

To: Corporate Services Committee

From: Jacqueline Long, Interim Commissioner  
Corporate Services Department & HR

Report Number: CORP-15-22

Date of Report: April 9, 2015

Date of Meeting: April 13, 2015

Subject: Regulation of Designated Drivers: Summary of Industry Input  
and Policy Options

File: D-2300

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## **1.0 Purpose**

This report presents feedback received from two industry stakeholder consultation sessions; staff analysis respecting the issue of regulating the Designated Driver (D.D.) Industry; and recommends establishing a system of licensing for D.D.s.

## **2.0 Recommendation**

That the Corporate Services Committee recommend to City Council:

That staff prepare a by-law to amend Licensing By-law 120-2005, as amended, General Fees and Charges By-law 13-2003, as amended, and Taxicab By-law 50-2003, as amended in the form consistent with Option "C" in Report CORP-15-22 to establish a system of licensing for Designated Driver Service Providers and report back.

## **3.0 Executive Summary**

An extensive industry consultation process and research has been undertaken pertaining to the regulation of Designated Drivers at the direction of City Council. Through the process, a number of regulatory issues, for instance health and safety concerns, were identified which support establishing a D.D. licensing regime. Based on the assessment in this report, staff are of the opinion that Option "C" best addresses the regulatory issues by providing a balanced approach to regulating the D.D. Industry.

## **4.0 Input From Other Sources**

The City conducted separate industry consultation meetings with the Taxicab Industry in May 2014 and with the Designated Driver Industry in August 2014. Summaries of input

from the Taxicab Industry and the Designated Driver Industry were respectively provided in Reports CORP-14-75 and CORP-14-93.

Finance Services and Legal Services were consulted in the preparation of this report.

## **5.0 Analysis**

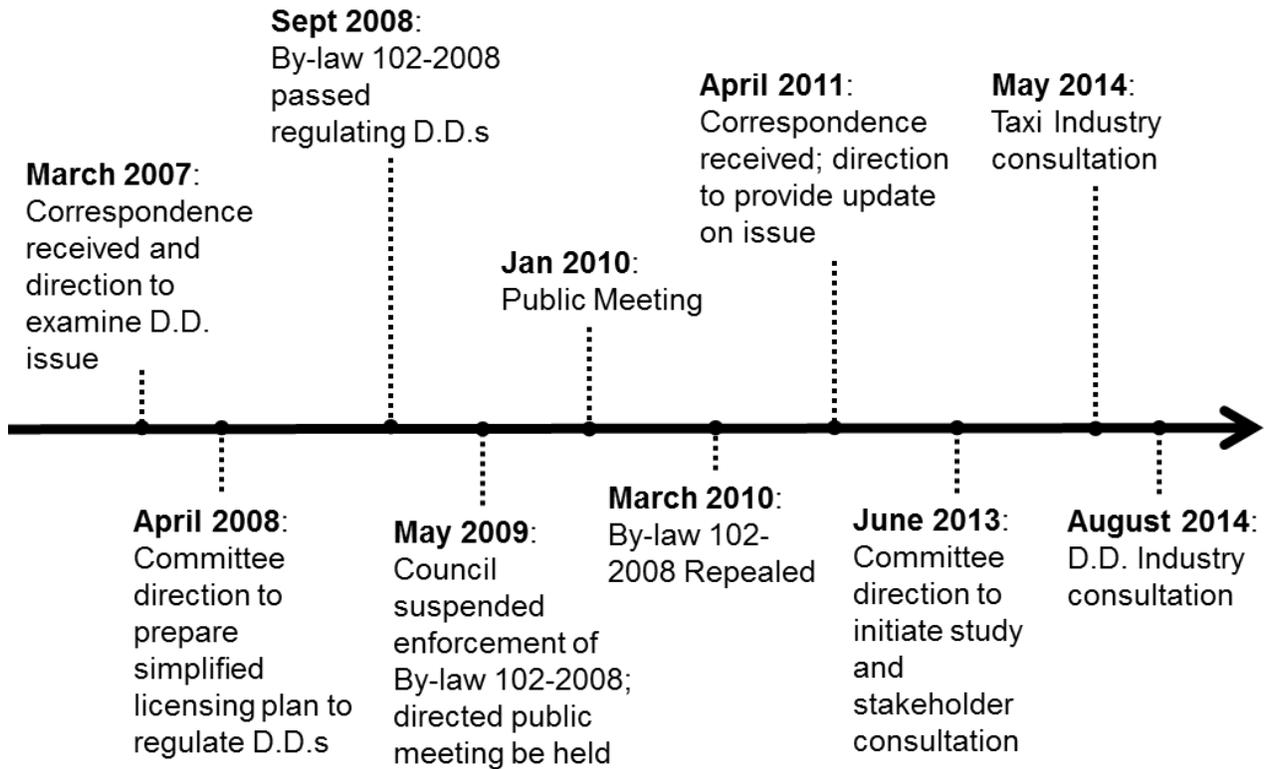
### **5.1 Background**

The actual operating model of a Designated Driver (D.D.) service involves a driver being hired to drive a customer's vehicle with the customer and their passengers in it, from one location to at least one other destination. Prior to providing the service, the D.D. Driver is delivered to the customer by a second D.D. Driver in a "chase vehicle". One D.D. Driver drives the customer and passengers to their final destination while the chase vehicle follows. The chase vehicle picks up the D.D. Driver at the final destination once the service has been provided. A complete overview of the D.D. Industry and its comparison with the Taxi Industry is provided in Report CORP-13-98-CM (Attachment 1).

The central issue this report attempts to address is that both the D.D. and Taxi industries provide similar but different services. Specifically, both industries are similar in that they both convey passengers, but they differ in how passengers are conveyed and the fact that D.D. services involves transporting the customer's vehicle from one destination to another. The D.D. Industry has no regulations governing its business, but the Taxi industry, in contrast to the D.D. Industry, is significantly regulated for the purposes of ensuring consumer protection and protecting the health and safety of the passengers. This situation is referred to in this report as the "policy gap".

D.D.s have been operating in Oshawa and in other Canadian municipalities for a number of years. In 2007, the Audit, Budget and Corporate Services Committee (now referred to as the Corporate Services Committee) considered a request for the City to regulate the fees of D.D.s. Since 2007, there have been periodic and repeated requests to establish a system of licensing for D.D. services. A timeline of notable events is provided in Figure 1, and Attachment 2 provides a chronological account of all events on the issue of regulating D.D.s.

Figure 1 D.D. Timeline of Notable Events



A D.D. licensing regime was established in Oshawa in 2008 but was temporarily suspended by Council in 2009 pending a public meeting to gather input from all stakeholders. The D.D. by-law was subsequently repealed in March 2010.

While a number of municipalities in Ontario are currently examining the regulation of D.D. services, staff are not aware of any D.D. licensing regimes in Ontario or in other areas of Canada. Notwithstanding this, an environmental scan has revealed one jurisdiction within the United States that licenses D.D. services.

At its June 24, 2014 meeting, Council directed staff to undertake a study and initiate consultation with the Taxi and D.D. industries and to report back to the Corporate Services Committee (“Committee”) with recommendations. This report responds to Council’s direction.

### 5.1.1 Consultation Process

Staff held two industry consultation sessions and submitted two interim summary reports to Committee in the second and third quarters of 2014. The consultation framework is highlighted below in Table 1.

**Table 1 Stakeholder Consultation Framework**

	<b>Date</b>	<b>Status</b>
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report (CORP-14-75)	May 26, 2014	Complete
Designated Driver Industry Consultation	August 20, 2014	Complete
Second Industry Consultation Status Report (CORP-14-93)	September 8, 2014	Complete
Summary of Input and Policy Recommendations Report	April 13, 2015	Complete

During the consultation session, staff provided an overview of the regulatory issues surrounding D.D. services; explained the licensing framework of the Taxi Industry, a different but similar service; detailed the need to regulate the D.D. Industry in Oshawa; provided potential regulatory options to initiate discussion; and received feedback. The major themes that emerged from both consultation sessions are as follows:

- General acknowledgement of the presence of the “policy gap” between the two services.
- The Taxi Industry generally does not support the presence of D.D. services but recognizes that if the service is not prohibited, it should at least be regulated.
- General consensus that some form of regulation of the D.D. services is necessary.
- General concern from the D.D. Industry that costs associated with regulation may be prohibitive for their current business model.
- Greater enforcement of Taxicab Licensing By-law 50-2003 (“Taxicab By-law”) is required. This theme was expressed primarily by the Taxi Industry.

