada?

Yes _____ No _____

I hereby certify to the best of my knowledge, that I have supplied true, accurate and complete information to all the foregoing questions in this document. I further certify that I have received a copy of the City of Brandon Taxi By-law and understand that it may be amended from time to time. I am in possession of a valid Manitoba Class 4 drivers license.

I am submitting, with this application, a current Drivers Abstract as issued by the Driver and Vehicle Licensing Branch of the Province of Manitoba. I am also submitting, with this application, a current Drivers Abstract from any and all other jurisdictions to support a five year driving history in accordance with paragraph 4.7 of the Taxi By-law.

(Circle one) Yes No

I hereby authorize the Brandon Police Service to conduct periodic investigations on myself in regard to any convictions under the Criminal Code of Canada, or any criminal code from any other jurisdiction, which may have an impact on the suitability of my being granted a taxi driver permit.

Date

Signature of Driver

APPLICANT -- COMPANY OF AFFILIATION/EMPLOYER

I am applying to have the above driver as a Taxicab Driver with the company known as:

if a taxicab drivers permit is granted.

Applicant

POLICE SERVICE

(City of Brandon Police Service - for office use only)

Driver interviewed: Yes _____ No _____ Date _____

Driver Recommended _____ Driver Not recommended _____

Remarks _____

Date

Brandon Police Service

LICENSE SECTION

Approved _____

Not Approved _____

Receipt Number _____

Driver's Permit No. _____

Date

License Inspector

This personal information is being collected under the authority of City of Brandon By-law No. 6884 and will be used for issuance of Taxicab Driver's permits.

It is protected by the Protection of Privacy provisions of The Freedom of Information and Protection of Privacy Act. If you have any questions about the collection, contact Joni Swidnicki, Clerk's Department, 410 - 9th Street, Brandon, MB R7A 6A2, (204) 729-2210.

SCHEDULE "C"

to City of Brandon Tax By-law No. 6884

IN THE MATTER of the Tax By-law No. 6884 of The City of Brandon.

NOTICE OF APPEAL

**TO: City Clerk
Civic Administration Building
410 - 9th Street
Brandon, Manitoba R7A 6A2**

PLEASE TAKE NOTICE that I wish to appeal to the Tax Appeal Committee the action of the Administration to:

refuse to issue or renew/suspend or cancel

a Business License Certificate, a Taxicab Permit or a Taxi Driver's Permit

on the day of A.D. 20

My reasons for appealing are:

Dated at Brandon, Manitoba this day of A.D. 20 .

Signature of Appellant

Name of Appellant (please print)

Address

CITY OF BRANDON

410 – 9TH Street, Brandon, Manitoba, R7A 6A2

TAXI BUSINESS LICENSE APPLICATION

BUSINESS OPERATING NAME: _____

BUSINESS ADDRESS: _____

BUSINESS PHONE NO.: _____ **BUSINESS FAX NO.:** _____

APPLICANT NAME: _____

ADDRESS/CITY: _____

POSTAL CODE: _____ **EMAILADDRESS:** _____

OWNER OF BUSINESS (if different than above): _____

OWNER'S DATE OF BIRTH (DD/MM/YYYY): _____ **OWNER'S S.I.N.:** _____

DISPATCH PROVIDER (if different than above): _____

NOTE: A business license will authorize you to conduct business in the City of Brandon only and Provincial or Federal Licenses may also be required. Separate regulations may apply to the location of business within the City of Brandon.

I have been provided a copy of the City of Brandon Taxi By-law and acknowledge that it may be amended from time to time.

Signature of Applicant

Date of Application

I acknowledge that the above applicant intends to use my dispatch service and I have provided the City of Brandon with a schedule of service per contract.

