

Assessment of Key Issues/Requests – Vehicle-For-Hire By-law (2016-272, as amended)

The following is a summary of staff's assessment of key issues and requests received regarding the *Vehicle-for-Hire By-law* (VFH By-law). These issues were raised by Unifor (Local 1688), Coventry Connections, and/or members of Council.

A. Issues Suitable for Consideration in Minor Amendments Report (Scheduled for Q1 2021)

1. Eliminate or Reduce Number of Taxi Inspections (for taxicabs that are 5-year-old models or less; A taxicab inspection is required during the fall if the vehicle model is older than 5 years)

Staff response: Taxicab inspections are in place to address public health and safety and consumer protection concerns related to the extensive, largely full-time usage of taxicabs as part of the public transportation network. However, staff are willing to review the request to reduce the number of taxi inspections to one per year, across all taxicab categories as part of the mid-term minor amendments process.

The primary purpose of taxicab inspections by staff is to ensure that in-vehicle taxi cameras and taximeters are functioning properly. In the case of accessible taxicabs, the required Global Positioning System and rear sensors are also inspected. This is in addition to the requirement for a valid Safety Standards Certificate demonstrating that a vehicle inspection by a licensed mechanic has been undertaken. By-law and Regulatory Services (BLRS) staff also inspect for other matters such as appropriate signage (e.g. tariff card, in-vehicle camera privacy notification).

2. Reduce the Transfer Fee for Taxi plates

A reduction in the taxi plate transfer fee (user fee) from \$4,033 to \$500 has been requested, citing the decrease in current plate value and in taxi business, and the need to provide incentive to potential new licensees to enter the industry. A specific request to review the amount of the transfer fee for accessible taxicabs was also received.

Staff response: It should be noted that any transactions undertaken by taxi plate holders on the private market have no bearing on the setting of the City's licensing fees or similar user fees. All licensing fees, including taxi plate licensing fees, are established on a cost-recovery basis – that is, to recover administration (including intake and review), enforcement and inspection costs of the City. In addition to these costs, considerable staff time is required to process requests for transfers of plate holder licenses from one party to another. Consideration of this request can occur as part of the minor amendment process.

3. Amend the By-law to allow advance payment by customers

Unifor has requested the addition of an advance payment mechanism by customers upon entering the taxicab, in order to address incidents of non-payment by passengers and that the Private Transportation Company (PTC) industry gets advance payment.

Staff response: Staff can review, as part of a minor amendment report, the possibility of building-in an advance payment mechanism into the by-law for taxicab services being used both through an app and in person, including the conditions under which advance payment can be required (e.g. during evening hours). This would not affect the overall Council approved taxi tariffs charged for the trip, which will not be amended, but rather would create an administrative process for pre-payment by the customer under certain circumstances. By-law and Regulatory Services receives approximately 500 requests for service annually concerning non-payment of fares (a small fraction of the total number of trips provided by taxicabs). Staff undertake investigations related to non-payment of fares and have success in obtaining payment from passengers. If the industry moves towards increased usage of an app, then staff expect that advance payment opportunities will increase.

4. Remove requirement for side identification numbers on taxicabs when not in service (number located near the rear passenger door handle)

Staff response: Staff agree that taxicabs do not require an identification number when not in use, and therefore support the review of a minor amendment to specify that identification numbers are only required when the taxicab is available for or providing service and can be removed during non-service times. All identification numbers would have to be re-applied/placed on the taxicab when it returns to service, however.

Overall, it is noted that staff do not support the removal of taxicab identification numbers permanently, as these provide an important, visible source of identification of the taxicab for passengers. In 2007, the requirement for taxi identification numbers was put into place, with a minimum height of 15 centimeters, to appear near all passenger door handles. The purpose of this number was to ensure that passengers could easily identify the taxicab from the side of the vehicle, given that the plate on the bumper of the taxicab and the roof sign number are not always clearly visible. This side identification number is deemed particularly helpful in circumstances where there is low light. Furthermore, the Accessibility Office of the City has confirmed that the prescribed font style and size of the side identification number is appropriate for persons with disabilities and seniors.

5. Amendments to the Taxi Tariff Card

Unifor has requested a maximum surcharge of \$10 to place luggage and bulky items inside the vehicle subject to safety considerations. The union has also requested that costs for cleaning of a taxicab be increased to \$150 instead of \$50.

Staff response: Staff agree that taxi tariffs/fares related to luggage and clean-up of the taxicab can be reviewed, and this could be done as part of a minor amendments report.