Input from both industries is summarized in Attachment 3.

### 5.1.2 Regulatory Issues

Staff have thoroughly assessed the regulation of D.D.s and have identified a number of issues which indicate that establishing a D.D. licensing regime is beneficial to proceed with at this time. Some of these issues are similar to those that justify the existence of the licensing regime for the Taxi Industry. The issues are as follows:

- (a) **Need to address the Policy Gap:** There is a policy gap between the regulation of the Taxicab Industry and the non-regulation of the D.D. Industry. Both industries

provide a similar service in that they are involved in the transportation of people for a fee.

- (b) **Need to address D.D. Service Model and By-law Contravention:** D.D.s provide services that overlap with those provided by the regulated Taxi Industry. Specifically, they convey passengers but in the customer's vehicle. The City's Taxicab By-law defines "Taxicab" as including "[...] any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area [...]". The Taxicab definition excludes certain vehicles such as an ambulance or a funeral hearse but does not exclude a vehicle that used in the provision of a D.D. service. Therefore, when providing D.D. services, D.D.s are effectively providing a driver to drive the customers which is considered to be operating a Taxicab, contrary to the Taxicab By-law, by conveying the customer (and their passengers) in a vehicle for a fee. The Taxi Industry argues that D.D. clients should only be using taxicabs and should plan their travels/social/medical functions/appointments beforehand so that they do not require the use of their own vehicle.
- (c) **Need to address Consumer Protection and Health and Safety Concerns:** The City regulates the Taxi Industry to address consumer protection and health and safety concerns. As part of the taxi licensing process, taxicab drivers are required to complete a series of courses and provide supporting documentation such as a criminal information report. In addition, taxicab vehicles are regularly inspected for mechanical deficiencies and are required to have adequate vehicle insurance. This is in contrast to the unregulated D.D. Industry. A comprehensive list of taxi licensing requirements is detailed in Attachment 1. It is important to note that many taxicab licensing requirements are not applicable to the D.D. Industry because the D.D. Industry operates differently by driving the client's vehicle.
- (d) **Need to preserve a version of the D.D. Service Model:** D.D.s provide services to a broad range of clients from individuals requiring the transport of their vehicle after visiting a licensed establishment to others who require the transport of their vehicle following a medical procedure. It is apparent that D.D.s provide a unique service which the public values because they can have their vehicle returned home.

An assessment matrix has been created in section 5.3.4 to assist in the evaluation of each regulatory option discussed in section 5.2.

## 5.2 Regulatory Options

Staff presented regulatory options for consideration by the stakeholder groups. These options establish certain licensing conditions/requirements in the following three (3) areas:

- 1) **D.D. Driver Licensing Regulations** – refers to licensing requirements for any *person* who operates a vehicle in the provision of a D.D. service.
- 2) **D.D. Broker Licensing Regulations** – Similar to Taxicab Broker regulations, these licensing requirements are applicable to any person/company who accepts orders for D.D. services and dispatches drivers or themselves.

- 3) **D.D. Operating Regulations** – refers to licensing conditions D.D. Drivers and Brokers must fulfill. These conditions vary between administrative requirements, for example, ensuring that the customer has a valid driver's licence to requiring the D.D. chase vehicle to display markings of their affiliated D.D. Broker.

Sections 5.2.1 to 5.2.3 provide descriptions of each type of condition/requirement. Option "A" proposes to exempt D.D.s from the Taxicab By-law whereas Options "B" and "C" propose different systems of licensing. Under Options "B" and "C", any D.D. service who picks up customers and their vehicles at a location within Oshawa's City limits will be required to obtain a licence from the City of Oshawa.

**Option "A": Exempt D.D.s from Taxicab By-law:** This option attempts to address the inherent contravention to the Taxicab By-law by exempting D.D. services from the definition of "Taxicab". Option "A" does not provide any form of consumer protection or address health and safety issues; it does, however, preserve the D.D. service model. Option "A" is not recommended considering D.D.s continue to provide a taxi-like service.

**Option "B": Reinstate D.D. By-law 102-2008:** D.D.s were previously regulated under By-law 102-2008, but Council repealed the By-law in 2010 over concerns respecting insurance and the restrictions on conveying passengers. This proposed option would reinstate the licensing conditions/requirements of By-law 102-2008. Option "B" is not recommended based on the updated assessment forming part of this report.

**Option "C": Pass a by-law similar to D.D. By-law 102-2008:** Option "C" proposes modifying the licensing conditions/requirements of By-law 102-2008 such as permitting the registered vehicle owner **or** an authorized operator<sup>1</sup> and the registered vehicle owner's vehicle to be transported to a destination and including additional requirements which would mostly harmonize D.D. regulations with those of the Taxi Industry. Option "C" would establish two classes of D.D. licences:

- D.D. Driver Licence
- D.D. Broker Licence

Staff are of the opinion that Option "C" provides a balanced approach to regulating the D.D. Industry and presents the best option to closing the policy gap between the Taxi Industry and the D.D. Industry.

### 5.2.1 D.D. Driver Licensing Regulations

It is recommended that D.D. Drivers be responsible for complying with specific standards if Council determines that D.D. services should be regulated and permitted to operate within the City. There are five licensing requirements being considered for D.D. Drivers who operate vehicles in the provision of D.D. services. The intent of these standards is to ensure a minimum level of consumer protection and health and safety. All five standards

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<sup>1</sup> Refers to an individual who has received the registered vehicle owner's consent to operate the registered vehicle owner's vehicle.

are mandatory requirements for the licensing of taxicab drivers. Taxi drivers, on the other hand, must additionally complete a taxicab driver training program and undertake Standard First Aid and C.P.R. level C training.

- **Criminal Information Report (with Vulnerable Sector Screening):** This document must be obtained at the applicant's local police service and includes a list of all criminal convictions for which a pardon has not been received.
- **Driver's Abstract:** Also referred to as a driver's record, this document provides driver and licence details; lists conviction information and any applicable demerit points; and suspensions for a three-year period.
- **Proof of Valid "G" Class (minimum) Driver's Licence:** Applicants would be required to provide a copy of their valid "G" Class Provincial driver's licence verifying that they are permitted to operate a car in the Province of Ontario.
- **Proof of Driver's affiliation with a Licensed D.D. Broker:** Applicants for a D.D. Driver's licence must be associated with a D.D. Broker licensed in Oshawa. A letter from the D.D. Broker will be required.
- **Medical Clearance Letter:** This document attests as to whether or not the D.D. Driver is physically and mentally able to operate a vehicle in the provision of a D.D. service and is free from communicable diseases and must be prepared by a qualified medical practitioner.

Table 2 details the various licensing requirements D.D. Drivers would need to complete for each proposed option. The approximate cost of fulfilling each requirement is detailed in section 5.4.1.

**Table 2 D.D. Driver Licensing Requirements for Proposed Regulatory Options**

Options	Criminal Information Report	Driver's Abstract	Proof of "G" (minimum) Driver Licence	Proof of Affiliation with Licensed D.D. Broker	Medical Clearance Letter
<b>Option A:</b> Exempt D.D.s from Taxicab By-law					
<b>Option B:</b> Reinstate D.D. By-law 102-2008	✓	✓	✓		
<b>Option C:</b> Pass a by-law similar to By-law 102-2008	✓	✓	✓	✓	✓

### 5.2.2 D.D. Broker Licensing Regulations

D.D. Brokers are akin to Taxicab Brokers in that they accept orders for D.D. services and dispatch D.D. Drivers. The intent of the prescribed standards for licensing D.D. Brokers is to provide a minimum level of protection for the public, customers, D.D. Drivers and D.D. Brokers. Table 3 details the various licensing requirements D.D. Brokers would need to fulfill for each proposed option.

- **Commercial General Liability (C.G.L.) Insurance in an amount specified by the City:** While insurance coverage varies depending on level of coverage purchased, C.G.L. insurance typically protects the insured from liability as a result of third party bodily injury; property damage or loss; personal injury; and non-owned automobile liability. The C.G.L. insurance policy required by D.D. Brokers shall include, but shall not be limited to:
  - i. have a limit of liability in an amount of at least \$2 million or an amount specified by the City;
  - ii. name the D.D. Broker and owner(s) of the D.D. Broker as Named Insured(s);
  - iii. name all D.D. Drivers affiliated with the D.D. Broker as Additional Insured(s); and
  - iv. include non-owned automobile liability coverage

**Note:** Despite the insurance provisions detailed above, Section 5.5 outlines limitations with respect to insurance coverage.

