



Council Report

For the Meeting of April 14, 2016

To: Council **Date:** April 4, 2016
From: Chris Coates, City Clerk
Subject: Vehicles for Hire Bylaw, Amendment Bylaw (No. 15)

RECOMMENDATION

That Council give three readings to the Vehicles for Hire Bylaw, Amendment Bylaw (No. 15) attached to this report, with final adoption to follow on April 28, 2016.

EXECUTIVE SUMMARY

The purpose of the attached bylaw is to bring into effect Council direction from January 28, 2016 and March 24, 2016 relating to the Vehicles for Hire Bylaw.

On January 28, 2016 Council directed staff to undertake a variety of actions related to the City's four exclusive motorized parking stands, including bringing forward amendments to the Vehicles for Hire Bylaw for Council consideration that would:

- allow the City to displace stand users if required for capital improvements, and
- require stand users to participate, upon request, in a possible City-led bus study, which could include the installation of GPS/data logging equipment on buses.

These changes are included as new sections 3 and 4 of the parking stand agreement included as Appendix E to the bylaw.

On March 24, 2016, Council directed staff to bring forward amendments to Schedule D of the Vehicles for Hire Bylaw that will allocate Motorized Sightseeing Vehicle Parking Stand 3 to Hippo Tours Inc. for the period from May 1, 2016 to March 31, 2017.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Shannon Craig".

Shannon Craig
Policy Analyst
Legislative and Regulatory Services

A handwritten signature in black ink, appearing to read "Chris Coates".

Chris Coates
City Clerk
Legislative and Regulatory Services

Report accepted and recommended by the City Manager:

Date:

A handwritten signature in black ink, appearing to read "John S. ...".
April 7, 2016

NO. 16-042

VEHICLES FOR HIRE BYLAW, AMENDMENT BYLAW (NO. 15)

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Vehicles for Hire Bylaw to allocated Motor Sightseeing Vehicle Parking Stand 3 to Hippo Tours Inc., for the period from May 1, 2016 to March 31, 2017, and to revise the parking stand agreement to allow the City to displace stand users if required for capital improvements, and require stand users to participate, upon request, in a possible City-led bus study.

Under its statutory powers, including sections 8 and 36 of the *Community Charter*, section 3 of the 1907 *Act relating to the City of Victoria*, section 18 of the *Victoria City Act, 1919*, and section 9 of the *Victoria City Act, 1934*, the Council of the Corporation of the City of Victoria enacts the following provisions:

- 1 This Bylaw may be cited as the "Vehicles for Hire Bylaw, Amendment Bylaw (No. 15)."
- 2 Bylaw No. 03-60, the Vehicles for Hire Bylaw, is amended by repealing Schedules D and E and substituting the new Schedules D and E attached to this Bylaw as Schedule 1.

READ A FIRST TIME the	day of	2016
READ A SECOND TIME the	day of	2016
READ A THIRD TIME the	day of	2016
ADOPTED on the	day of	2016

CORPORATE ADMINISTRATOR

MAYOR

Schedule 1

Schedule D

Motor Sightseeing Vehicle Parking Stands

<u>Licensee</u>	<u>Parking Stand Allocation</u>	<u>Allocation Period</u>	<u>Monthly Rental Fee (including applicable taxes)</u>
CVS Cruise Victoria Ltd. (Incorporation No. BC0782440)	Parking Stand 1 The east side of Government Street, a distance of 21.4 m measured northerly from a point 68.4 m north of the north property line of Belleville Street	April 1, 2013 to March 31, 2017	\$1,755.00
Wilson's Transportation Ltd. (Incorporation No. BC0221816)	Parking Stand 2 The east side of Government Street, a distance of 21.4 m measured northerly from a point 39.5 m north of the north property line of Belleville Street	April 1, 2013 to March 31, 2017	\$1,755.00
Hippo Tours Inc. (Extraprovincial Registration No. A0086232)	Parking Stand 3 The north side of Belleville Street, a distance of 14 m measured westerly from a point 45.3 m west of the northerly lateral extension of the west property line of Menzies Street	May 1, 2016 to March 31, 2017	\$1,170.00
Wilson's Transportation Ltd. (Incorporation No. BC0221816)	Parking Stand 4 The north side of Belleville Street, a distance of 14 m measured westerly from a point 63.5 m west of the northerly lateral extension of the west property line of Menzies Street	April 1, 2013 to March 31, 2017	\$1,170.00