Signature of Dispatch Provider (if applicable)

Date

FEE DUE: _____

LICENSE NO./RECEIPT NO.: _____

RECOMMENDED

YES

NO

DATE

BRANDON POLICE SERVICES:

PLANNING & BUILDING DEPARTMENT:

LICENSE INSPECTOR:

COMMENTS:

	VEHICLE 1	VEHICLE 2	VEHICLE 3	VEHICLE 4
YEAR				
MAKE/MODEL				
SERIAL NUMBER				
REGISTRATION				
LIABILITY INSUR				
SAFETY INSP DATE				
PLATE NUMBER				
AFFILIATED / OWNED				

	VEHICLE 5	VEHICLE 6	VEHICLE 7	VEHICLE 8
YEAR				
MAKE/MODEL				
SERIAL NUMBER				
REGISTRATION				
LIABILITY INSUR				
SAFETY INSP DATE				
PLATE NUMBER				
AFFILIATED / OWNED				

Attach additional pages if required.

Taxi By-Law No. 6884

2008 Recommendations

Process to Date

Early in 2007 the Treasury Department began consulting with members of the City Clerk's office, the Police Department and Bob Patterson, our lawyer handling by-law issues, in the pursuit of improving the regulations surrounding the taxi industry in Brandon. After much research and discussion a draft by-law was prepared to address some issues of concern. Implementation of the new by-law should produce results which will improve customer safety, streamline administrative efforts, improve the image of the taxi industry and support the City of Brandon Environmental Strategic Plan.

The draft document was circulated August 31, 2007 to all members of the industry with a request for written comments. The deadline for comments was November 21, 2007.

All comments received are included in this report. Some alterations were then made to the draft and a new copy was circulated to the industry for review. At the request of the Taxi Association, a subsequent meeting was held with City Administration and representatives from the Taxi Association to hear concerns and clarify the intent. Finally, a final draft was presented to Bob Patterson for his review and comment from a legal perspective.

Industry Structure

The City of Brandon taxi industry, as registered with Administration, includes six metered taxicab businesses, approximately seventy vehicles and one hundred thirty drivers. The industry norm, including Winnipeg, is one cab per one thousand residents. Brandon has approximately one cab per 575 residents which is an indicator of market share dilution. Market share dilution leads to reduced incomes, unfriendly competition, and unrest. It has also led to calls from industry members to limit the number of cabs in the City and to increase the threshold number of vehicles for a company to qualify for a business license.

There are increasing numbers of owner/operators in Brandon. Owner/operators are people who pay dispatch fees for the right to drive their private vehicle under a business name. They are not employees of the taxi business. Under this structure, it is in the interest of the business owner to have many fee-paying operators but the operator's interest is the opposite -- to keep the number of operators low to provide a larger share of the calls resulting in higher individual profit. The owner requires the flat dispatch fee off the top and the operator must cover that fee and all vehicle operating costs with fares before profiting himself. This business structure also provides a disincentive for the business owner to be discriminating about the vehicles he has in his fleet. The result is an overall less attractive fleet and drivers who are not being held accountable to any company standards.

Main concerns of Industry related to the proposed by-law

1. Fares
 2. Business Entry Requirements
 3. Dispatch methods
 4. Vehicle Age Restrictions
-

Terminology included in this report

INDUSTRY – means the group of companies licensed in the City of Brandon. They include:

COMPANY NAME	FLEET INFORMATION		NUMBER OF DRIVERS (note: some are registered with two companies)
	NUMBER	AVERAGE AGE (yrs)	
ABC Taxi	22	10	37
Angel Taxi	4	9	10
Brandon Taxi	6	7	9
Tasmanian Taxi	10	9	25
1-United Taxi	5	11	11
4-Way Taxi	26	8	49

OWNER GROUP – means the group of company owners who responded in writing to the request for feedback on the draft by-law (attached). They do not represent all companies but do include:

- Tasmanian Taxi – Robert Knight
- 4-Way Taxi – Boka Abreham and Efa Chalte
- ABC Taxi – Seleshe Mulaw

TAXI ASSOCIATION – would generally mean the 54 members of the industry who are registered with the Association. In the context of this report it means the smaller group of eleven industry members who attended the meeting held November 14, 2007 for the purpose of discussing the proposed by-law. The group did not specifically respond in writing to the request for feedback on the draft by-law but did provide the attached meeting minutes related to the draft by-law. They include:

- 1-United (5 attendees) – four members and the President
- Angel Taxi (2 attendees) – one member and the Secretary
- Brandon Taxi (1 attendee) – one member
- ABC (3 attendees) – Vice President, Treasurer, and Director

FARES

The by-law being recommended for first reading contains a change in the way the City regulates fares. Currently the fares are absolute and are set by City Council on an irregular basis. Two significant changes are proposed. One is to implement maximum fares and the other is a general rate increase.