- **Ontario Master Business Licence and/or Articles of Incorporation:** This documentation confirms that the business is registered to conduct business in Ontario.

**Table 3 D.D. Broker Licensing Requirements for Proposed Regulatory Options**

Options	C.G.L. Insurance in an amount specified by the City	Ontario Master Business Licence/Articles of Incorporation
<b>Option A:</b> Exempt D.D.'s from Taxicab By-law		
<b>Option B:</b> Reinstate D.D. By-law 102-2008		
<b>Option C:</b> Pass a by-law similar to By-law 102-2008		

**5.2.3 D.D. Operating Regulations**

Options “B” and “C” contemplate the establishment of D.D. operating standards which D.D. Drivers and D.D. Brokers must comply with while providing D.D. services. These operating standards can be further broken down further into the following three (3) areas:

- (a) The calculation of fares
- (b) Conveyance of passengers
- (c) Other requirements

**(a) The Calculation of Fares**

Table 4 details the methods of fee regulation for D.D.s for each proposed option.

- **Negotiated Fare/Rate:** fares are negotiated between the customer and the D.D. Driver and are typically established as a flat rate. Negotiated fares are easy to administer and provide greater flexibility for D.D. Brokers to make business decisions. Negotiated fares/rates do not offer consumer protection but is the most viable option in that there is no meter in the customer’s vehicle. This is presently the approach used by D.D.’s.
- **Fixed Price/Rate:** fares are established based on distance by a regulatory authority, the municipality, in consultation with the Industry. The distance and corresponding fare can be measured either by using an electronic meter or by establishing fare zones within the municipality. Fixed rates provide a form of consumer protection but are quite difficult to implement in the D.D. Industry.

**Table 4 D.D.s and the Calculation of Fares**

Options	Negotiated Fare	Fixed Fare/Rate
<b>Option A:</b> Exempt D.D.s from Taxicab By-law		
<b>Option B:</b> Reinstate D.D. By-law 102-2008		
<b>Option C:</b> Pass a by-law similar to By-law 102-2008		

**(b) The Conveyance of Passengers**

All options prohibit D.D. service providers from conveying customers and their passengers in the chase vehicle. Table 5 details how passengers can be conveyed for each proposed option.

- **Cannot convey passengers in Chase Vehicle:** this standard prohibits the conveyance of passengers in the D.D. chase vehicle.
- **Cannot convey passengers:** this standard restricts the conveyance of the customer or passengers in the client’s vehicle.

- Can only convey registered vehicle owner or authorized operator:** this standard would only permit D.D.s to convey the registered vehicle owner **or** a driver authorized by the registered vehicle owner in the customer’s vehicle. This standard provides a form of consumer protection in that passengers, who have no connection to the condition of the vehicle owner’s automobile nor to the existence or adequacy of insurance, are not subjected to potential risk. The passengers do not require a vehicle to be transported and do not, therefore, require the service of a D.D. Rather, the passengers require an alternative method of transportation such as Durham Region Transit or a taxi. By contrast, the vehicle owner or authorized operator should be familiar with the vehicle’s condition and insurance and can be seen to have voluntarily accepted the risk and responsibility of adequate maintenance and insurance when being conveyed in the owner’s vehicle by a D.D.
- Can convey driver and passengers:** this standard permits D.D.s to convey the customer and his/her passengers subject to the availability of seat belts in the customer’s vehicle. This is not supported in that the D.D. service becomes a defacto taxicab.

**Table 5 D.D.s and the Conveyance of Passengers**

Options	Cannot convey passengers in Chase Vehicle	Cannot convey passengers	Can convey registered vehicle owner or authorized operator	Can convey driver and passengers
<b>Option A:</b> Exempt D.D.s from Taxicab By-law	✓			✓
<b>Option B:</b> Reinstate D.D. By-law 102-2008	✓	✓		
<b>Option C:</b> Pass a by-law similar to By-law 102-2008	✓		✓	

(c) **Other Requirements**

These requirements relate to the operation of a D.D. service which cannot be classified in the categories above. Table 6 details the other requirements D.D.s must comply with for each proposed option.

- **D.D. chase vehicle must be insured and have at least minimum limits for automobile liability and accident benefit coverage:** automobile liability and accident benefit coverage will cover the chase vehicle in cases, for example, where the vehicle is involved in an accident resulting in property damage or injury while operating their chase vehicle.
- **Must confirm and obtain (a) valid vehicle permit and insurance, (b) valid driver's licence, and (c) registered vehicle owner's consent:** prior to providing the service, D.D. Drivers are required to confirm that the registered vehicle owner **or** their authorized operator has a valid vehicle permit, adequate insurance coverage for the vehicle and driver's licence in addition to obtaining the registered vehicle owner's consent to operate the vehicle in the provision of a D.D. service.
- **Shall display D.D. Broker Markings and City of Oshawa Licensing information on Chase Vehicle:** D.D. chase vehicles will be required to display their Broker's markings, contact information and City of Oshawa licensing information on the chase vehicle. Identifiable markings inform the public that the D.D. Broker is licensed by the City of Oshawa and assists Municipal Law Enforcement Officers in the enforcement of applicable standards.
- **Prohibited from displaying Roof Lights on D.D. Chase Vehicle:** vehicle roof lights are illuminated signs affixed on the roof of a vehicle and are generally associated with taxicabs. This prohibition will ensure that D.D. chase vehicles are not mistaken as taxicabs.
- **D.D. Drivers must prominently display their D.D. Driver Licence:** Licensed D.D. Drivers will be issued a photo identification card displaying features including their name, the period they are licensed, and their photo. When providing a D.D. service, licensed D.D. Drivers must prominently display their D.D. Driver licence for their customer's inspection.
- **D.D. Drivers must maintain a trip log:** The D.D. Driver must keep and maintain, for a period of three months, a log of all trips made by the D.D. Driver during each period of continuous operation (shift) and shall contain information pertaining to:
  - i) the names of the D.D. Drivers, the date and the Owner Plate number;
  - ii) the time, location and destination of every trip made; and
  - iii) the amount of the fare collected for each trip.

The D.D. Driver must present the trip log for inspection upon request to a Municipal Law Enforcement Officer.

**Table 6 D.D.s and Other Operating Requirements**

Options	D.D. Chase Vehicle must be insured and have Automobile Liability & Accident Benefit coverage	Must confirm/obtain: (a) Valid permit and insurance (b) Valid driver's licence (c) Registered Vehicle Owner's Consent	Must display D.D. Broker Marking and Contact and Licensing Information on D.D. Chase Vehicle	Prohibited from displaying Roof Lights on D.D. Chase vehicle	D.D. Driver must prominently display D.D. Driver Licence	D.D. Driver must keep trip log
<b>Option A:</b> Exempt D.D.s from Taxicab By-law						
<b>Option B:</b> Reinstate D.D. By-law 102-2008		✓				
<b>Option C:</b> Pass a by-law similar to By-law 102-2008	✓	✓	✓	✓	✓	✓

### **5.3 Assessment of Regulatory Options**

Staff assessed each proposed regulatory option in their ability to address the regulatory issues identified in section 5.1.2. An additional assessment criteria, Enforcement and Administration, was included as part of the assessment. This criteria refers to the effectiveness and efficiency of administering and enforcing the applicable option. The findings are detailed in sections 5.3.1. to 5.3.3 and are summarized in Table 7 in section 5.3.4.

#### **5.3.1 Option “A”: Exempt D.D.s from Taxicab By-law**

Option “A” addresses the inherent contravention to the Taxicab By-law by exempting D.D. services from the definition of “Taxicab”. D.D.s would not be regulated under Option “A” and would therefore be permitted to convey the customer and their passengers in the customer’s vehicle. Accordingly, Option “A”, preserves the D.D. service model but does not address the policy gap between the D.D. and Taxicab industries.

Option “A” does not provide any form of consumer protection or address any health and safety issues. D.D. Drivers are not vetted by the City, and the customer, through their automobile insurance, is responsible for all liabilities (i.e., property damage, injuries, and death) which may occur while providing the care, custody and control of their vehicle to the D.D. Driver.

Option “A” does not require the City to license or enforce the Taxicab By-law as it relates to D.D. services as they would be exempt from the By-law under this option. Staff do not recommend the implementation of Option “A”.