6. Request for Electronic Submission of Vehicle Registrations for taxicabs

Unifor has requested that an electronic submission process for required documentation and payment of fees by taxi licensees be developed.

Staff response: Staff agree and will review, in consultation with the City's Information Technology Services and other relevant departments, the feasibility of an electronic license application/renewal and licensing fee payment system. This can occur as part of the minor amendments process. Worth noting is that an electronic system would not be able to

accommodate cash payment of license fees, which many taxi licensees seem to prefer. Should an electronic submission system be feasible, staff anticipate that only minor amendments to the by-law would be required as this would largely be an administrative issue related to license application or renewal.

7. Require Notice by PTCs regarding Camera use

Unifor has requested that the City require that if a PTC driver uses a camera (e.g. interior dash cam) capable of recording audio or video, the PTC driver must ensure that a notice stating that passengers are being recorded is provided in the vehicle. (Staff acknowledge that cameras are not currently required in PTC vehicles under the by-law, but that some individual PTC drivers may use them on a case by case basis).

Staff response: Staff note that any use of an interior camera by a PTC or other entity while providing transportation services is subject to Federal privacy legislation. However, staff will review this request in further detail and any potential VFH By-law amendments, as appropriate, and this could be proposed through the minor amendments report scheduled for Q1 2021.

8. Increase Age of Entry for Electric and Hybrid Taxicab Vehicles

An increase in the age of entry, beyond the current limit of 5 years, is requested for electric and hybrid vehicles to be used as taxicabs (e.g. increase to 6 or 7 years for entry).

Staff Response: Staff agree that a potential increase in the age of entry of electric and hybrid vehicles to be used as taxicabs beyond the current 5-year limit should be reviewed as part of the minor-amendments process scheduled for Q1 2021. Consideration for this request will include the suitable age of entry for these vehicles, as well as the environmental benefits of encouraging the use of these vehicles and overall efficiency and performance.

As noted below, staff do not support any increase to the overall maximum age of vehicles used as taxicabs (10 years), or any increase in the age of entry for non-hybrid/electric vehicles used as taxicabs.

B. Issues Not Recommended for Amendment

9. Request for Amendment of Commercial General Liability Insurance Requirements

- Request by Unifor to reduce the Commercial General Liability (CGL) Insurance coverage from \$5 Million back to \$2 Million per occurrence
- Concern from Unifor that the \$5 Million liability requirements caused a huge increase in commercial insurance price; insurance coverage is too difficult for drivers to obtain
- Concern that cost of insurance premiums recently increased by broker (20% for drivers with a clean record, and up to 60% depending on number of claims against driver)

Staff Response: A reduction of Commercial General Liability (CGL) insurance limits is not recommended by staff. Both taxi brokers and taxi plate holders are required under the by-law to obtain this CGL insurance as they are operating a business under a license issued by the City, and the City is named as additional insured under those policies. The CGL insurance covers losses and claims arising out of the operation of the business (such as trips and falls) and

therefore has an important part to play in consumer protection. The CGL limits were increased to \$5 million from the previous \$2 million in 2016 to recognize the trend in increasing amounts of settlements and court awards for damages. When proposing this increase in 2016, City staff consulted with an external legal counsel, an independent insurance broker with experience in the taxi industry, the City's own insurance broker, and the City's insurance consultant, all of whom recommended the increase in limits from \$2 million to \$5 million for CGL.

With respect to motor vehicle liability insurance, the by-law requires that taxi plate holders obtain \$2 million coverage for their owned and non-owned vehicles. Taxi drivers must be covered under the taxi plate holder's automobile liability insurance as required by Section 84(2)(e) of the by-law. The rationale is that each taxi plate holder who owns or leases the taxicab must ensure that the automobile insurance for the taxicab extends to each driver that will actually be driving the taxicab. This is the same for limousine drivers.

The VFH By-law allows for flexibility in insurance arrangements that may be made between taxicab brokers, plate holders and drivers (or any combination). Coverage may be possible under a fleet or blanket commercial policy in certain cases. The City Clerk and Solicitor has the authority under the by-law to approve any alternate insurance coverage that is proposed by any of these licensees provided that the types of coverage and limits meets the requirements of the by-law for consumer protection. Any licensee (or his/her insurance broker) is encouraged to contact City staff to determine whether their alternative insurance coverage or arrangements are acceptable under the by-law. The City does not play a role in the setting of insurance premiums, as these are determined by the insurance industry based on assessed risks and relevant factors for the particular industry. Any licensee is free to deal with the broker of their own choosing.