The rationale for a move to maximum fares is to incorporate the industry-wide activity that is taking place now into our by-law. The industry is not following the absolute fare schedule and is undercharging in some cases. We do not consider this to be of any harm to the public but wish to have a by-law that reflects industry practice.

The issue of greater concern to the industry is the rate increase. The initial draft of the proposed by-law required that the City rates be equal to the Manitoba Taxicab Board rates for metered taxicabs. This proposal was met with opposition as the calculated fares would decrease in all but the shortest of trips. The idea has been abandoned at this time but will be reviewed again at a later date.

The alternative now being proposed is a general rate increase. There has not been a rate increase in Brandon since November of 2006. The Manitoba Taxicab Board also did not authorize a rate increase for Winnipeg in 2006, 2007 or 2008 mainly since the GST rate was reduced one percent in both 2006 and 2008. The Board asserted that the GST reduction would produce additional net revenues of approximately 1.9% since, because the GST is included in the fares, they remit less of their revenue to the Federal Government.

The proposed by-law will increase the fixed rate (drop charge) for the first 100 m from \$2.90 to \$3.20. The average trip of three kilometers will have a calculated fare of \$7.86 representing an increase of \$0.30 or 3.97%. This increase combined with the GST reduction will result in an effective increase of 5.87%.

The same trip in Winnipeg would generate \$7.42 currently which equates to approximately 6% less than the proposed Brandon rates. For comparison, one should consider that the fuel prices in Winnipeg have been traditionally lower than in Brandon and one could argue that Brandon rates should be higher to cover the higher cost of fuel. Offsetting arguments would include the idea that the average trip distance in Brandon would likely be shorter allowing for more trips which generate the higher rate drop charge. Relative infrastructure conditions impact repair costs in each centre as well.

Also of note is the idea that the rate freeze in Winnipeg appears to be driving changes in company behaviours to ensure sustainability. Companies in Winnipeg have initiated cost saving endeavours on their own which include implementation of newer model-year fleets with better fuel efficiency (in 2004 the average model year was 7 years old). Business owners here in Brandon are encouraged to examine ways to be more efficient themselves and benefit the environment wherever possible.

Several months ago Administration met with members of the Taxi Industry including Association executives and company owners. The topic of a fare increase was discussed. At that meeting there was not a clear consensus that a rate increase was desired at that time. Those arguing for a rate increase stated that rising fuel and maintenance costs were making operations difficult. Those arguing against an increase were doing so for competitive reasons and for environmental reasons. Using the proposed maximum fare model, those companies who do not wish to increase their rates do not have to do so but the others are now able to charge a little more.

BUSINESS ENTRY REQUIREMENTS

The current by-law requires a minimum fleet of three metered taxicabs to qualify to be a taxi business in Brandon. The proposed by-law increases this threshold to six metered taxicabs.

The reasons for this include the intent to enhance stability in the industry today and decrease the ratio of taxicabs to Brandon's population. It is felt that the smaller companies have a smaller resource base to draw from when putting drivers behind the wheel. This leads to a greater likelihood that drivers are putting in excessive hours and perhaps encountering driver fatigue. Safety is diminished.

It is also felt that having larger fleets may encourage better overall repair to the fleet in that it will not be critical if a car is out of service for a period of time while preventative maintenance is being performed.

The industry argument is that the proposed by-law will drive smaller companies out of business. Should the smaller companies wish to continue with the use of metered taxicabs for use in unsolicited calls, they have until 2012 to become compliant as the existing two companies that have fewer than six cars presently are grandfathered until 2012.

DISPATCH METHODS

This issue is providing considerable debate as there are currently two companies employing a mobile method of dispatch, or taking calls for service directly from the customer using a cell phone. These companies wish to continue to do so for financial reasons.

Administration maintains that the focus of the Taxi By-law is public safety and that public safety is unnecessarily compromised when driver distractions are not minimized wherever possible. Many driver distractions exist in everyday driving but this is one that can be controlled with the goal of reducing the danger to which passengers are exposed.