#### **5.3.2 Option “B”: Reinstate D.D. By-law 102-2008**

Option “B” reinstates the formerly repealed D.D. By-law 102-2008 which established a licensing regime for D.D.s and required them to verify that the customer has a valid driver’s licence, insurance and vehicle ownership. Additionally, the D.D. Driver has to obtain the registered vehicle owner’s consent to operate their vehicle and negotiate a suitable fare. D.D. Drivers are prohibited from transporting passengers (including the customer or registered vehicle owner) while providing the D.D. service. D.D. Brokers are required to carry a minimum of \$2 million C.G.L. insurance.

Option “B” partially addresses the policy gap and health and safety concerns as D.D. Drivers are required to obtain certain approvals applicable to taxicab driver licensing. While Option “B” addresses D.D.s’ contravention of the Taxicab By-law, it does not preserve the D.D. service model in that passengers (including the customer or registered vehicle owner) are not permitted to be transported by a D.D. service.

Administering Option “B” would require additional staff resources including procuring/developing physical licences and potentially tracking software. Similarly, there would be challenges to enforcing certain procedural requirements which would require Municipal Law Enforcement Officers to devote a significant amount of time and resources.

### **5.3.3 Option “C”: Pass a by-law similar to By-law 102-2008**

Option “C” contemplates the creation of two licensing classes; one for D.D. Drivers and the other for D.D. Brokers to which drivers are affiliated. This option harmonizes the licensing standards, where applicable, between D.D. Drivers and Taxicab Drivers with the exception of the requirement for standard first aid training. D.D. Drivers must verify that the registered vehicle owner **or** the authorized operator has a valid driver’s licence, adequate insurance and vehicle ownership. Similar to option “B”, the D.D. Driver has to obtain the registered vehicle owner’s consent to operate their vehicle and negotiate a suitable fare. D.D. Drivers are also required to maintain a trip log and are only permitted to transport the registered vehicle owner **or** the authorized operator in their vehicle. This is because passengers have no connection to the condition of the vehicle owner’s automobile nor to the existence or adequacy of insurance. D.D. Brokers are required to have C.G.L. insurance in an amount specified by the City, and chase vehicles affiliated with the Broker must possess an insurance policy with automobile liability and accident benefit coverage; bear the Broker’s markings; and are prohibited from mounting roof lights.

Option “C” addresses the policy gap and health and safety concerns by harmonizing D.D. Driver standards with those applicable to taxicab drivers. It also resolves the issue of D.D.s’ contravening the Taxicab By-law by exempting them from the definition of “taxicab”. Finally, the D.D. service model is partially preserved by permitting the registered vehicle owner **or** an authorized operator to be transported in the registered vehicle owner’s vehicle to their destination.

The administration and enforcement of Option “C” would be similar to Option “B”.

Staff recommend implementing Option “C” given that it achieves balance by recognizing the realities of D.D. Industry operations and addresses the four regulatory issues identified in section 5.1.2.

### **5.3.4 Regulatory Option Assessment Matrix**

Staff created an assessment matrix (Table 7) to rank each proposed option based on the regulatory issues identified in section 5.1.2.

**Table 7 Assessment of Proposed Regulatory Options**

Options	Addresses Policy Gap	Addresses Health and Safety Concerns	Addresses D.D. Service Model By-law Contravention	Preserves D.D. Service Model	Enforcement & Administration	Total Score (out of 20)
	<b>Option A:</b> Exempt D.D.s from Taxicab By-law					
<b>Option B:</b> Reinstate D.D. By-law 102-2008						<b>12</b>
<b>Option C:</b> Pass a by-law similar to By-law 102-2008						<b>15</b>
<b>Legend</b>		Does not address issue				
		Modestly addresses issue				
		Partially addresses issue				
		Mostly addresses issue				
		Fully addresses issue				

**5.4 D.D. Regulation Advantages v. Disadvantages**

There are a number of advantages and disadvantages to regulating D.D.s under Options “B” and “C”. Table 8 provides a summary for consideration.

**Table 8 Advantages and Disadvantages of D.D. Regulation**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Provides a minimum level of public safety</li> <li>• Provides a minimum level of consumer protection</li> <li>• Addresses the policy gap to various degrees depending on the option selected</li> <li>• Ability to impose minimum standards, similar to those imposed on taxi drivers</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult to determine if there is an appropriate or adequate level of insurance coverage for D.D. and their customers; determinations must occur on a case-by-case basis</li> <li>• D.D. standards may be difficult to enforce</li> <li>• Residents have not expressed a need for D.D. licensing at this time</li> <li>• D.D. licensing may require additional staff resources</li> <li>• The model being proposed by the City differs from what actually exists in respect to the transportation of passengers</li> </ul>

**5.5 Limitations of Regulating D.D.s**

While each option presented in this report addresses the regulatory issues to varying degrees, there are a number of inherent limitations to regulating D.D.s, represented in Options “B” and “C”, which are noteworthy and important for consideration. These limitations relate to insurance concerns, D.D. operating requirements, and enforcing potential D.D. regulations.

**(a) Insurance Concerns:**

- i. **Insurance for the D.D. Industry:** staff consulted with representatives from the insurance industry who indicated that they were not aware of an insurance policy that would specifically cover a D.D. service. Section 5.2.2. presents recommendations on the minimum insurance coverage required to provide a basic level of consumer protection. It is important to note that there may be unidentified risk to the customer despite a D.D. service being insured with coverage as detailed in section 5.2.2.
- ii. **Potential impact on D.D. customer’s auto insurance policy:** An accident that occurs while a D.D. Driver is operating a customer vehicle may result in a claim against the customer vehicle owner’s auto insurance policy and not the D.D. Broker’s insurance. While basic automobile insurance policies are standardized to a certain extent, they differ in the terms and amounts of coverage. Therefore, it is difficult to ensure whether or not there is an appropriate level of coverage on the customer’s vehicle, or, whether coverage exists at all.

- (b) **D.D. Driver operating requirements:** Options “B” and “C” require that the D.D. Driver confirm, among other items, that the registered owner of the customer vehicle **or** authorized operator has a valid automobile insurance policy. It may be challenging in certain instances for D.D. Drivers to confirm that the registered vehicle owner’s automobile insurance policy provides appropriate insurance coverage.
- (c) **Enforcement:** The enforcement of a D.D. licensing system presents two significant challenges. First, enforcement would be limited to conducting proactive operations. Second, the enforcement of certain procedural requirements such as ensuring the D.D. Driver confirmed the customer has valid automobile insurance would require the City’s Municipal Law Enforcement Officers to devote a significant amount of time and resources.

## **5.6 Costs of D.D. Licensing**

One of the principal concerns expressed by the D.D. industry was the potential for licensing costs to become prohibitive. Furthermore, the D.D. industry contends that licensing costs may increase as surrounding municipalities adopt licensing regimes within their jurisdictions.

Staff have compiled an approximate cost assessment for the licensing of D.D. Drivers. A cost assessment for D.D. Brokers was not completed as the costs of C.G.L. insurance varies depending on a number of factors. Nevertheless, it is proposed that an annual licensing fee of \$250 be established for a D.D. Broker licence. The cost assessment for D.D. Driver licensing has determined that licensing costs for each of the proposed regulatory options are reasonable for three reasons. First, taxicab drivers are subject to similar licensing costs. Second, some of the supporting documentation required for licensing is valid for more than one year and may reduce the costs of licensing renewal during the period the document is valid. Third, all documentation is transferable and may be used in other municipalities to fulfill similar licensing requirements.

### 5.6.1 Two-Year Cost of Driver Licensing Requirements

The approximate two-year costs for D.D. Driver licensing are detailed in Table 9; costs are based on current fee information from Durham Region agencies and organizations. All costs are approximate and may vary amongst administering agencies and organizations based in other municipalities.

**Table 9 Approximate Two-Year Costs of D.D. Driver Licensing Requirements**

Options	Criminal Information Report	Driver's Abstract	Proof of "G" Driver Licence	Medical Clearance Letter	Proposed Licensing Fee	Initial Total Cost
Option "A"						\$0
Option "B"	\$55	\$12	\$0		\$150	\$217
Option "C"	\$55	\$12	\$0	\$30	\$150	\$247

### 5.7 Education and Enforcement Proposed D.D. Standards

The effectiveness of a D.D. licensing regime is dependent on complementary efforts to enforce the by-law and educate the D.D. Industry of the standards. Additional enforcement resources in the form of staff overtime costs will be required if Council approves a system of licensing for D.D. services. Enforcement/education activities must be undertaken primarily on a proactive basis.