In 2016, City staff obtained the advice of external legal counsel and three different insurance brokers/consultants to inform its recommendation to raise Commercial General Liability (CGL) limits from \$2 million to \$5 million in 2016. At the time, the brokers advised that the increased costs to taxi plate holders of purchasing a greater insurance limit were difficult to calculate because these depend on factors such as the size and value of the business, the automobiles being used, and the particular history of the drivers, and the assessed risk, among other factors. However, they confirmed that CGL insurance was commercially available both in the regular and facility markets, and this has been confirmed again in 2019.

10. Unifor Request/Comment: There are no [insurance] obligations imposed on individual drivers under the PTC provisions.

Staff Response: The VHF by-law imposes insurance requirements relating to both the private transportation companies themselves (e.g. Uber, Lyft) as well as their affiliated drivers. Section 144(1) and (2) require that the private transportation company ensure that each PTC driver affiliated with it have \$2 Million automobile liability insurance coverage with an endorsement providing permission to carry paying passengers. This same limit is imposed for automobile liability insurance for taxi drivers and plateholders. The by-law provides that this insurance coverage can be obtained either by: (1) the individual driver who must then provide proof to the company, or (2) the company itself who may purchase an approved commercial/fleet type automobile liability policy that extends to the drivers and contains the required endorsements. Either way, the automobile liability policy must include permission from the insurance company to carry paying passengers (see s.144(2)).

The auto liability coverage obtained by the PTCs applies on a primary basis and extends to both the PTC driver and vehicle, their passengers, and third parties, when the vehicle is available for service as well as during the trip up to the conclusion of the trip. The limits and coverage types of these policies meet the requirements of the by-law. Proof of this coverage, including the applicable endorsement, have been provided to the City by the PTCs. These requirements are regularly monitored and enforced, with advice from Legal Services as required. As with any licensee, the Chief License Inspector takes appropriate enforcement action in the case of non-compliance.

11. Amend Age of Vehicle (Entry and Maximum)

Unifor has requested an extension of the 5-year limit vehicle model age for new taxis entering service to a 7-year-old model age, and an extension of the maximum age for a taxicab from 10 to 12 model years, citing high vehicle replacement costs and monthly expenses that drivers pay to plate holder licensees, and given that there is no minimum entry age for PTC vehicles.

Staff response: Staff do not recommend an amendment to the entry age of a vehicle to be used as a taxicab (5 years), subject to staff's comment above about the review of the age of entry of electric and hybrid vehicles to be used as taxicabs. Staff do not support any increase the overall maximum age of the vehicle (10 years). The minimum vehicle model age at entry level has been 5 model years since 2012. In 2016, the maximum age limit was increased to 10 years, and this is the same for taxicabs, PTC vehicles and limousines (except classic models). For taxicabs, data obtained from inspections indicates that taxis can accumulate between 35,000 km to 50,000 km per year, potentially accumulating to 350,000 to 500,000 by year 10. As a result, the vehicle age requirements establish a reasonable standard for a service vehicle and reflect the full-time usage of taxicabs as part of the public transportation network, taking into consideration concerns of public safety and consumer protection.

12. Amend Age of Vehicle for Accessible Taxicabs from a 10-year-old model to 12-year-old model.

Staff response: The objectives of regulation – public safety, consumer protection, nuisance control, accessibility – are paramount. As noted above, the maximum vehicle age limit of 10 years approved by Council in 2016 is based on those objectives, which are the same for both standard and accessible taxicabs, as well as PTC vehicles. On that basis, staff do not support changes to the vehicle age limit for accessible vehicles.

13. Allow Increased Pricing/Surcharge in App Calls During Inclement Weather

Unifor has requested that when an app is used to arrange a trip, allow increased pricing when there is an increase in demand, such as during extreme weather conditions and specific holidays (e.g. New Year), in order to address the risk associated with driving at such times, including those related to insurance. Street hails and other pickups (off-app) would be subject to the regular meter rates.

Staff response: Generally, staff do not support surge pricing for taxicabs and the Council policy decision in 2016 was to create a model that allowed the customer to choose between PTCs that can use surge pricing on the one hand, or the taxicab model with stable pricing on the other. The current by-law therefore provides certainty for customers by not allowing the taxi industry to surge price so that passengers would only be charged the regulated fare (or less,

where an app is used) and would have the confidence that the fare would not be far greater. This would seem to provide the taxi industry with an advantage over PTCs. In addition, taxicabs are the only vehicle-for-hire that are authorized to pick up passengers at taxis stands as well as through street hailing, and that allow for cash transactions.

