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TO: Emergency Preparedness and Protective Services Committee

DESTINATAIRE : Comité des services de protection et de préparation aux situations d'urgence

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SUBJECT: Response to Motion 2021 20/4 (CPSC) – Private Transportation
Companies

OBJET : Réponse à la motion 2021 20/4 (CSCP) – Exploitants de transport privé

PURPOSE

This report provides the staff response to Motion CPS 2021 20/4 passed by the Community and Protective Services Committee on June 17, 2021:

Motion CPS 2021 20/4

That staff be directed to, in the next Term of Council, review the feasibility and impacts of, and any requirements associated with:

- 1. Imposing a limit on the number of Private Transportation Company (PTC) Vehicles that may operate in the City of Ottawa under a PTC license; and,**
- 2. Introducing additional licensing fee categories for vehicle fleet size ranges greater than 100, the current upper limit prescribed in the Vehicle-for-Hire By-law (2016-272, as amended)**

EXECUTIVE SUMMARY

Staff have reviewed the feasibility of both items noted in the above motion.

With respect to Item 1, staff have assessed that it is not feasible to impose a limit on the number of PTC vehicles this Term of Council due both to the complexity of this issue, lack of clear alignment with City policy objectives, and a lack of staff capacity to undertake the work that this significant policy change would require.

In order to understand the potential impacts of limiting the number of PTC vehicles, staff expect that engagement with PTCs, their drivers, and members of the public who rely on these transportation services would be required. Staff also expect that consultations with internal and external experts would be needed to understand how capping may affect the City's transportation goals and mobility needs, and what part these vehicles play in the City's overall climate change strategy and targets. Finally, a legal opinion, informed by a robust environmental scan, is needed to determine whether Council can cap PTC vehicles as part of its business licensing powers or other powers under the Municipal Act, 2001, and what, if any, limits and considerations may apply to these powers.

Given the complexity of this issue and the lack of staff capacity to undertake this work in this Term of Council in light of the by-law reviews on the proposed 2023-2026 By-law Review Work Plan, staff recommend that this issue be re-considered when the Vehicle for Hire By-law is fully reviewed. That review is expected to begin at the end of this Term of Council and be completed next Term of Council, as further noted below.

With respect to Item 2 relating to the creation of an additional licensing category for PTCs having a fleet size greater than 100, staff have assessed that this new fee category is not currently required for the administration or enforcement of existing regulations, as further noted below.

BACKGROUND

Council began licensing PTCs in 2016 with the enactment of the Vehicle-For-Hire By-law (No. 2016-272, as amended), along with taxi services (taxicab drivers, taxi plate holders and brokers) and limousine services.

As more fully described in the report entitled *Regulating Vehicles-For-Hire In the City of Ottawa – Taxis, Limousines and Private Transportation Companies* (Report [ACS2016-COS-EPS-0012](#)), the regulations for each category of vehicles-for-hire ensure provision of transportation services that meet the needs of residents and visitors based on the Council's guiding principles of public safety, accessibility, and consumer protection. In that regard, the by-law establishes a number of requirements common to all categories of vehicles-for-hire in the areas of driver screening (police record checks and statement of driving record), safety certification of vehicles (Annual MTO Safety Standard Certificate and vehicle inspections), vehicle age limits, and insurance requirements.

PTC drivers are regulated through the licensed PTC company, which is responsible under the by-law for ensuring that any driver using its platform meets the by-law requirements and regulations for drivers and vehicles noted above. The PTC must provide proof of compliance with by-law requirements to the Chief License Inspector on a regular basis. The Chief License Inspector audits PTC driver and vehicle records routinely and investigates any issues immediately. In 2022, 1,250 PTC audits were conducted by By-law and Regulatory Services, requiring the review of thousands of unique PTC driver records (e.g. driver licenses, vehicle inspection, vehicle registrations, driver history, and police records checks).

The regulations and processes adopted in 2016 take into consideration that PTC drivers generally are part-time drivers who may only drive for a few weeks or months at time using their own personal vehicles and setting their hours of availability by signing on and off the PTC's app. In this regard, the current model of regulating PTC drivers and vehicles through the licensed PTC company is working well, recognizes the transient nature of PTC drivers, and provides administrative efficiency while still ensuring that all licensing and regulatory requirements are being met for public safety and consumer protection. This data-driven approach streamlines administration and enforcement, making it easier for residents to participate in the ride-sharing economy while also ensuring that processes for the administration of driver licensing are efficient. To date, there has been a high degree of compliance both by licensed PTCs and PTC drivers.

The Vehicle-For-Hire By-law also recognizes that taxi drivers and limousine drivers are professional drivers who use a vehicle that is on the road continually. There are no limits in the by-law on the number of drivers that can be driving on a particular plated taxicab.

DISCUSSION

Issue 1 – Limiting number of PTC vehicles operating in Ottawa

Staff have considered the scope of work that this review will require and estimate it to be a significant project that could take up to 24 months. Given the scope of research, consultations, and engagement work required for the key areas noted below, staff do not currently have the capacity to undertake this work during this Term of Council in light of the number of by-law reviews and projects proposed in the 2023-2026 By-law Review Work Plan.