### 5.8 Conclusion

An extensive study informed by a comprehensive stakeholder consultation process has been completed. Based on the findings, staff have determined that regulating the D.D. Industry is appropriate for addressing the policy gap; consumer protection and health and safety concerns; the inherent contravention to the Taxicab By-law; and the need to preserve a version of the D.D. service model. Staff are of the opinion that Option "C", as proposed in section 5.2, best addresses the aforementioned issues by providing a balanced approach to regulating the D.D. industry. A by-law regulating D.D.s will be challenging, but not impossible to enforce. For both Taxi's and D.D.'s to coexist, there is a need to understand the purpose of the by-law and its limitations and opportunities. The purpose of the staff recommendation is to provide the most realistic approach to establishing a balanced regulatory framework for the Taxi and D.D. industries.

### 6.0 Financial Implications

Options "B" and "C" propose the creation of different systems of licensing for D.D. service providers. As such, there are varying administrative and enforcement costs associated with implementing each option. A more accurate cost assessment can be provided once a specific option is scoped and approved.

## 7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.

A handwritten signature in black ink, appearing to read "J. Conlin".

Jerry Conlin, Director,  
Municipal Law Enforcement and Licensing Services

A handwritten signature in blue ink, appearing to read "Jackie Long".

Jacqueline Long, Interim Commissioner,  
Corporate Services Department & HR

Attachments



## Public Report

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To: Corporate Services Committee

From: Beverly Hendry, Commissioner,  
Corporate Services

Report Number: CORP-14-93

Date of Report: September 3, 2014

Date of Meeting: September 8, 2014

Subject: Regulation of Designated Drivers and Industry Consultation  
Second Update

File: D-2300

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### **1.0 Purpose**

The purpose of this report is to provide an update on the industry consultation process regarding the regulation of the Designated Driver (D.D.) Industry.

### **2.0 Recommendation**

That the Corporate Services Committee recommends to City Council:

That Report CORP-14-93 "Regulation of Designated Drivers and Industry Consultation Second Update" be received for information.

### **3.0 Executive Summary**

Not applicable

### **4.0 Input From Other Sources**

The City conducted a second consultation meeting with the D.D. Industry on August 20, 2014 to present staff's findings and options respecting the regulation of D.D.'s and to obtain feedback from the D.D. Industry. A separate City of Oshawa Taxicab Industry consultation meeting was previously held on May 7, 2014.

## 5.0 Analysis

### 5.1 Background

At its June 24, 2013 meeting, City Council directed staff to conduct a study and initiate consultation with stakeholders from Oshawa's Taxicab and Designated Driver industries and to report back to the Corporate Services Committee with recommendations.

Staff completed the first of two industry consultation meetings on May 7, 2014 and an initial report (CORP-14-75) summarizing the feedback received from the Taxicab Industry was considered by the Corporate Services Committee at its May 26, 2014 meeting. Attachment 1 is a copy of Report CORP-14-75 which includes an additional report (CORP-13-98-CM) providing an overview of the issues regarding D.D.'s and a number of policy options for consideration.

### 5.2 Industry Consultation Framework and Update

Table 1 is a consultation framework developed by staff. The consultation process is currently underway and a final staff report presenting a summary of input and policy recommendations will be prepared for the first quarter (Q1) of 2015.

**Table 1 Industry Consultation Framework and Progress**

	<b>Date</b>	<b>Status</b>
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report	May 26, 2014	Complete
Designated Driver Industry Consultation	August 20, 2014	Complete
Second Industry Consultation Status Report	September 8, 2014	Complete
Summary of Input and Policy Recommendations Report	Q1 2015	Pending

### 5.3 Designated Driver Industry Consultation

Staff conducted the second consultation meeting with the Designated Driver Industry on August 20, 2014. Approximately 25 D.D. Industry participants from across Durham Region attended the consultation meeting.

Notification of the meeting was provided through various sources including:

- Notifications in the local newspapers
- A posting of the notice on the City's website
- Email notification and phone calls to the D.D. companies within Durham Region

At the meeting, staff overviewed the issues, presented potential regulatory options, and received feedback from the D.D. Industry.

### **5.3.1 Designated Driver Industry Feedback**

Below is a general summary of input received at the meeting. A more comprehensive account of the Designated Driver Industry's input will be provided in the final report.

- Participants acknowledged that there is a policy gap between the regulated Taxi Industry and the D.D. Industry but certain taxi regulations were not relevant to D.D. services.
- There was consensus that the regulation of D.D. services is necessary. However, companies noted that the D.D. Industry was a fragile Industry and expressed concerns that overregulation and its associated costs could be prohibitive to the extent that the provision of D.D. services may become financially unviable.
- In addition, participants were concerned that costs associated with licensing would impact the affordability of the service as D.D. companies would be compelled to charge higher fares. The increase in fares could potentially discourage impaired drivers from using their services.
- Considering that many D.D. companies operate throughout Durham Region, companies were concerned that licensing costs would be compounded as other neighbouring municipalities could potentially adopt similar regulations.
- Some D.D. companies are insured for \$2 million for general liabilities and have implemented employee screening practices such as requiring D.D. drivers to submit driver abstracts and proof of insurance for their personal vehicles.
- Participants reiterated that they provide services primarily to impaired individuals and that their impairment could result from a variety of instances such as being recently released from a hospital following surgery to clients who patronized a licensed establishment.
- Many D.D. companies have a strong relationship with the Durham Regional Police Service. Some D.D. drivers report cases of impaired driving and others have conducted presentations for police officers.

### **5.4 Next Steps: Final Report**

The scheduled portion of the industry consultation process has been completed. Staff will continue to receive input from all participants in preparation of the final report to City Council in Q1 2015. The final report will present the recommended approach to addressing the issue of regulating D.D. services based on feedback received from all parties and research conducted by staff.

## **6.0 Financial Implications**

There are no financial implications directly related to this report.

## 7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.



Jerry Conlin, Director,  
Municipal Law Enforcement and Licensing Services



Beverly Hendry, Commissioner,  
Corporate Services

Attachment



## Public Report

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To: Corporate Services Committee

From: David J. Potts, City Solicitor and Head,  
Legislative and Regulatory Directorate

Report Number: CORP-14-75

Date of Report: May 22, 2014

Date of Meeting: May 26, 2014

Subject: Regulation of Designated Drivers and Industry Consultation  
Initial Update

File: D-2300

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### **1.0 Purpose**

The purpose of this report is to provide an update on the industry consultation process regarding the regulation of the Designated Driver (D.D.) Industry.

### **2.0 Recommendation**

That the Corporate Services Committee recommend to City Council:

That report CORP-14-75 "Regulation of Designated Drivers and Industry Consultation Initial Update" be received for information.

### **3.0 Executive Summary**

Not applicable.

### **4.0 Input From Other Sources**

A City of Oshawa Taxicab Industry consultation meeting was held on May 7, 2014 to present staff's findings and options respecting the regulation of D.D.'s and to obtain feedback from the Taxicab Industry. A separate City of Oshawa D.D. Industry consultation meeting will be scheduled in the third quarter of 2014.

### **5.0 Analysis**

#### **5.1 Background**

At its June 24, 2013 meeting, City Council directed staff to conduct a study and initiate consultation with stakeholders from Oshawa's Taxicab and Designated Driver industries and to report back to the Corporate Services Committee with recommendations.

**Attachment 1** is a copy of staff report CORP-13-98 which provides an overview of the issues regarding D.D.'s and identifies a number of policy options for consideration.

## **5.2 Industry Consultation Framework and Update**

**Table 1** is a consultation framework developed by staff. The consultation process is currently underway and a final staff report presenting a summary of input and policy recommendations will be prepared for the first quarter of 2015.

**Table 1 Industry Consultation Framework and Progress**

	<b>Date</b>	<b>Status</b>
Taxi Industry Consultation	May 7, 2014	Complete
First Industry Consultation Status Report	May 26, 2014	Complete
Designated Driver Industry Consultation	Q3 2014	Pending
Second Industry Consultation Status Report	Q3 2014	Pending
Summary of Input and Policy Recommendations Report	Q1 2015	Pending

## **5.3 Taxi Industry Consultation**

Staff conducted the first consultation meeting with the Taxi Industry on May 7, 2014. Approximately 50 City of Oshawa licensed taxicab drivers, owners, and brokers attended the consultation meeting. A number of participants from the taxi industries of neighbouring municipalities were also in attendance.

