

**City Council
Agenda Memo**



TO: David Vela, Interim City Manager

**City Council
Meeting Date: December 4, 2014**

FROM: Don Green, Interim Deputy City Manager

SUBJECT: Replace Chapter 31, "Vehicles for Hire" of the Code of Ordinances

GENERAL INFORMATION

The City regulates vehicles for hire by company and driver through Chapter 31 of the Code of Ordinances. This ordinance needed to be updated to better reflect how companies in Abilene are conducting legitimate vehicle-for-hire business. Among the changes, the revised ordinances clarifies requirements for approval of new drivers, changes taxicab signage requirements, updates insurance and vehicle inspection requirements and eliminates the requirement for a taxi meter, but establishes that a maximum rate(s) may be set by the City. The new ordinance also allows "rideshare" applications, but with the same driver approval requirements as traditional taxicab drivers.

City staff met with local vehicle-for-hire company owners twice during this ordinance re-write and came to agreement on this ordinance. This item requires a public hearing.

The ordinance and written resolution are attached as Exhibits A and B.

FUNDING/FISCAL IMPACT

The city charges fees for applications and driver background checks to cover the cost, but those are addressed outside of this ordinance and will be brought as a fees resolution on second reading.

STAFF RECOMMENDATION

Staff recommends City Council approve this ordinance.

<p>Prepared by: Name: Don Green Title: Interim Deputy City Manager</p>	<p>Item No. <u>6.5</u></p>	<p>Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ City Secretary</p>
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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE DELETING AND REPLACING CHAPTER 31, "TAXICABS" OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City has a duty to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, to meet that duty, it is the policy of the City to promote efficient, safe, reliable, and quality ground transportation services in the City of Abilene; and

WHEREAS, the City of Abilene currently has an ordinance that governs the operation of taxicab and limousine service in the City of Abilene; and

WHEREAS, the last comprehensive update of that ordinance occurred in 1985; and

WHEREAS, the current ordinance has legally unenforceable provisions as well as provisions that unnecessarily restrict free enterprise; and

WHEREAS, this Taxicabs ordinance update provides for the regulations of ground transportation services to be carried out in a manner that protects the public health and safety, promotes public convenience, and respects free enterprise.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 31, "Taxicabs" is hereby deleted in its entirety and replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 3: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 4: That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

PART 5: Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 4th day of December, 2014.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 14 day of December, 2014, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 18th day of December, 2014, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 18th day of December, 2014.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Replace CHAPTER 31 “Taxicabs” in its entirety with the following:

CHAPTER 31. VEHICLES FOR HIRE

ARTICLE I. IN GENERAL

Sec. 31-1. Statement of Policy.

It is the policy of the City to promote efficient, safe, reliable, and quality ground transportation services in the city. To this end, this chapter provides for the regulations of such services to be carried out in a manner that protects the public health and safety, promotes public convenience, and respects free enterprise.

Sec. 31-2. Scope.

This chapter governs the operation of vehicles for hire in the city. It does not limit the City Council’s authority to grant specific operating authority with special provisions. In the event there is a conflict with this chapter, the special provisions shall apply.

Sec. 31-3. Definitions.

The following words and phrases as used in this article, unless a different meaning is plainly required by the context, shall have the following meanings:

“*City*” shall mean the City of Abilene, Texas.

“*Courtesy Vehicles*” shall mean a vehicle that provides a passenger ground transportation service exclusively for the clients of a sponsor of the vehicle for no fares or compensation paid to the driver or to the sponsor and such sponsor does not engage in providing a vehicle for hire service of any kind.

“*Limousine service*” shall mean service that is chartered or reserved by the customer well in advance of the time the service is rendered and is on irregular routes and schedules and with a pre-arranged flat fee.

“*Non-motorized vehicle*” shall mean any vehicle that is not self-propelled.

“*Taxicab service*” shall mean service is rendered in prompt response to receipt of the request for service from the customer. Such requests are typically received in one of the following ways:

- (1) Via telephone, internet, or any other voice, data or electronic communication, in which case a dispatcher forwards the customer's request to a taxicab driver or in which the customer contacts the driver directly.
- (2) Via direct contact, in which case the customer communicates directly with the driver of a taxicab waiting at a motel, hotel, airport, or bus terminal or similar location.
- (3) Via direct contact in which case a customer hails or flags down a passing taxicab.