A newly formed group of taxi business owners have indicated that they strongly support the prohibition of cell phone use in taxicabs as proposed in the new by-law. These companies are 4 Way Taxi, Tasmanian Taxi and ABC Taxi (although ABC also signed the petition against this proposal?). They did state, however, that they wish to keep technology open so as to allow a dispatch message to be received by a computer. That concept will need full evaluation when a new system is proposed.

The by-law requires 24/7 dispatch and operation either directly or by arrangement with another provider. This is to ensure that the service will be available to shift workers at any time. The owner group would like to change 24 hour dispatch and operations to have an exception for statutory holidays.

Administration maintains that although dispatch may be a costly part of doing business, there are options available to reduce costs and dispatch is an integral part of the taxi industry related to driver safety and passenger safety. Safety is not an area where compromise should be considered to suit the operating wishes of individual companies.

The new by-law does not dictate that dispatch must be performed from a commercial location. A home based option exists if conditional use is obtained through the Planning Department. There is less cost to this option but there are also other restrictions connected to home based businesses. Also Administration has encouraged smaller companies to make arrangements that would combine their efforts and reduce individual dispatching costs. There seems to be some doubt within the industry that this suggestion is at all practical because there is a lack of trust that the calls would be dispatched as received or in the proper order or with the proper level of customer service.

Although very few jurisdictions ban cell phones outright, or only allow hands-free technology, most jurisdictions do enforce the driving without due care laws and perhaps fine or impose demerit points in recognition of driver distractions, in general, which includes cell phone use and the related jostling that accompanies coordination of dispatch services especially if there is a passenger queue.

In an article provided by 1-United "researchers also note the increased risk is not related to manual dexterity (hands free and digital), but is cognitive in nature. This suggests that any type of distraction, including conversations with customers, could put drivers at risk of an accident."

The alternative as recommended to Council by 1-United in May 2007 was to allow hands-free cellular phone dispatch for smaller companies. Bryan Edwards suggested at that time that this alternative is really only feasible when there are fewer than four cars being dispatched. The proposed by-law states that you need a minimum of six cars in each fleet to qualify as a taxi business so basically any fleet could not be monitored even if they happen to only have two cars on shift at a particular time. The Brandon taxi industry does not currently have any companies with a fleet of three and we would have no way of knowing how many taxicabs were in operation at any given time for monitoring purposes.

Being aware of the current operations of 1-United and Angel Taxi, we have considered options to be flexible and perhaps accommodate their practices in the proposed by-law. We offered to grandfather their two businesses only if they agreed to have three cars in their fleet. That way, they could decide to stay small if their business model was best suited as a "small company" and we would know that they were always operating within the limit that Mr. Edwards has stated as being safe. Otherwise if they changed their business model and decided a larger fleet was necessary, they would then need to follow all of the rules relate to larger companies, including the need to have a six car minimum.

They did not accept this idea in that they currently operate four or five metered cabs and do not wish to decrease their fleets as that would compromise their income generating ability during peak hours, mainly weekend evenings.

The other business alternative is to operate as a charter only business whereby all trips would be pre-arranged. This would eliminate the need for dispatching all together although only certain types of vehicles would qualify for this option.

Many driver distractions exist in everyday driving but this is one that we can control and reduce the danger to passengers somewhat.

The following additional notes of interest are from CAA:

“Using a cell phone while driving places demands on a driver’s attentive resources, which is dangerous. Studies have shown that drivers who were distracted by cell phone use were unable to properly estimate safe stopping distances, anticipate hazards, and choose the appropriate time to enter into a line of traffic.” (cell phones and safety – CAA) – the driver would be using attentive resources when talking with a customer and may need to be even more so instead of taking instruction from a dispatcher where they generally keep radio traffic brief.