14. Requirement for PTC Identifier

Unifor has requested a by-law amendment to require PTCs vehicles to bear an identifying logo/decal in the back window to allow customers and enforcement staff to identify them, particularly in cases where prohibited activities are occurring (illegal street hails or use of taxi stands).

Staff response: In 2016, staff did not recommend that PTC vehicles be required to bear an identifier as concerns existed at that time that identification of PTC vehicles would lead to, or encourage, off-app illegal street hails from the public. Furthermore, from a customer protection and public safety perspective, staff are of the opinion that the use of the PTC app, which provides the customer with a detailed description of the vehicle being dispatched and the driver in question, is more effective in allowing the customer to correctly identify the vehicle they have requested.

Currently, the by-law does not require PTC vehicles to bear an identifying logo but does not prohibit it either.

15. Amendment to make the City responsible for PTC complaints

Unifor has asked that the by-law be amended to make City responsible for handling complaints regarding PTC drivers and services provided by PTC companies as they do now for all other transportation service providers (Example: taxi, limousine, public transit).

Staff response: Staff do not support this request for an amendment to the by-law. The model for PTCs approved by Council in 2016 offers an alternative system for consumers in which the PTC is responsible for receiving and responding to consumer complaints.

It is noted that, in addition to having the ability through the app to rate customer experience and register a complaint or concern to the PTC, passengers of PTC vehicles may also notify BLRS staff, which in turn will raise the issue with the PTC. When PTC-related issues arise and are known to BLRS through media or social media, staff will follow-up directly with the designated contacts at the relevant PTC.

In addition, the Chief License Inspector may take, and has taken, enforcement action against the PTC, which is ultimately responsible for its drivers. This is the nature of the PTC business model and the City's policy approach described above. In addition, some requirements of the VFH By-law apply directly to the PTC driver, who can be charged for any non-compliance, such as with the prohibitions on accepting street hails or cash payment and failing to have or maintain appropriate insurance while providing PTC service.

16. Amend the Minimum Accessible Service Requirements of the By-law

A request has been made to decrease the current accessible service standards found in Section 60 of the VFH bylaw, which requires accessible taxicabs to be on the road and available for on-demand service 10 hours a day, 5 days a week, citing issues of lack of sufficient drivers.

Staff response: Staff do not support this request to reduce the requirement for on-demand accessible service. The requirement that accessible service be provided 10 hours a day, 5 days a week, applies to the accessible vehicles themselves, not to their drivers. As a result, several drivers may be deployed over this time period to fulfill this requirement. The plate holder licensee, who is also required to be a licensed taxicab driver, is therefore responsible for ensuring that the requirement is met. This on-demand service standard is important for the delivery of accessible taxicab services and is subject to enforcement by the Chief License Inspector.

Any issues regarding meal breaks, vacation time, or sick days of taxicab drivers, as raised by Unifor, are matters for discussion between these employees and their employer. The City has no mandate in the labour relations between taxi employees and their employer.

17. Request to Impose Driver Training

Unifor has requested that the City consider a requirement for Vehicle-for-Hire drivers to successfully complete a third-party training program, including a final evaluation that satisfactorily meets the criteria established by By-law and Regulatory Services. This request includes consideration of programs with an in-car and/or class component, a defensive driving training component, and accessibility, diversity and sensitivity training.

Staff response: Staff do not recommend the imposition additional driver training at this time. The by-law currently requires that all taxicab drivers must pass *Accessible Taxicab Training*, approved by the Chief License Inspector, as a condition of licensing. The City continues to require accessible training for taxicab drivers in order to meet the City's accessibility-related objectives. Private Transportation Companies do not currently provide wheelchair accessible vehicles, nor do limousines. Therefore, these categories do not require accessible training.

Staff will however monitor and review the work in this regard being undertaken by the City of Toronto and other jurisdictions. Staff continues to maintain that it is in the best interest of the transportation service provider to ensure that its drivers are trained in areas such as defensive driving and customer service, and that the service provider can deliver such training to its own specifications rather than have this component regulated by by-law. Finally, staff's assessment of any in-class training component for driver skills, as requested by the industry, is not necessary at this time given that drivers in Ontario must pass a driving training test administered by the Ministry of Transportation.

