

## Shades of Grey in the Ride-Sharing World

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The past few months have seen a hubbub of debate surrounding Uber, the taxi industry, and whether ride-sharing services are presently incorporated under municipal bylaws, and if not, whether they should be (for previous posts on this subject see [here](#), [here](#) and [here](#)).

In Alberta, and more particularly Edmonton and Calgary, it became a race to test the present regulatory framework and adapt it if necessary. In navigating around the bylaws, Uber was offering a lower cost method of transportation to the status quo taxi service. Concerns were raised on three main topics: fares, fees, and safety. Fast forward to this month, and both municipalities have an adapted framework in place, and the Government of Alberta has weighed in on insurance requirements for drivers operating for hire. In the midst of what seems like a saga of Uber battles, this post will discuss the amendments and outline what they mean for ride-sharing in Alberta.

### Edmonton

Edmonton was the first Canadian municipality to legalize ride sharing services, revising its [Vehicle for Hire Bylaw 17400](#), effective March 1, 2016. Previously, the bylaw only applied to taxis, limousines, and shuttles, and Uber was able to avoid a court ordered injunction to stop its services (see *Edmonton (City) v Uber Canada Inc.*, [2015 ABQB 214](#), discussed [here](#)). Now, technology-based companies such as mobile app dispatchers (think Uber or Lyft) are specifically incorporated into the bylaw under a new class defined as “Private Transportation Providers” (PTPs). In short, a PTP is defined as a vehicle for hire which provides pre-arranged transportation services to passengers (Bylaw 17400, section 2(m)).

One of the main issues between ride-sharing and taxi or limousine services was that under the previous bylaw, the latter services operated with prescribed minimum fares, while Uber, for example, was able to charge competitively lower rates without any minimum. In considering that ride-sharing differs from taxi or limousine services, the City of Edmonton has now developed a hybrid fare model. Pre-arranged trips, such as those requested through a mobile app, can be offered by any vehicle for hire, and a minimum amount of \$3.25 must be charged per ride (Schedule A, Part II). Rates above this amount, and for example during “surge pricing” when rates increase in response to higher demand, may be charged and negotiated between the ride provider and the customer. Trips arranged through stands or via on street hailing, can only be offered by taxis and will be regulated by a metered rate (Schedule A, Part I).

In addition to fares, the City of Edmonton collects fees to cover its resources required for enforcement. These costs are encompassed through licensing and dispatching fees. Again, in operating outside the bylaw, ride-sharing services were able to avoid paying these hefty user fees to keep costs low. Now, however, two types of PTP dispatchers are established: Regional (operating less than 200 vehicles) and Commercial (operating 200 vehicles or more). Regional PTPs and taxis are lumped into the same category, incurring dispatch licenses (\$1,000), vehicle

licenses (\$400), and driver's licenses (\$60) all at an annual cost ([“Vehicle for Hire Bylaw” Summary](#), or Schedule B). Commercial PTPs (such as Uber), however, will not incur costs for drivers or vehicle licenses, and instead will pay an annual dispatch license fee of \$50,000 plus an additional \$0.06 per trip ([“Vehicle for Hire Bylaw” Summary](#), or Schedule B). The goal of this approach is to shift the costs incurred in a Commercial PTP operation from the driver onto the corporation itself, preventing fewer barriers in enticing drivers to join operations.

And finally, in regards to safety, annual vehicle inspections by licensed garages and mechanics are required (Bylaw 17400, section 7 and [“Vehicle for Hire Bylaw” Summary](#)), as well as criminal record checks (Bylaw 17400, section 30 and [“Vehicle for Hire Bylaw” Summary](#)), for all PTP drivers. The checks already completed by Uber in hiring its drivers, however, will suffice rather than having drivers incur additional fees. In addition, drivers will require proof of insurance (Bylaw 17400, section 26) and a valid class of driver's license (see Bylaw 17400, section 30), as stipulated in provincial law.

All in all, these plans – subject to provincial insurance requirements – were workable for the Edmonton ride-sharing community, even receiving Uber's support ([“Edmonton becomes first city in Canada to pass Uber-friendly bylaw”](#), [National Post](#)).

## Calgary

In beginning discussions, it was noted that Calgary was seeking a made-in-Calgary approach and would not simply adopt Edmonton's workable plan to ride-sharing. The City of Calgary had sought and successfully obtained an injunction against Uber drivers (unreported decision in November 2015), and for that reason, the stakes on regulatory incorporation were even higher. In response, Uber called for the public to send mass emails to city councillors advocating for its return ([“Uber sends critical letter of city council to users; Nenshi calls it a ‘tactic’”](#), [660 News](#)) and local celebrities even weighed in on the debate ([“Uber offer of \\$100,000 still stands”](#), [Calgary Sun](#)). In this instance, it seemed like much more of a targeted approach against Uber, rather than ride-sharing in general.

Amendments to the Livery Transport Bylaw 6M2007 ([old version](#)) were approved by council on February 22, 2016, incorporating ride sharing businesses into the framework as “Transportation Network Companies” (TNCs) ([“TNC Driver Requirements” Summary](#)). The new bylaw, effective April 4, 2016, has yet to be circulated and it is unknown how minimum fares will come into play. Most likely, we will see a flat minimum fare for taxi and TNC services or perhaps a hybrid system similar to Edmonton's, above, which limits ride-sharing to providing services through a mobile app.