Notification of the meeting was provided through various sources including:

- Notifications in the local newspapers
- A posting of the notice on the City's website
- Notification to the City's taxi brokerages to post the notice at their respective offices

At the meeting, staff overviewed the issues, presented several potential regulatory options, and received feedback from the Taxi Industry summarized in the next section.

### **5.3.1 Taxi Industry Feedback**

Below is a general summary of input received at the meeting. A more comprehensive account of the Taxi Industry's input will be provided in the final report.

- There was consensus that the regulation of D.D. services is necessary on the basis of addressing public safety concerns including: the need to ensure that D.D.'s are operating with adequate insurance coverage and that D.D. service drivers had appropriate training and were subject to criminal records checks. A number of participants were of the opinion that the D.D.'s should be prohibited from operating in the City.

- Participants expressed their concerns regarding the policy gap between the heavily regulated Taxi Industry and the lack of regulations in the D.D. Industry.
- Participants have observed a sizeable number of D.D.'s operating in the City some of which are based in surrounding municipalities. A number of D.D. services are operating as taxicabs transporting individuals in their "chase" vehicles and certain D.D. service vehicles have been outfitted with top lights making such vehicles resemble taxicabs. These D.D. services have been observed soliciting rides/customers at local entertainment establishments and at shopping centres.
- D.D. services that are operating as taxicabs are "stealing" business from the heavily regulated Taxicab Industry and there are concerns that the continuation of such actions may destabilize the Taxicab Industry.
- More enforcement of the Taxicab By-law 50-2003 is necessary.

#### **5.4 Next Steps: Designated Driver Industry Consultation**

A second consultation meeting will be scheduled with the City's D.D. Industry in the third quarter of 2014. Notification of the meeting will be posted in the local media and on the City's website.

#### **6.0 Financial Implications**

There are no financial implications directly related to this report.

#### **7.0 Relationship to the Oshawa Strategic Plan**

The recommendation in this report is consistent with Goal 4.5, Accountable Leadership by seeking feedback from stakeholders with a view to addressing policy issues respecting the Taxicab Industry and Designated Driver Services.



Jerry Conlin, Director,  
Municipal Law Enforcement and Licensing Services



David J. Potts, City Solicitor and Head,  
Legislative and Regulatory Directorate

<b>To:</b> Corporate Services Committee	<b>Item:</b> CORP-13-98-CM	<b>Date of Report:</b> June 13, 2013
<b>From:</b> David J. Potts, City Solicitor & Head Legislative and Regulatory Directorate	<b>File:</b> D-2300	<b>Date of Meeting:</b> June 20, 2013
<b>Subject:</b> <i>Designated Driver Service Providers</i>		<b>PUBLIC REPORT</b>

## 1.0 PURPOSE

This report overviews issues regarding designated driver services, identifies policy options and seeks Council's instruction to study, consult and to report back.

## 2.0 RECOMMENDATION

That the Corporate Services Committee recommends to Council:

That staff be directed to conduct a study and initiate consultation with stakeholders including the taxi industry and designated driver service providers and report back to Corporate Services Committee with recommendations.

## 3.0 EXECUTIVE SUMMARY

Customers of Designated Driver Services pay a fee in return for which a Designated Driver drives the customer, the customer's vehicle and sometimes the customer's passengers to at least one destination. Designated Driver Services were regulated but are currently unregulated in Oshawa. Designated Driver Services overlap with services provided by the taxicab industry to the extent that Designated Driver Services includes the conveyance of the customer (and the customer's passengers). The result is a policy gap. Further study and consultation is recommended.

## 4.0 INPUT FROM OTHER SOURCES

### 4.1 General

➤ Legal Services

### 4.2 Auditor General

➤ Not applicable.

## 5.0 ANALYSIS

### 5.1 Background

- For a fee, designated driving service providers (“Designated Drivers”) drive a vehicle, usually its driver and sometimes the driver’s passengers from one location (most often a licensed establishment) to at least one destination. The Designated Driver is accompanied by a second person in a “chase vehicle” who picks up the Designated Driver at the destination (“Designated Driver Services”).
- Designated Driver Services are unregulated in Oshawa.
- The Taxicab By-law comprehensively regulates the taxicab industry for the purposes of health and safety, consumer protection and nuisance control. It seeks to achieve these objectives by regulating:
  - tariff rates;
  - mechanical safety of taxis;
  - insurance coverage; and
  - Taxicab Drivers and Brokers
- The Taxicab By-law requires Taxicab Brokers and Taxicab Drivers to be licensed. Taxicab Drivers must:
  - complete and pass a driver training course;
  - attend refresher and accessible driver training;
  - complete and pass first aid/CPR training;
  - submit a criminal information report (background check); and
  - submit a medical clearance letter.
- There is a policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services to the extent that elements of Designated Driver Services overlap with services provided by the taxicab industry. Specifically, the Taxicab By-law defines “Taxicab” as including “[...] any Motor Vehicle used for hire in the conveyance of Persons from place to place within the City to any point inside or outside that area [...]”. The Taxicab definition excludes certain vehicles such as an ambulance or a funeral hearse but does not exclude a vehicle that is used in relation to Designated Driver Services. *Accordingly, when providing Designated Driver Services, Designated Drivers are effectively operating a Taxicab contrary to the Taxicab By-law by conveying the driver (and passengers) in a vehicle.*
- For a period, the City sought to address the policy gap including by regulating Designated Driver Services. **Attachment 1** is a chronology.

- In 2008, the Finance and Administration Committee recommended a licensing system for Designated Drivers. On Sep 22/08, Council passed by-law 102-2008 to establish the system (“2008 DD By-law” **Attachment 2**).
- In 2009, members of the Designated Driver Services industry expressed concerns related to licensing and insurance costs and that the 2008 DD By-law would not permit a Designated Driver to transport passengers in a client’s vehicle. Council directed staff to hold a public meeting to solicit feedback from all stakeholders.
- On Mar 4/10, the Committee considered report FA-10-41 summarizing input from the public meeting. Committee recommended to Council that the 2008 DD By-law be repealed. On Mar 8/10, Council repealed the 2008 DD By-law.
- On Jun 23/11, Committee considered report FA-11-168 which responded to a May 12/11 Committee direction to provide an overview of reports and public input respecting initiatives to license and regulate Designated Driver Services. Committee and Council adopted the report’s recommendation to receive it for information.
- On Mar 29/12, Committee considered a request to set up a committee of representatives from the taxi industry, designated driving service providers and City staff to clearly define the roles of each industry and referred it to staff to report back.

## **5.2 Issues**

- As noted, the principal issue continues to be the policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services. When providing Designated Driver Services, Designated Drivers are effectively operating a Taxicab contrary to the Taxicab By-law to the extent that Designated Driver Services include the conveyance of the driver and, as applicable, the driver’s passengers.

### **5.2.1 Taxicab Industry Concerns**

- The following is a general summary of concerns expressed by the taxicab industry:
  - There is a policy gap, as noted, resulting from the regulation of the taxicab industry and the non-regulation of Designated Driver Services.
  - Designated Driver Services are also directly competing with the taxicab industry by conveying customers who have no vehicles at fares that are lower than those prescribed for the taxicab industry.
  - The competition is doubly unfair to the extent that the taxicab industry operates within a highly regulated licensing system with a correspondingly higher cost structure.

- There is no consumer protection for customers of Designated Driver Services. (To date, staff has not received complaints from Designated Driver Service customers).
- Designated Driver Services should be subject to regulations that are similar to the taxi industry respecting fares, minimum driver standards, insurance and business/driver licensing.

### 5.2.2 Designated Drivers Concerns

- Designated Driver Services are not currently regulated so it is not possible to accurately assess the number of Designated Driver Services currently operating in Oshawa. MLELS is familiar with three main Designated Driver Services and is aware of several smaller operations. Following is a general summary of concerns expressed by Designated Driver Services:
  - Designated Driver Services contribute to keeping impaired drivers from driving their vehicles. They charge very little and cannot absorb the costs of licensing, insurance, training and other costs resulting from regulation.
  - Designated Driver Services provide a service that is not provided by the taxi industry: driving a person's vehicle home. Again, the costs of regulation may impede service delivery.
  - There is a lack of consensus among Designated Driver Services respecting regulation. Some support licensing of Designated Driver Services. Others do not.
  - Any regulation of Designated Driver Services should be undertaken at the Regional level to ensure a level regulatory playing field between lower tier municipalities.