18. Request to require minimum 3 years driving experience and English language test for all vehicle-for-hire drivers

Staff Response: Staff do not support a new requirement in the by-law that all vehicle-for-hire drivers have a minimum of 3 years driving experience and pass an English-language proficiency test. The current requirements across all categories of drivers include the submission of an acceptable Statement of Driving Record as well as proof of a driver's license. These records are reviewed by the Chief License Inspector, and any issues are flagged and addressed. This process is deemed to be sufficient to ensure public safety and consumer protection. In terms of

requiring an English-language proficiency test for drivers, staff note that each service provider – taxi plate holder, PTC and limousine service – are best placed to ensure that their drivers can communicate effectively with their passengers. As a result, staff recommend that language proficiency continue to be monitored by each provider to its own specifications rather than have this component regulated by the City.

C. Issues Outside Mandate of Staff / Not Within Regulatory Regime

19. Request for Funding of Accessible Taxicab Services – Various Issues:

- Unifor has requested that the City subsidize the conversion costs of accessible taxicabs.
- Unifor has requested that where the customer places a dispatched call or when an app is used to arrange the trip for the purpose of using a wheelchair, a levy of \$15 is to be added to the fare, and this levy is to be paid by the City and not by the accessible customer. Unifor states that this matter could be covered by the City's VFH Accessible Fund, which should also be increased, and that this would address the higher cost of operating an accessible taxicab as well as the additional time required to properly and safely load/unload accessible customers, who often travel for very short distances.

Staff response: Consideration of the City's subsidizing of accessible taxicab costs (e.g. costs of obtaining or maintaining accessible taxicabs) or of trips by customers using a wheelchair (e.g. a surcharge to be paid by the City for accessible taxicab trips) are outside the scope of the VFH by-law – that is, these areas are not suitable for regulations but rather should be addressed by policy considerations outside of the regulatory regime of the by-law. Staff note that allocation of the VFH Accessibility Fund was decided by Council on March 27, 2019 as part of its consideration of the *Vehicle-For-Hire Accessibility Fund Allocation Plan* report (ACS2019-EPS-GEN-0002). Consideration of these funding issues for accessible taxicabs may be possible as part of future consideration of the VFH Accessibility Fund by Council, and staff will flag this issue for that forum. However, this is not a by-law or regulatory issue.

20. Requests for external studies on the impact of ridesharing

A request for the City to commission studies on the impact of PTCs on traffic congestion and on-street parking; public transit; VFH safety measures (in-car cameras, snow tires and anti dooring side mirrors); accessibility services and Para Transpo; the taxi industry; and the performance of the Accessibility Fund Program.

Staff response: In terms of the impact of PTCs on traffic congestion, parking, and public transit, staff note that the City's Transportation Services department, is currently leading the review of the Transportation Master Plan (TMP) which will consider some of the pertinent components mentioned above. Any regulatory changes to address these issues, such as a proposal to cap/limit the number of PTC vehicles in the by-law, would be premature until the TMP review is completed and an evidence-based policy decision can be formulated. As noted above, Council allocated the funds collected in the VFH Accessibility Fund earlier this year, and this is not an issue that is addressed by regulations in the by-law. However, staff will flag the issue of funding of accessible taxicab costs for consideration in the context of any ongoing work by staff and the advisory committee responsible making recommendations for the Accessibility Fund, and the applicable processes for consultation and reporting would apply.

Staff continue to oppose the requirement for cameras in PTC vehicles largely due to the fact that the vehicles are used for personal use. Staff will monitor the safety issues raised in relation to “anti dooring side mirrors”, however this issue has not been a concern in Ottawa to date.

21. Development of New Insurance Products for Taxis

A request has been made that the City work with the province to come up with new insurance products for taxis similar to ridesharing insurance.

Staff response: While staff monitor, review and approve proof of insurance provided by licensees and enforce the by-law’s insurance requirements, City staff have no role in the development or approval of actual insurance products available for drivers, plate holders or taxi brokers, or other entities. The approval of insurance products is a matter for the Financial Services Regulatory Authority of Ontario (formerly the Financial Services Commission of Ontario), a provincial entity. This area is not within City Staff’s mandate and is not a regulatory issue to be addressed in the by-law.

22. Reporting of Crimes to Police

A request has been made that the City require all VFH companies to report any complaints regarding assaults, including sexual assaults, immediately to the police.

Staff response: Staff will consult with Ottawa Police to determine if, and how, City staff can facilitate the reporting process of suspected crimes by licensees across all vehicle for hire categories (taxis, PTCs and limousines).