Under the new terms, ride-sharing drivers are required to purchase an annual operating license from the City of Calgary, at a cost of \$220.00, and to possess a valid class 1, 2, or 4 driver's license. In addition, drivers require valid commercial insurance (as required by the Government of Alberta), proof of eligibility to work in Canada, and a Calgary Police Service criminal background check. Vehicles must also undergo a 134 point mechanical inspection annually, or when they reach 50,000 km (whichever is first).

Ultimately, Uber slammed the amendments as unworkable and refused to resume its Calgary operations. In its concerns, Uber indicated that the stipulated fees (estimated at \$600 per individual) would be imposed on drivers, most of whom are merely looking to supplement their income. This excessive and onerous start-up cost would, therefore, deter these drivers from

taking part in operations ([“Uber says city’s bylaw changes won’t work for ride-sharing service”](#), [Calgary Herald](#)), and does not properly reflect the differences between ride-sharing and taxi companies.

## **Alberta**

Unfortunately, after all this hard work and just when we thought the battle was over, any bylaw amendments are likely now moot in encouraging ride-sharing operations. Under the *Insurance Act*, [RSA 2000, c I-3](#), a motor-vehicle insurer may exclude liability “while the automobile is used as a taxi-cab, public omnibus, livery, jitney or sightseeing conveyance or for carrying passengers for compensation or hire” (section 569). At this time, therefore, the only acceptable insurance policy outlined by provincial law is a commercial insurance policy such as those allocated to taxi drivers ([Commercial Vehicle Certificate and Insurance Regulation, Alberta Regulation 314/2002, section 27](#)).

And, as stated above, in both Calgary and Edmonton, the bylaws require a valid commercial insurance policy or other policy that meets the requirements for a vehicle for hire in Alberta. Commercial insurance policies, of course, are much more costly to small businesses or independent drivers and as such, another form of policy that caters to drivers who operate for personal and compensation purposes would be ideal. The Government of Alberta has noted that it is working to develop its own set of rules, indicating that there are no strict deadlines in place for when changes might be made ([“Uber threatens to quit Alberta if NDP fails to make insurance changes”](#), [CBC News](#)). It has stipulated, however, that by July 1, 2016, an interim insurance product could be in place to provide ride-sharing drivers with adequate coverage ([“Uber temporarily suspends operations in Alberta’s capital”](#), [Global News](#), [“Uber insurance on the way in Alberta, but not in time for planned approval dates”](#), [Calgary Herald](#)).

A hybrid policy, made specifically for ride-sharing drivers, and set to cover passengers from the time they accept a ride to the time they exit the vehicle, has been developed by Aviva Canada, and approved by Ontario’s Insurance Regulator and the Financial Services Commission of Ontario ([“Ontario insurance regulator approves coverage for Uber drivers in Canadian “first”](#), [The Canadian Press](#)). Talk of a similar policy here in Alberta by Intact Insurance has occurred ([“Intact insurance working with Uber on new products for ridesharing”](#), [The Canadian Press](#)), yet no stamp of approval has been granted.

In addition to the hurdle over insurance, the Government of Alberta has determined that the same requirements in place for taxi drivers and passenger transportation services must be in place for ride-sharing drivers, even if these new drivers only provide services on a part time basis. This means that all drivers, ride-sharing or otherwise, must have a class 4 driver’s license (or better) and undergo police information background checks ([“Alberta Government to regulate ride-for-hire services like Uber”](#), [Calgary Metro](#)).

Just hours after these requirements were put in place, Uber temporarily suspended its Edmonton operations, arguing that a class 5 license driver's license should be sufficient for its part-time drivers. The Government of Alberta, however, did not concede ("[Uber temporarily suspends operations in Alberta's capital](#)", [Global News](#)).

## Conclusion

In summary, as we stand now, ride-sharing services are legal in both Edmonton and Calgary, provided that the drivers have valid commercial insurance and a class 4 driver's license. These two municipalities have shown an eagerness to regulate, utilizing the powers granted to them under sections 7 and 8 of the *Municipal Government Act*, [RSA 2000, c M-26](#), and have reworked, albeit to a minor degree, their bylaws to specifically encompass ride-sharing. We must wait to see what the Government of Alberta will do with respect to insurance, licensing and other requirements. In any event, the development of a revised insurance policy, for those operating in personal and commercial contexts, may very well become a lucrative industry for insurance giants and motivate them to get involved in the game.

Previously, the bylaws surrounding vehicles for hire were vague enough that there was some debate over the legality of ride-sharing. This provided some grey area for Uber's operation, on its own terms. Uber took a chance with Edmonton, and doubled down on its success with Calgary. With the new amendments, however, this grey area is no longer, and all ride-sharing services or drivers have no choice but to comply. The risk when advocating for change is that you might not like the end result, and it appears that particularly in Calgary, Uber got just that. Moving forward, it will certainly be interesting to see the approach taken in other Canadian cities such as Toronto and Montreal – not only by Uber advocates, but by city councillors and provincial governments.

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