Staff note that ongoing work has occurred on the Vehicle-For-Hire By-law since its enactment in 2016 to address taxi-related issues, notably last Term of Council, which resulted in several by-law amendments and updates. Staff also expect to report on the results of the On-Demand Accessible Taxi Study in Q2 2023. However, the Vehicle-For-Hire By-law is only due for a full review in 2026 in accordance with Council's approved 10-year target for by-law reviews found in the [By-law Review Framework](#). Staff expect that planning and preliminary research to prepare for the full review of the by-law will commence at the end of this term, with a view to undertaking the actual review next Term of Council and reporting results and recommendations as soon as possible. The potential capping of PTC vehicles could be included in the full by-law review if deemed necessary by Council. Given the significant research and consultation work noted below associated with the capping issue, it is likely that external experts and consultants may be required, in which case budget pressures would be identified by staff to carry out this work.

However, should Council direct staff to move forward with the work necessary to cap PTC vehicles during this term of Council, staff recommend that one or more by-law review projects be removed from the proposed 2023-2026 By-law Review Work Plan in order to accommodate this new work.

Capping – Expected scope of work

Staff anticipate that the issues and considerations associated with imposing a cap on PTC vehicles in Ottawa are numerous, as follows:

Consultations and engagement:

Imposing a limit on the number of PTC vehicles operating in Ottawa represents a significant policy change in the City's regulatory regime for PTCs. Given the app-based nature of PTCs as well as the transient nature of PTC drivers, it is expected that any imposed limit on the number of PTC vehicles will have both an economic and operational impact the PTC's business model and their drivers, and may also affect the availability and affordability of transportation services supplied by PTCs. As a result, staff expect that consultations and engagement with PTCs and their drivers would be required to understand the consequences of a potential cap on this sector and the transportation services they provide. Consultations with the public who use and rely on PTC services would also be required.

Staff expect that a robust environmental scan would be necessary to determine both the rationale as well as the effect that a cap on PTC vehicles may have had in other jurisdictions. While other jurisdictions have temporarily halted the issuance of PTC licenses for specific reasons such as the implementation of a driver training program, to staff's knowledge only New York City has imposed a cap (i.e. a limit) due to local factors such as traffic congestion, pollution, and other concerns. Research into the experience there should be undertaken if a cap is contemplated in Ottawa.

Confirmation of legal authority to cap PTC vehicles:

It will be necessary to confirm that Council has the specific authority to impose a cap on PTCs (as opposed to pausing the issuance of licences for a specific reason), as there is no clear authority to do so as part of Council's business licensing powers.

The Municipal Act, 2001, confers the authority on municipalities to require certain classes of businesses to hold a license in order to operate, and may require those businesses to comply with regulations. While Section 156 of the Act specifically authorizes the City to limit the number of taxicabs as part of business licensing, this specific authority does not extend to PTC vehicles. For taxicabs, the by-law provides a plate holder license-to-population ratio to determine the number of licenses to be issued. The ratio is based on scientific review and a formula and can be amended by Council to increase the number of plate holder licenses if necessary. A legal opinion will therefore be required to confirm whether Council has the power to cap PTC vehicles under the Municipal Act, 2001, and what, if any, limits and considerations may apply to those powers. A robust environmental scan would also inform a legal opinion.

Transportation impacts:

The Transportation Master Plan (TMP) Part 1 Policies were approved by Council on April 26, 2023. Guided by the City's Official Plan, the TMP Policies set out the City's transportation goals and priorities. While the TMP Part 1 does not directly set out policies for PTCs or other vehicles-for-hire, it provides guidance on the City's mobility objectives and their impacts on issues such as accessibility, health and safety, affordability, congestion, and equity, among others. Based on an initial review, it is not clear that imposing a cap on PTCs would advance the policy objectives of the TMP. Staff expect that internal and external transportation expertise would be required to determine the role that PTC vehicles have in the following key areas prior to deciding whether to impose a limit on PTC vehicles:

- Traffic congestion:

At present there are between 3,500 and 5,600 licensed PTC drivers in Ottawa, depending on the month and on seasonal demand. Even at peak numbers, this represents a small fraction of the total number of vehicles that travel within or through the City. However, it is possible that their activity may be concentrated in certain neighbourhoods. To understand what impact a limit on the number of PTC vehicles would have for easing traffic congestion, staff would need to analyze existing PTC travel activity and its impact on congestion and would also need to analyze how the driving patterns of the remaining PTC drivers would be influenced if a cap was put in place. Similarly, it would be beneficial to understand consumer behavior if there are fewer PTC vehicles available to offer services. While some consumers may choose transit or active transportation, others may opt to use their personal vehicles, which may also affect traffic congestion.

Further research, including public consultation, would be required to better understand the likely modal split to be achieved between PTC alternatives and assess the net benefit or consequences a cap would have for easing congestion.