### 5.3 Options

- The various options that could be considered moving forward have been summarized in the chart provided as Attachment 3. The options are additionally listed below for reference purposes:
  - **Option 1:** Status quo – no regulation of Designated Driver Services.
  - **Option 2:** Relax current regulations for taxi drivers in the Taxicab By-law 50-2003.
  - **Option 3:** Exempt Designated Driver Services from the definition of Taxicab in the Taxicab By-law.
  - **Option 4:** Re-introduce a system to license Designated Driver Services substantially in the form originally established by By-law 102-2008.

- **Option 5:** Undertake further study and consultation with stakeholders including from the taxicab industry and Designated Driver Services and report back to Committee with recommendations.
- Staff recommends option 5 and would endeavor to report by the 4<sup>th</sup> quarter of 2013.

## 6.0 FINANCIAL IMPLICATIONS

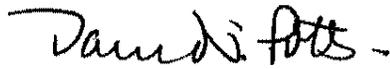
- There are no financial implications associated with this report.

## 7.0 RELATIONSHIP TO THE OSHAWA STRATEGIC PLAN

- The recommendation in this report is consistent with Goal 4.5, Accountable Leadership, by seeking feedback from stakeholders with a view to addressing policy issues respecting the taxicab industry and Designated Driver Services.



Jerry Conlin, Director,  
Municipal Law Enforcement & Licensing Services



David J. Potts, City Solicitor & Head  
Legislative and Regulatory Directorate

Attachments

**Chronological Count of the Designated Driver Issue (2007 to date)**

Date	Details
March 12, 2007	➤ Committee considered a written request to regulate fees for Designated Driving Services and staff were directed to report back to Committee.
September 17, 2007	➤ Correspondence suggesting regulation of Designated Driver Services providers was received and considered by Committee and staff were directed to report on the advantages and disadvantages of regulating these services.
April 29, 2008	➤ Committee considered report FA-08-45 which overviewed the advantages and disadvantages of regulating Designated Driver Services. The report was referred back to staff with direction to prepare a simplified licensing plan requiring a criminal check and insurance coverage and to outline the associated costs.
September 9, 2008	➤ Committee considered report FA-08-171 which included a simplified licensing plan to regulate Designated Driver Services.
September 22, 2008	➤ Council passed By-law 102-2008 introducing a regulatory regime for Designated Driver Services. The By-law regulated drivers and business owners and was consistent with the Taxicab By-law by making it unlawful to convey passengers in the client's vehicle or the chase vehicle.
May 19, 2009	➤ Council suspended the enforcement of By-law 102-2008 over concerns brought forward by stakeholders in the Designated Driver Services industry regarding insurance costs and the restrictions on conveying passengers. Staff were directed to conduct a public meeting to solicit views from all stakeholders.
January 25, 2010	➤ A public meeting was held to obtain input regarding the regulation of Designated Driver Services.
March 4, 2010	➤ Committee considered report FA-10-41 which summarized the issues raised at the public meeting. Committee recommended that, "Designated Driving Service Providers By-law 102-2008 be repealed" to Council.
March 8, 2010	➤ Council adopted the recommendation to repeal By-law 102-2008.
April 21, 2011	➤ Committee considered a delegation from a taxi driver requesting that Council reconsider its decision to repeal By-law 120-2008 and directed staff to prepare a report on the developments related to licensing and regulating Designated Driver Services.
June 23, 2011	➤ Staff reported back to Committee with report FA-11-168 which provided an update as directed.
March 29, 2012	➤ Corporate Services Committee considered a request to set up a committee of representatives from the taxi industry, Designated Driving Services and City staff to clearly define the roles of each industry and referred it to staff to report back to Committee.



Being a By-law to further amend Licensing By-law 120-2005 to provide for the licensing, regulating and governing of designated driving service providers.

**WHEREAS:**

1. Council of The Corporation of the City of Oshawa considers it desirable and necessary to license, regulate and govern designated driving service providers for social well-being, for the health, safety and well-being of persons and for the protection of persons and property.

**NOW THEREFORE** the Council of The Corporation of the City of Oshawa enacts as follows:

1. Section 2 of By-law 120-2005, as amended, ("Licensing By-law") is further amended by adding each of the following definitions:
  - (a) "Designated Driving Service Provider" means each Person who, for payment of a salary, a fee or for any other consideration, operates a Motor Vehicle owned by another Registered Motor Vehicle Owner for the purpose of moving or causing to be moved the Motor Vehicle from a location within Oshawa or to a destination within Oshawa but does not include a "Driver" while operating a "Taxicab" as those two terms are defined by the City's Taxicab Licensing By-law.
  - (b) "Motor Vehicle" includes an automobile or any other device for the transportation of Persons or goods propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act*.

(c) “Registered Motor Vehicle Owner” means the person shown to be the owner of a Motor Vehicle according to the records maintained by the Registrar of Motor Vehicles for the Province of Ontario and includes a lessee of a Motor Vehicle pursuant to a written lease contract.

2. Schedule “A” to the Licensing By-law is further amended by adding after the row, “Carnival”, the following row:

Designated Driving Service Provider	\$125 per annum	see Schedule “N”
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3. The Licensing By-law is further amended by adding Schedule “A” to this By-law as Schedule “N” to the Licensing By-law.
4. The General Fees and Charges By-law 13-2003, as amended, is further amended by adding to its Schedule “A” within the table entitled, “Licensing – Annual Fee Unless Otherwise Noted”, the following row:

Designated Driving Service Provider	\$125
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5. This By-law shall be effective on May 1, 2009.

By-law passed this twenty-second day of September, 2008.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

## Schedule "A" to By-law 102-2008

## Schedule "N" to By-law 120-2005

**Licence Application**

1. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence unless the application is submitted on forms approved by the Director and includes the following respecting the Designated Driving Service Provider:
  - (a) a Criminal Investigation Report issued within the thirty-day period immediately preceding the date on which the application is submitted;
  - (b) an Ontario Driver's Record from the Ministry of Transportation (Driver's Abstract) issued within the thirty-day period immediately preceding the date on which the application is submitted;
  - (c) proof of, minimally, a current class "G" driver's licence issued by the Province of Ontario which is in good standing; and
  - (d) proof of Commercial General Liability insurance that:
    - i) includes a limit of liability of not less than \$2,000,000.00 (two million dollars) per occurrence for property damage and bodily injury; and that
    - ii) requires that the Director be notified of any intended cancellation by the insurer no fewer than fifteen (15) days prior to such cancellation.

**Licence Conditions**

2. In addition to other requirements of the Licensing By-law, no Person shall act as a Designated Driving Service Provider except pursuant to a licence issued pursuant to this

Licensing By-law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence:

- (a) The Designated Driving Service Provider's driver's licence is maintained in good standing at all times;
- (b) The Designated Driving Service Provider is, at no time, charged with or convicted of an offence contrary to the *Highway Traffic Act* (Ontario) or the *Criminal Code* (Canada);
- (c) The Commercial General Liability insurance required by paragraph 1(d) of this Schedule is maintained at all times;
- (d) The Designated Driving Service Provider is in possession at all times of the licence issued pursuant to this Licensing By-law and forthwith produces it for inspection when requested to do so by a Registered Motor Vehicle Owner or by an Officer;
- (e) Immediately prior to each occasion on which it is proposed to operate a Registered Motor Vehicle Owner's Motor Vehicle, the Designated Driving Service Provider shall have:
  - i) verified that there exists a currently validated permit for the Motor Vehicle pursuant to the Highway Traffic Act (Ontario) including by reviewing a copy of the permit;
  - ii) verified the Registered Motor Vehicle Owner's identity and ownership of the Motor Vehicle including by reviewing the Registered Motor Vehicle Owner's current driver's licence issued by the Province of Ontario and the Motor Vehicle's permit referenced in the preceding clause 2(e)i) of this Schedule;
  - iii) verified that the Motor Vehicle is insured under a contract of automobile insurance including by reviewing a current insurance card for the Motor Vehicle issued pursuant to the *Compulsory Automobile Insurance Act* (Ontario);

- iv) secured the Registered Motor Vehicle Owner's consent to operate the Motor Vehicle;
  - v) secured the Registered Motor Vehicle Owner's instructions respecting the operation of the Motor Vehicle including, minimally, the destination to which the Motor Vehicle is to be moved; and shall have
  - vi) struck an agreement with the Registered Motor Vehicle Owner respecting the Designated Driving Service Provider's fee or other consideration for operating the Motor Vehicle.
- (f) The Designated Driving Service Provider shall not operate a Motor Vehicle except:
- i) without any passengers;
  - ii) in accordance with all applicable law; and
  - iii) subject to the preceding clauses 2(f)i) and ii) of this Schedule, pursuant to the Registered Motor Vehicle Owner's instructions provided pursuant to clause 2(e)v) of this Schedule;
- (g) The Designated Driving Service Provider shall not charge any fee or other consideration for operating a Motor Vehicle that exceeds that to which is agreed pursuant to clause 2(e)vi) of this Schedule.