“Hands-free units free you from having to physically manipulate the device, but don’t reduce your need to think about the conversation you are having, which is a cognitive distraction. Trying to find various components of your hands-free phone; putting on a headset, or changing phone settings while driving can take your attention away from the driving task, and can increase your chances of being in a crash. If you use a hands-free cell phone, it is still better to pull over to take or place a call.” (cell phones and safety – CAA)

CAA is calling for a restriction on the use of electronic devices by novice drivers indicating the challenges of an unnecessary distraction as justification. (cell phones and safety – CAA)

VEHICLE AGE RESTRICTIONS

The first draft by-law that was circulated to the Industry removed the existing 12-year vehicle age restriction. The reason for that was because Administration felt that it’s only concern was whether the vehicle was able to pass safety inspections as required twice per year. The owner group agreed with the elimination of the existing twelve-year rule but Angel and 4-Way indicated that they wish to keep the restriction as it is beneficial to the industry. Angel did not state their reasons while 4-Way cited environmental concerns. In a previous vote of 61 industry members 59 wanted the rule to remain. The current average age of vehicles operating in the taxi industry in Brandon is approximately 8.5 years.

Administration decided to revisit the age restriction in light of feedback received and the emerging environmental and tourism considerations.

Environmental consideration – City Council has recently adopted an Environmental Strategic Plan which endorses an anti-idling campaign and the use of hybrid technology. Lowering the age restriction would be supportive of this strategy as it relates to lowering emissions.

The small buses employed by the City are on a 5-year replacement schedule. Even the larger buses are planned to be put on a 10-year replacement schedule. So now that Administration’s intent is to consider the environment as well as public safety, and to be consistent with the practice of the City, it is recommended that the existing twelve-year rule be replaced with an eight-year rule by the year 2012. The vehicles that are currently registered with the City would be grandfathered using the 12-year rule but they would be required to be replaced with models that are consistent with the new 8-year rule.

Winnipeg has no rule regarding vehicle age however over the past couple of years taxicab owners have been replacing their fleet with hybrids on their own accord. In January 2007 the Winnipeg fleet of 409 standard taxicabs included 131 fuel efficient vehicles of which 85 were hybrids. It is assumed this trend is driven by economic factors related to fuel savings since fuel can account for an average of 20% of operating expenses. Another item to note is the fact that in 2004 the average age of a fleet vehicle in Winnipeg was seven years. It is assumed this average has dropped since then.

Future consideration will be given to promoting hybrid use in the Brandon taxi industry as hybrids further address the environmental interests of the City through lower fuel consumption and anti-idling components. There has also been some support for hybrid use from one taxi company in Brandon.

OTHER ITEMS

Responsibility

The structure of the local industry as mentioned above leads to companies taking on owner/operators that they would not otherwise hire as employees because the benefits outweigh the risks for them.

The expansion of the owner/operator structure has also become an insulator for the company owner as they claim they are not responsible for the actions of the operators since they are not direct employees in their control. The new by-law, as proposed, clearly outlines the business responsibilities of the company owners. It was never the intent of Administration to treat owner/operators as if they were businesses unto themselves. The new by-law will see the company owners responsible for making application for vehicles and drivers and will be held accountable as holders of the permits. This is a change from the drivers holding their own permits presently and cab owners holding the vehicle permits.

How owner/operators then structure their business interests with the company owners is not relevant to the public using their service and is not regulated in the draft document. Business owners are free to structure their company in their best interests. Administration needs to have one channel of contact and responsibility.

The owner group is opposed to this as they "should not be held financially liable or responsible for any fines or indebtedness that may occur by the conduct of an owner operator. The owner operators should be solely responsible for their owner operator taxicab licensees and vehicles." It is believed that the owner has the ability to adopt company policies to address the internal issues related to potential consequences.

The owner group however would like to include that debts to owners must be paid. We are not interested or able to resolve claims between third parties therefore this concept is not included in the proposed by-law.

Hours of Driver Duty

4-Way Taxi has requested that the City of Brandon consider including a clause to govern the maximum daily shift of a driver. The request stems from an absence of legislation for the industry in this regard even though truck drivers are regulated provincially. The request is for a maximum 13 hour shift to help minimize driver fatigue that may result in accidents. More investigation on this topic is required and Administration will bring this to Council at a later date should this be determined to be in our jurisdiction.