- Road Safety

City staff do not currently have data available to determine what impact the vehicle for hire industry, including PTCs, may have had on collision trends and traffic safety. Further research would be required to fully assess how PTCs may influence overall road safety. It may be possible to conduct future analysis based on recent changes to provincial collision reporting requirements. Staff note that

ensuring easy access to preferred transportation options, as articulated in the City's Strategic Plan, is an important tool for reducing impaired driving incidents. Mothers Against Drunk Driving Canada has called for "regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver's licence" as a key measure for minimizing impaired driving.ⁱ PTCs may also play an important role when transit service is not available, providing a more secure option for people travelling late at night.

- Sustainability:

Staff do not have the capacity to determine whether placing a cap on the number of PTC vehicles would be an effective means of reducing emissions in support of the [City's Climate Change Master Plan](#). This would largely depend on the extent to which PTCs currently provide access to rapid transit and support residents in living a car-free or car-light lifestyle. It would also depend on the mode shift that would result if the number of PTC vehicles was capped. Consideration of whether a transition to low emission and zero emission vehicles is more likely to provide greater emission reductions while minimizing the economic impact on PTC drivers and the mobility impacts for residents may also be required. Staff note that approximately two per cent of the current PTC fleet are electric, hybrid or low emission.

- Equity and Inclusion:

A concern exists that a cap on the number of PTC drivers may have unintended negative consequences for equity and inclusion. A recent trial to limit the number of PTC drivers in New York City was "opposed as a civil rights issue by organizations such as the National Urban League, the National Action Network and the N.A.A.C.P."ⁱⁱ Possible equity impacts that would need to be considered include reduced opportunity to earn income, disproportionately impacting ethno-cultural minorities, and reduced service to suburban and rural residents and low-income neighbourhoods. A reduction in PTC service is of particular concern where transit service is infrequent or not available (such as late at night). As such, staff recommend that robust public consultation, including gender, race, Indigenous, and other equity-deserving groups, be undertaken to inform further consideration if capping of PTC vehicles is requested by Council and how it may impact residents.

Furthermore, staff expect that the results of the fall 2022 Origin-Destination Survey may provide valuable information on the transportation impacts of PTCs or other categories of vehicles-for-hire that would be helpful in informing future regulations, including whether capping is needed to address issues such as traffic congestion or traffic safety, and to better understand the potential consequences that limiting PTC vehicles might have for users and on the City's mobility goals. Results of the Origin-Destination Survey are expected to be available later in 2023.

Issue 2 – New licensing fee categories for PTC with vehicle fleet size ranges greater than 100

Subsection 391(1)(a) of the Municipal Act, 2001, authorizes the City to impose user fees to recover or defray its costs related to a specific service or activity it provides.

Subsection 391(3) of the Act further provides that a user fee can include the municipality's costs in administering and enforcing the service in question, such as a licensing regime. As noted in the 2016 Report *Regulating Vehicles-For-Hire in the City of Ottawa*, licensing fees can therefore cover the City's costs related to issuance and renewal of licenses, reviewing applications for licenses and supporting documents, administering and issuing suspensions or revocations of licenses, as well as costs related to investigations and enforcement activities.

However, case law pertaining to user fees indicates that they must only be charged on a cost recovery basis and cannot be used to generate revenue. Similarly, a user fee cannot be used as a punishment to the operations of a business. Any user fee that is imposed beyond cost recovery purposes may be contrary to the *Municipal Act, 2001*, and may be subject to legal challenge as an illegal or unauthorized tax that is outside of the City's authority.

In the case of PTCs, the Vehicle-For-Hire By-law imposes an annual licensing fee of \$7,696.00 plus a per trip fee of \$0.11 for any PTC that has 100 or more affiliated vehicles. This licensing fee is the same for taxi brokers having 100 or more taxicabs.

Currently, staff assess that cost recovery is being achieved for the administration and enforcement of the by-law in relation to PTCs in this category. Given the above, staff confirm that the current licensing category and accompanying fee for PTCs with 100 or more vehicles is appropriate. Licensing fees are reviewed on a yearly basis as part of the budget process, and staff will monitor this issue as part of that process.

CONCLUSION

Staff do not recommend that a cap on PTC vehicles in Ottawa be pursued at this time, due to the complexity of this significant policy change, the work required to explore the issues associated with it, and the lack of staff capacity to undertake this work during this Term of Council in light of other proposed by-law reviews and projects. Furthermore, staff recommend that information resulting from the TMP and associated work be considered to inform Council's further decisions on this issue. As noted above, the Vehicle-For-Hire By-law is due to be reviewed in 2026, at which time the option of capping PTC vehicles could be considered and incorporated into the review should it be deemed necessary by Council.

The addition of a new licensing fee category for PTCs having more than 100 vehicles in their fleet is not necessary at this time. The costs of administering, managing, and enforcing the Vehicle-For-Hire By-law are currently being met under the existing licensing fee structure. Licensing fees are reviewed on a yearly basis as part of the budget process, and staff will monitor this issue as part of that process.

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CC: Senior Leadership Team

ⁱ MADD Canada, [The Top Ten Report: Provincial/Territorial Measures to Minimize Impaired Driving and Support Victims](#), accessed January 19, 2023

ⁱⁱ New York Times, [Uber Gains Civil Rights Allies Against New York's Proposed Freeze: 'It's a Racial Issue'](#), accessed 23 Jan 2023