3. No Person shall permit the advertising or promotion of the services of a Designated Driving Service Provider except a Person licensed as a Designated Driving Service Provider pursuant to this Licensing By-law.

Potential Options for Consideration	Benefits	Challenges
1) Status quo	<ul style="list-style-type: none"> <li>To date, MLELS has not received any complaints from citizens/customers regarding Designated Driver Services.</li> </ul>	<ul style="list-style-type: none"> <li>Policy gap resulting from the regulation of the taxicab industry and non-regulation of Designated Driver Services</li> <li>Unfair competition between Designated Driver Services and taxicab industry because the taxicab industry's tariffs are regulated (allowing undercutting by Designated Driver Services) and regulation results in higher costs in the taxicab industry</li> <li>No consumer protection for customers of Designated Driver Services</li> </ul>
2) Relax current regulations for taxi drivers in the Taxicab By-law	<ul style="list-style-type: none"> <li>Reduces policy gap</li> </ul>	<ul style="list-style-type: none"> <li>Less consumer protection in the taxicab industry</li> </ul>
3) Exempt designated driver services from the definition of Taxicab in By-law 50-2003	<ul style="list-style-type: none"> <li>Eliminates legal gap by simply deeming Designated Driver Services to not constitute operation of a taxicab</li> </ul>	<ul style="list-style-type: none"> <li>Does not address policy gap and other challenges associated with option 1) Status quo</li> </ul>
4) Pass a by-law substantially in the form of the 2008 DD By-law to regulate designated drivers in the Licensing By-law 120-2005	<ul style="list-style-type: none"> <li>Eliminates legal and policy gaps</li> <li>Consumer protection re Designated Driver Services</li> </ul>	<ul style="list-style-type: none"> <li>Costs of regulation may impede Designated Driver Services</li> <li>Does not address cross-border Designated Driver Services</li> </ul>
5) Study, consult with stakeholders and report back to Corporate Services Committee	<ul style="list-style-type: none"> <li>Possibility that further study and consultation will yield better information.</li> </ul>	<ul style="list-style-type: none"> <li>Risk that the resources allocated to further study and consultation will not yield better information.</li> </ul>

### **Chronological Account of the Designated Driver Issue (2007 to date)**

**March 12, 2007:** Committee considered a written request to regulate fees for Designated Driving Services and staff were directed to report back to Committee.

**September 17, 2007:** Correspondence suggesting regulation of Designated Driver Services providers was received and considered by Committee and staff were directed to report on the advantages and disadvantages of regulating these services.

**April 29, 2008:** Committee considered report FA-08-45 which overviewed the advantages and disadvantages of regulating Designated Driver Services. The report was referred back to staff with direction to prepare a simplified licensing plan requiring a criminal check and insurance coverage and to outline the associated costs.

**September 9, 2008:** Committee considered report FA-08-171 which included a simplified licensing plan to regulate Designated Driver Services.

**September 22, 2008:** Council passed By-law 102-2008 introducing a regulatory regime for Designated Driver Services. The By-law regulated drivers and business owners and was consistent with the Taxicab By-law by making it unlawful to convey passengers in the client's vehicle or the chase vehicle.

**May 19, 2009:** Council suspended the enforcement of By-law 102-2008 over concerns brought forward by stakeholders in the Designated Driver Services industry regarding insurance costs and the restrictions on conveying passengers. Staff were directed to conduct a public meeting to solicit views from all stakeholders.

**January 25, 2010:** A public meeting was held to obtain input regarding the regulation of Designated Driver Services.

**March 4, 2010:** Committee considered report FA-10-41 which summarized the issues raised at the public meeting. Committee recommended that, "Designated Driving Service Providers By-law 102-2008 be repealed" to Council.

**March 8, 2010:** Council adopted the recommendation to repeal By-law 102-2008.

**April 21, 2011:** Committee considered a delegation from a taxi driver requesting that Council reconsider its decision to repeal By-law 120-2008 and directed staff to prepare a report on the developments related to licensing and regulating Designated Driver Services.

**June 23, 2011:** Staff reported back to Committee with report FA-11-168 which provided an update as directed.

**March 29, 2012:** Corporate Services Committee considered a request to set up a committee of representatives from the taxi industry, Designated Driving Services and City

staff to clearly define the roles of each industry and referred it to staff to report back to Committee.

**June 24, 2013:** Council directs staff to conduct a study and initiate consultation with stakeholders including the taxi industry and designated driver service providers and to report back to Corporate Services Committee with recommendations.

**May 7, 2014:** Staff conduct a consultation session with the Taxi Industry regarding regulating Designated Drivers.

**May 26, 2014:** First Industry Consultation Status Report considered by the Corporate Services Committee.

**August 20, 2014:** Second Industry Consultation Session conducted with Designated Driver Industry.

**September 8, 2014:** Second Industry Consultation Status Report considered by the Corporate Services Committee.

### Input Received from Stakeholder Consultation Sessions

<p align="center"><b>Taxi Industry Concerns</b> (Consultation Session: May 7, 2014)</p>	<p align="center"><b>Designated Driver Industry Concerns</b> (Consultation Session: August 20, 2014)</p>
<ul style="list-style-type: none"> <li>• There was consensus that the regulation of D.D. services is necessary on the basis of addressing public safety concerns including: the need to ensure that D.D.'s are operating with adequate insurance coverage and that D.D. service drivers had appropriate training and were subject to criminal records checks. A number of participants were of the opinion that the D.D.'s should be prohibited from operating in the City.</li> <li>• Participants expressed their concerns regarding the policy gap between the heavily regulated Taxi Industry and the lack of regulations in the D.D. Industry.</li> <li>• Participants have observed a sizeable number of D.D.'s operating in the City some of which are based in surrounding municipalities. A number of D.D. services are operating as taxicabs transporting individuals in their "chase" vehicles and certain D.D. service vehicles have been outfitted with top lights making such vehicles resemble taxicabs. These D.D. services have been observed soliciting rides/customers at local entertainment establishments and at shopping centres.</li> <li>• D.D. services that are operating as taxicabs are "stealing" business from the heavily regulated Taxicab Industry and there are concerns that the continuation of such actions may destabilize the Taxicab Industry.</li> <li>• More enforcement of the Taxicab By-law 50-2003 is necessary.</li> </ul>	<ul style="list-style-type: none"> <li>• Participants acknowledged that there is a policy gap between the regulated Taxi Industry and the D.D. Industry but certain taxi regulations were not relevant to D.D. services.</li> <li>• There was consensus that the regulation of D.D. services is necessary. However, companies noted that the D.D. Industry was a fragile Industry and expressed concerns that overregulation and its associated costs could be prohibitive to the extent that the provision of D.D. services may become financially unviable.</li> <li>• Participants were concerned that costs associated with licensing would impact the affordability of the service as D.D. companies would be compelled to charge higher fares. The increase in fares could potentially discourage impaired drivers from using their services.</li> <li>• Considering that many D.D. companies operate throughout Durham Region, companies were concerned that licensing costs would be compounded as other neighbouring municipalities could potentially adopt similar regulations.</li> <li>• Some D.D. companies are insured for \$2 million for general liabilities and have implemented employee screening practices such as requiring D.D. drivers to submit driver abstracts and proof of insurance for their personal vehicles.</li> <li>• Participants reiterated that they provide services primarily to impaired individuals and that their impairment could result from a variety of instances such as being recently released from a hospital following surgery to clients who patronized a licensed establishment.</li> <li>• Many D.D. companies have a strong relationship with the Durham Regional Police Service. Some D.D. drivers report cases of impaired driving and others have conducted presentations for police officers.</li> </ul>