“*Vehicles for hire*” shall mean all vehicles, whether motorized or non-motorized which transport passengers for hire, except for those classes of vehicles which are specifically excluded by Section 31-4.

Sec. 31-4. Exceptions.

The provisions of this chapter shall not apply to the operation of vehicles that are:

- (1) Operated under state or federal authority unless subject to the city's regulatory authority;
- (2) In the performance of a service involving a point of origin or destination outside the city that was authorized by a certificate of public convenience and necessity issued by the Texas Railroad Commission, except that the director shall prescribe routes, times, and locations for loading, unloading and stopping on public streets in the city for a ground transportation service operated under such a certificate;
- (3) Operated for a funeral home in the performance of funeral services;
- (4) Provided by an employer or employee association for use in transporting employees between the employees' homes and the employer's place of business or between work stations, with the employees reimbursing the employer or employee association in an amount calculated only to offset the reasonable expenses of operating the vehicle;
- (5) Owned and operated by the federal or state government, by a political subdivision of the state, or by a person under contract with the city for operation of the vehicle;
- (6) Used in a carpool to transport the person and others on a prearranged basis between their homes and places of employment or places of common destination, if only a fee calculated to reasonably cover expenses is charged;
- (7) Used to transport children to or from school if only a fee calculated to reasonably cover expenses is charged;

- (8) Owned by a nonprofit organization and carrying only passengers associated with that organization, if no compensation is received from any other person for carrying the passengers;
- (9) A courtesy vehicle, as defined in Section 31-3 of this chapter, if the name of the business or sponsor of such vehicle is permanently affixed to the outside of the vehicle;
- (10) Those services provided by Abilene Transit System wherein persons are transported along regularly scheduled routes throughout the city for loading and unloading, at frequent intermittent stops, alongside the curb or curb lines of a street; and wherein the disabled and the elderly are provided with special services.

Sec. 31-5. Fees.

Fees specified in this chapter shall be determined by City Council from time to time and placed on file in city secretary's office. Fees for licenses or permits issued for less than a full year shall not be prorated. Fees are not refundable in the event the license or permits are cancelled or revoked prior to expiration. Documents which are lost or destroyed, may be replaced upon payment of a document replacement fee.

Sec. 31-6. Application.

Every application for a license or permit under this chapter shall be in writing, signed and sworn by the applicant, and shall be filed with the City Secretary. The application shall be on a form provided by the City Secretary and shall contain any information that the City Secretary considers necessary for implementation or enforcement of these regulations.

Sec. 31-7. Term; expiration; renewal.

The term of all licenses and permits shall be for not more than one year with expiration on January 31. Renewals shall be applied for in the same manner as specified for the original permit. Renewal permits may be issued during the month of January for expiration on January 31 of the following year.

Sec. 31-8. Appeal of Denial, Suspension, or Revocation of License or Permit

- (1) If the City Secretary or Chief of Police determines that grounds exist for the denial, suspension or revocation of a license or permit under this chapter, the licensee or permittee shall be notified of such denial, suspension, or revocation in writing by certified mail, stating the reasons for denial, suspension or revocation, the effective date, and that the licensee or permittee has the right to appeal.
- (2) The denial, suspension, or revocation of a license or permit may be appealed to the City Manager by filing written notice of appeal within ten (10) business days of receipt of the denial, suspension, or revocation with the City Manager's Office. The

notice of appeal should contain all information on which the City Manager can make a decision.

- (3) The City Manager shall issue a decision on the denial, suspension or revocation in writing within five (5) business days of receipt of the written notice of appeal.
- (4) If no appeal is filed within 10 business days, the decision of the City Secretary or Chief of Police becomes final and unappealable.

Secs. 31-9 through 31-15. Reserved.

ARTICLE II. OPERATING LICENSE

Sec. 31-16. Required.

No person shall operate or dispatch or cause to be operated or dispatched a vehicle for hire without being properly licensed by the City under procedures set forth in this article.