Admin Fees

There is a current requirement for all vehicle registrations to be submitted for annual permit renewal purposes. More and more, we are seeing the practice where vehicles are being insured monthly rather than annually. This causes far more administrative effort in the Treasury Department to ensure that each vehicle's registration has not expired. In response to the increased effort required, the proposed by-law includes a monthly administrative surcharge of \$5/month for those particular vehicles only. The

owner group is opposed to a monthly vehicle registration administrative surcharge stating that the City is not in the business of providing motor vehicle insurance. That is true, but we do have to ensure that each vehicle carries the appropriate insurance and that the insurance is valid. City staff will need to verify this information 12 times instead of once for annual registrations.

There is also a current requirement for a photo to be attached to each driver permit. The proposed by-law requires two passport quality photos. The owner group is opposed to passport quality photos for ID. Two photos are required so that one goes on the driver's permit and one is kept on file for by-law or police purposes. The cost is not overly expensive at department store photo shops.

Lastly, one company states "In order for Administration to cope with the effects of by-law changes, all fees pertaining to Taxi Business should be increased by up to 100%". It is only assumed that the increase in fees would be used to increase enforcement of the by-law. While this comment is appreciated, Treasury will continue to monitor fees in other centres and suggest amendments to the annual Fee Schedule as required.

Driver Training

One company is suggesting that the by-law contain mandatory driver training on a number of topics including; communication skills, safety, customer service, and privacy regulations to name a few. The stated goal is to establish a standard level of service and create professionalism amongst the industry and their drivers. Tourism and Economic Development are supportive of this concept and will be pursuing the possibilities with the company directly.

Administration does not wish to include mandatory training in the by-law as we do not wish to be responsible for the training should the private initiative prove unsustainable.

Administration does however believe that there is merit to such a program and would like to recognize these specially certified drivers using different permits which the company could then use to market their service. This initiative can be pursued outside of the by-law process and we will continue to follow its progress.

www.emerit.ca training website can provide some further information.

Ability to have one driver associated with multiple companies

The owner group believes the proposed by-law should specifically prohibit one driver from working for more than one company. The new by-law requires that the company owner is the holder of the driver permit so they can ultimately decide and use their company policies to execute their wishes. They may wish to have the driver disclose their permit status with other companies prior to applying to Administration for a permit. They may also wish to have the driver agree to drive for their company only as part of their affiliation agreements.

Administration cannot provide information to other companies on the status of the driver due to Protection of Privacy laws. Also, it appears that this issue is of no concern to the public similar to the idea that individuals in other industries are able to work with more than one company, therefore it is believed that it is unnecessary to include in this by-law.

Mechanical Inspection Reports

The proposed by-law has specified that required mechanical inspections must be performed by arm's length mechanics without any connection to the taxi business owner or the taxi vehicle registrant. The existing by-law simply requires that the mechanic must be Provincially certified.

The owner group believes that any certified mechanic should be able to do the required taxicab inspection work as long as it is not on a vehicle owned by him or herself directly since Administration then has the ability to request an additional inspection if there is any suspicion that the inspection was improper in any way.

Administration believes that stipulating the mechanic must be at arm's length from the business owner and the vehicle registrant will require fewer follow up inspections and should reduce the amount of accusations from within the industry itself.

Powers of Peace Officers

The owner group wishes to remove the powers of Peace Officers as they relate to the business license and the vehicle permits.

In the unlikely event, perhaps criminal in nature, where a Peace Officer would need to revoke or suspend a business license, it would be necessary for a Peace Officer to have these powers and therefore they should be included in the by-law.

Similarly, Administration maintains that a vehicle may become unfit for public conveyance in an after-hours situation whereby Peace Officers should have the power to remove the vehicle from operations.

Conclusion

Administration has drafted this proposed by-law with a primary focus on safety. These changes will increase stability in the industry by decreasing the number of transient players. Stable companies with fewer turnovers will also decrease the amount of administrative efforts required.

Secondary to that, the by-law was structured to add clarity for the purpose of enforcement. Now, six company owners will be the responsible parties and the main contacts for administrative issues as opposed to 150 drivers and 70 cab owners that exist today.

There was some give and take presented between the industry and administration. It is recommended that the industry receive a rate increase however administration has required that the allowed age of the fleets be reduced from 12 to 8 years prior to 2012. Additionally, the businesses are required to have more cars registered in their fleets.