Schedule E
Parking Stand Agreement

THIS AGREEMENT MADE AS OF _____,

BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA
 #1 Centennial Square
 Victoria, B.C. V8W 1P6
 (the "City")

AND:

[NAME OF SIGHTSEEING VEHICLE LICENSEE]
 (the "Licensee")

- A. The City is the owner of a parking stand identified as Parking Stand ____ (the "Parking Stand") in Column ____ of Schedule D to the Vehicles for Hire Bylaw No. 03-60 (the "**Vehicles for Hire Bylaw**") [*or the City is the owner of the parking stands (the "Parking Stands") identified in Schedule C to the Vehicles for Hire Bylaw No. 03-60 (the "**Vehicles for Hire Bylaw**")*];
- B. The Licensee has been issued a sightseeing vehicle licence (as defined in the Vehicles for Hire Bylaw) to load and transport passengers in a [*horsedrawn*] sightseeing vehicle;
- C. The City has allocated the Parking Stand to the Licensee for the Licensee's use [*or The City has granted to the Licensee permission to use the Parking Stands*];
- D. The Vehicles for Hire Bylaw requires the Licensee to enter into this Agreement with the City as a condition of the Licensee using the Parking Stand[s].

THEREFORE in consideration of the fee paid by the Licensee to the City and the mutual promises contained in this Agreement, the City and the Licensee covenant and agree with each other as follows:

- 1.0 Right to Occupy** - The City, subject to the performance and observance by the Licensee of the terms, conditions, covenants and agreements contained in this Agreement, grants to the Licensee, for the Licensee and its employees, the right to occupy the Parking Stand[s] during the Licensee's hours of operation for the purposes of loading or unloading passengers from a licensed sightseeing vehicle and for parking a licensed sightseeing vehicle between daily sightseeing tours, and for no other purpose. For certainty, but without limiting the foregoing, the Licensee shall not park a sightseeing vehicle in a Parking Stand overnight.
- 2.0 Special Events** - Notwithstanding section 1 or any other provision in this Agreement to the contrary, the Licensee agrees it will not be permitted to occupy the Parking Stand[s] if, in the opinion of the Director of Parks, Recreation and Facilities for the City in his or her

sole and absolute discretion, use of the Parking Stand[s] is required by the City for a special event or the Licensee's use of the Parking Stand[s] is incompatible with a special event occurring in the City. The Director of Parks, Recreation and Facilities will notify the Licensee, in writing, of the date and times the Parking Stand is required for a special event and the Licensee will not occupy the Parking Stand[s] on such days and during the times indicated.

- 3.0 Displacement for Capital Improvements** - Notwithstanding section 1 or any other provision in this Agreement to the contrary, the Licensee agrees it will not be permitted to occupy the Parking Stand[s] if, in the opinion of the Director of Engineering and Public Works for the City in his or her sole and absolute discretion, use of the Parking Stand[s] is required by the City in order to undertake capital improvements or the Licensee's use of the Parking Stand[s] is incompatible with capital improvements occurring in the vicinity of the Parking Stand[s]. The Director of Engineering and Public Works will notify the Licensee, in writing, of the date and times the Parking Stand[s] is required for capital improvements and the Licensee will not occupy the Parking Stand[s] on such days and during the times indicated.
- 4.0 Participation in Emissions Study** *[Schedule D parking stands only]* – If requested to do so by the City, the Licensee agrees to have data-logging devices supplied by the City installed on one or more of the licensed sightseeing vehicles approved in writing by the City to occupy the Parking Stand.
- 5.0 Reservation of Rights** - The City hereby reserves to itself from the grant and covenants made by it to the Licensee under section 1 above the right for the City, its agents, employees, contractors and subcontractors to have full and complete access to the Parking Stand[s] for any and all purposes.
- 6.0 Fee** - In consideration of the right to occupy the Parking Stand[s], the Licensee shall pay to the City the rental fee set out in the Vehicles for Hire Bylaw, such fee payable in advance on the 1st day of every month.
- 7.0 Maintenance** - The Licensee will keep the Parking Stand[s] free of any garbage or other refuse and otherwise in a state of cleanliness.
- 8.0 Insurance** - The Licensee will maintain insurance as follows:

 - (a) The Licensee will take out and maintain during the term of this Agreement a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Parking Stand[s] in the amount of not less than five million (\$5,000,000) dollars per single occurrence or such greater amount as the City may from time to time designate, naming the City as an additional insured party thereto and will provide the City with a certificate of insurance prior to commencement of use of the Parking Stand[s].
 - (b) All policies of insurance shall contain a clause requiring the insurer not to cancel or change the insurance without giving the City thirty (30) days prior written notice.
 - (c) If both the City and the Licensee claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement

of the claim of the City and the balance, if any, to the settlement of the claim of the Licensee.

9.0 Indemnification - The Licensee releases and will indemnify and save harmless the City, its elected and appointed officials, employees and agents from and against all lawsuits, damages, costs, expenses, fees or liability that the City, the Licensee or anyone else may incur, suffer or allege by reason of this Agreement or the use of the Parking Stand[s] by the Licensee or its agents, employees, tenants and invitees.

10.0 Termination - If the Licensee is no longer allocated the Parking Stand[s] under the Vehicles for Hire Bylaw, then without further notice this Agreement shall lapse and be absolutely forfeited.

11.0 Suspension - If the Licensee:

- (a) fails to pay the rental fee prescribed by the Vehicles for Hire Bylaw,
- (b) fails to comply with the provisions of the Vehicle for Hire Bylaw or any covenant, condition or agreement in this Agreement, or
- (c) ceases to be a sightseeing vehicle licensee as defined by the Vehicles for Hire Bylaw,

then the Licensee will, immediately upon written notice from the City, cease using the Parking Stand[s] until such breach or non-compliance has been remedied by the Licensee to the satisfaction of the City or until the Licensee obtains a sightseeing vehicle licence (as the case may be).

12.0 Regulations - The Licensee will comply promptly at its own expense with all provincial, federal and local government statutes, regulations and bylaws applicable to the use of the Parking Stand[s] by the Licensee, including without limitation the Vehicles for Hire Bylaw.

13.0 No Compensation - The Licensee will not be entitled to compensation for any loss or injurious affection or disturbance resulting in any way from the termination of this Agreement or the application of sections 2 or 3 of this Agreement.

14.0 Miscellaneous:

- (a) This Agreement will not be interpreted as granting any interest in the Parking Stand[s] to the Licensee.
- (b) The Licensee expressly agrees that his or her vehicles and their contents while parked in a Parking Stand[s] shall be at the risk of the Licensee.
- (c) The Licensee agrees the Parking Stand[s] may be occupied only by those licensed sightseeing vehicles approved by the City in writing to occupy the Parking Stand[s].
- (d) Waiver of any default by a party will not be interpreted or deemed to be a waiver of any subsequent default.

- (e) This Agreement will be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- (f) Nothing in this Agreement will be construed to create a relationship of partners, joint venturers, fiduciaries or any other similar relationship between the Licensee on the one hand and the City on the other.
- (g) Nothing contained or implied in this Agreement will derogate from the obligations of the Licensee under any other agreement with the City or prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions under all public and private statutes, bylaws, orders and regulations, which may be as fully and effectively exercised in relation to the Parking Stand[s] and the Licensee as if this Agreement had not been executed and delivered by the Licensee and the City. For certainty, the City may amend or repeal the Vehicles for Hire Bylaw and the allocation of the Parking Stand[s] and otherwise terminate this Agreement notwithstanding anything contained or implied in this Agreement.

IN WITNESS of its terms, the parties hereto have executed this Agreement.

Signed by **THE CORPORATION OF THE**)
CITY OF VICTORIA on the ____ day of)
____, ____ by its authorized signatories:)

Mayor)

Corporate Administrator)

Signed by the **[NAME OF SIGHTSEEING**)
VEHICLE LICENSEE] on the ____ day)
of _____, ____ by its authorized signatories:)

Authorized Signatory:)

Authorized Signatory:)