Sec. 31-17. Dispatch License.

Any entity which receives requests for taxicab service via telephone, internet, or any other voice, data or electronic communication and then forwards the request to a vehicle for hire must have a license to operate in the City.

Sec. 31-18. Exempt Vehicles.

Licenses are not required for dispatch for limousine service or for non-motorized vehicles, as defined in [section 31-3](#).

Sec. 31-19. Insurance–Minimum coverage.

- (1) Applicants for operating or combined operating/dispatching licenses shall furnish evidence of vehicle liability insurance currently in effect as part of their application. Evidence shall be in the form of a properly executed certificate of insurance (or a certified copy of the insurance policy) and shall be written through an insurance company approved by the Risk Manager or designee.
- (2) Said insurance shall clearly evidence coverage for each and every vehicle to be licensed or permitted and shall provide coverage for personal injury and property damage and types and amounts of coverage with minimum limits set by the city council.

(3) Said policy shall include a requirement that thirty (30) days' advance written notice of cancellation or material change be provided to the City Secretary of the City of Abilene.

(4) Minimum amounts notwithstanding, the city reserves the right to increase the minimum required insurance to be effective ninety (90) days after notice is sent to the holder of a license.

(5) Minimum Insurance Requirements for Taxicabs/Limousines

TAXICAB	TYPE	AMOUNT
		Limits of liability bodily injury:
		\$100,000 per person
		\$300,000 per occurrence
	Comprehensive auto (or business and auto) liability insurance--Covering:	
		Property damage:
	(1) All owned/leased vehicles	
	(2) All hired vehicles	\$100,000 per occurrence
		or
		\$300,000 combined single limit per occurrence for bodily injury and property damage

Sec. 31-20. Same-Policy to comply with state standards.

Should the state board of insurance adopt changes to policies of insurance in excess of those required by these regulations, the holder of a license shall be required, on issuance of the next policy, to comply with the newly adopted insurance standards.

Sec. 31-21. Denial.

- (1) Applications for license that are incomplete under this article shall be denied by the City Secretary.
- (2) The Chief of Police shall recommend disapproval of an application if the applicant's past criminal history, including known criminal investigations, includes felony or misdemeanor charges that relates to the conduct of the operator's business or results from an assault against person.

Sec. 31-22. Transfer.

Licenses shall be issued to a person, partnership or corporation and shall not be transferable or assignable.

Sec. 31-23. Revocation of license.

Every license issued under this article shall be subject to revocation or suspension by the Chief of Police for any of the following reasons:

- (1) Because of an operator's conviction of a felony or misdemeanor if the crime directly relates to the conduct of an operator's business or results from an assault against person.
- (2) The license was obtained by an application of which any material fact was omitted or state falsely.
- (3) The operator has persisted in permitting his vehicles, drivers, and/or dispatching operation to be operated in violation of any law.
- (4) Failed to pay ad valorem taxes to any entity on any property the applicant uses in connection with taxicab or limousine service.
- (5) The operator has failed to comply with any of the provisions hereof.

Sec. 31-24. Suspension of License.

- (1) Every license issued under this article shall be subject to suspension by the Chief of Police in the event the license holder is charged with or is the subject of any known criminal investigations of any felony or crime that relates to the business or results from an assault against person. Said suspension may take effect at the time charges are filed under the Texas Penal Code and may remain in effect until final disposition of the charges.
- (2) Every license issued under this article shall be subject to suspension by the City Secretary in the event the driver fails to comply with the above regulations.

Secs. 31-25 through 31-30. Reserved.

ARTICLE III. VEHICLE PERMITS

Sec. 31-31. Required.

No vehicle for hire shall be operated within the city until a vehicle permit has been issued by the City Secretary for such vehicle.

Sec. 31-32. Exempt vehicles.

Permits are not required for vehicles used for limousine service or that are non-motorized vehicles, as defined in section 31-x.

Sec. 31-33. Vehicle requirements.

Taxis must meet the following minimum requirements:

- (1) Conform to all minimum safety standards as required by the State of Texas.
- (2) Display the City of Abilene permit inside the vehicle at a place visible to the occupants.

Sec. 31-34. Inspection of vehicle.

No permit shall be issued or reinstated until the vehicle has an approved state vehicle inspection.

Sec. 31-35. Transfer; transfer fee.

Vehicle permits may be transferred from one vehicle to another only upon application to the City Secretary. A non proratable fee shall be charged.

Sec. 31-36. Revocation of vehicle permit.

Every vehicle permit issued under this article shall be revoked by the City Secretary if the dispatching license under which the permit was granted has been terminated. Every vehicle permit issued under this article shall also be subject to revocation for any of the following reasons:

- (1) The permit was obtained by an application of which any material fact was omitted or stated falsely.
- (2) The permit holder has failed to comply with the provisions of this chapter or has persisted in permitting his vehicle to be operated in violation of any law.
- (3) Excessive complaints regarding the condition of the vehicle.

Sec. 31-37. Suspension of vehicle permit.

Every vehicle permit issued under this article shall be suspended by the City Secretary if the vehicle has ceased to comply with the requirements set forth in this Article.

Sec. 31-38. Reinstatement of suspended permit; fee.

Vehicle permits suspended because of failure to comply with the requirements of the Chapter may be reinstated as soon as the vehicle is brought back into compliance. Application for such reinstatement shall be made in writing to the City Secretary on a city provided form. Reinstatement requires payment of a non-prorated reinstatement fee.

Secs. 31-39 through 31-45. Reserved.

ARTICLE IV. DRIVER'S PERMITS

Sec. 31-46. Required.

No person shall drive a vehicle for hire within the city unless such person has a valid driver's permit as provided for under this article.

Sec. 31-47. Driver's license requirements.

Applicants must possess a valid Texas driver's license.

Sec. 31-48. Grounds for refusal to issue.

The Chief of Police shall recommend approval or disapproval of the application. Recommendation for disapproval shall be made if the applicant's past criminal history including known criminal investigations or traffic record indicates unfitness for driving a taxicab or limousine.

Sec. 31-49. Display of driver's permit.

No person shall drive a taxicab or limousine within the city unless a copy of the driver's permit issued by the city is displayed at a conspicuous place inside the vehicle in view of the passengers. The identification photo affixed to the permit by the city shall not be removed or substituted.

Sec. 31-50. Revocation of driver's permit.

Every driver's permit issued under this article shall be subject to revocation by the Chief of Police for any of the following reasons:

- (1) The permit was obtained by an application of which any material fact was omitted or stated falsely.
- (2) The permit holder convicted of a felony or any crime or offense that relates to the business or results from an assault against person.
- (3) The permit holder's traffic record has, in the opinion of the Chief of Police, become unfit for driving a taxicab or limousine.
- (4) Alters, forges, counterfeits, or possesses an altered, forged or counterfeited driver's license, badge, sticker, emblem or permit required by law.
- (5) The permit holder has failed to comply with the provisions of this chapter or has persisted in permitting his vehicle to be operated in violation of the law.

Sec. 31-51. Suspension of driver's permit.

- (1) Every driver's permit issued under this article shall be subject to suspension by the Chief of Police in the event the license holder is charged with or is the subject of any known criminal investigation of any felony or crime that relates to the business or results from an assault against person. Said suspension may take effect at the time charges are filed under the Texas Penal Code and may remain in effect until final disposition of the charges.
- (2) Every driver's permit issued under this article shall be subject to suspension by the City Secretary in the event the driver fails to comply with the above regulations.

Secs. 31-52 through 31-60. Reserved.

ARTICLE V. MAXIMUM RATES AND FARES

Sec. 31-61. Generally.

All rates and fares set forth in this article shall be maximum rates which shall not be exceeded. Nothing in this article shall be construed to prevent the charging of an amount less than the maximum.

Sec. 31-62. Maximum Fares.

The maximum allowed fares under this Section shall be updated and approved by City Council through written resolution as needed. The City Secretary shall make available official copies of the maximum fare schedules

Sec. 31-63. Posting of Fares.

. A current fare scheduled shall be posted in view of the passenger at any time the taxicab is in service.

Sec. 31-64. Limousine fare.

Fares for limousine service or non-motorized vehicles, as defined in section 31-x, are not regulated by this article.