

ORDINANCE NO. 2410

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS REPLACING CHAPTER 5, BUSINESS REGULATIONS, SECTION 5, TAXICABS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS THAT:

ARTICLE I.

That Chapter 5, Business Regulations, Section 5, Taxicabs, be replaced as follows:

Section 5-5. Taxicabs

I. Generally.

B. Definitions. - The following words, terms and phrases when used in this article, shall have the meanings ascribed to this in this section, except where the context clearly indicates a different meaning:

1. *Certificate* shall mean the resolution approving the application for a proposed taxicab service or additional taxicabs and declaring that public necessity and convenience requires same.
2. *Certificate holder* shall mean the taxicab owner or operator who has been granted a certificate to operate by the city council.
3. *Certificate to operate* shall mean the authority granted by the city council upon a finding that public convenience and necessity so require it to operate a taxicab and shall authorize such operator of a taxicab to engage in the business of transportation by taxicab.
4. *Cruise or cruising* shall mean the movement of unoccupied taxicabs over the public streets of the city in search of or soliciting prospective passengers for hire; provided however, unoccupied taxicabs proceeding to answer a telephone call for taxicab service from an intending passenger, and taxicabs returning to taxi stands by the most direct route, after having discharged a passenger or passengers, to the place where such taxicab is housed or to the place of discharge of the passenger or passengers, shall not be considered to be cruising.

5. *Driver or chauffeur* shall mean every person in actual charge of the operation of a taxicab whether as owner or agent, servant or employee of the owner.
6. *Owner and taxicab operator* shall mean any person who has the control, direction, maintenance and the benefit of the collection of revenue derived from the operation of taxicabs on or over the streets of the city, whether as owner or otherwise except “driver”.
7. *Passenger* for purposes of charging a fare shall mean anyone including a minor ten years of age or older when accompanied by an adult using the taxicab. Children under ten years of age when accompanied by an adult are not considered to be passengers for the purposes of charging fares.
8. *Public convenience and necessity* shall mean a public convenience which is fitting and suited to public need, and a public necessity which embraces a great and urgent public convenience. This phrase as applied to a proposed service by an applicant shall mean that the applicant is fit, able and willing to perform transportation by taxicabs in accordance with the requirements of this section and that public convenience and necessity require the service proposed by such applicant.
9. *Taxicab* shall mean every automobile or motor-propelled vehicle used for transportation of passengers for hire over the public streets of the city, not over a defined or fixed route and irrespective of whether or not the operations extend beyond the city limits, at rates for distance traveled, or for wait time, or for both, or at rates per hour, per week, or per month, which such vehicle is routed to destinations under the direction of such passenger or passengers, or such person or persons hiring the same; provided, however, the work “taxicab” shall not apply to motor buses operated within the city, over a fixed or definite route, nor shall such word apply to motor buses regularly operated in the city along fixed routes to and from points outside the incorporated limits of the city, or shall such word apply to motor vehicles operated under a permit or certificate of the state railroad commission or the interstate commerce commission. This definition excludes uniform-chauffeured limousine vehicles that transport passenger by prior appointment only.
10. *Taximeter* shall mean a machine adapted automatically to calculate, at a predetermined rate or rates, and to register the charge for hire of a taxicab and such charges shall be indicated by means of figures.

11. *Terminal* shall mean the taxi depot at which place the taxicabs shall be housed or parked, and at which place the telephone calls and requests for service shall be made, and at which place a dispatcher shall control the movements of the taxicabs to the points of request for taxicab service; this word shall likewise be synonymous with taxi terminal and shall mean and embrace that space and area of land and buildings off of the streets of the city and upon private property, and shall be and constitute the main office of the owner and taxicab operator.

12. *Waiting time* shall mean such time as may be consumed or lost at the special instance and request of a passenger after such passenger has first entered the taxicab to make a trip and before reaching his final destination; no charge shall be made against a passenger for any time lost on account of any other delay whatsoever.

B. Enforcement. - It shall be the duty of the chief of police and the police department to enforce the provisions of this section.

C. Prosecution for violation of chapter provisions. - In a prosecution for violation of this section, it shall not be necessary for the complaint to allege, or for proof to be made, that the act was knowingly done; nor shall it be necessary for the complaint to negate any exception contained in this section concerning any prohibited act.

D. Non-liability of city. - The city shall not be liable for any sum on account of any claim or on account of any act or omission of any officer of the city in connection with any matter relating to taxicabs.

E. Driver to stay with vehicle. - The drivers of taxicabs shall remain seated in their vehicles at all times; provided however, such drivers may leave their vehicles when actually necessary to assist passengers to enter or leave same, or in any case of accident, necessity or emergency beyond the control of such driver.

F. Identification of vehicle. - Every taxicab shall have printed on each side and the rear of the same the name of the owner or the assumed name under which the owner operates, together with the owner's telephone number and the cab number. All of the lettering mentioned in this section shall not be less than 2 ½ inches in height and not less than 5/16 inch in stroke. Such paint shall be either enamel or oil paint that will weather the elements and shall be kept legible at all times.

G. Maximum seating. - It shall be unlawful to carry more than five (5) passengers in any taxicab, and in no event shall more than two (2) passengers ride in the front seat with the driver.

H. Cruising. - Cruising within the city shall be permitted to the extent that it does not congest traffic or cause a danger to pedestrians or other vehicles.

I. Solicitation of passengers generally. - It shall be unlawful for any taxicab driver to solicit by word, signal or sign, directly or indirectly, passengers upon any public street in the city or near any public place within the city.

J. Property left in vehicle; disposition. - It shall be the responsibility of every taxicab driver to return to the owner any luggage, merchandise or other property left in the taxicab whenever possible. If the owner is unknown or cannot be located, the taxicab owner shall maintain said property for a period of at least six (6) months prior to disposal.

K. Receipt or discharge of passengers. - No vehicle in use as a taxicab shall receive or discharge passengers in the roadway of any street, but shall be driven to the right-hand sidewalk or to the extreme right-hand side of the road as nearly as practicable for such purposes.

L. Prohibition against furtherance of illegal activity. -

1. It shall be unlawful for any taxicab driver, owner or employee to act in any manner as a panderer or pimp for prostitutes or as a contact for unlawful establishments of any character, or to knowingly transport any passenger to the abode of a prostitute.

2. It shall be unlawful for any taxicab driver or owner to knowingly transport any criminal narcotic peddler, prostitute, bootlegger or any other person in the commission of a crime or infraction of the law in any manner.

3. No driver or owner of a taxicab shall engage in selling or soliciting business for any person selling alcoholic beverages.

4. It shall be unlawful to knowingly transport passengers to destinations for the purpose of soliciting or purchasing illicit drugs or controlled substances in violation of the law.

M. Transportation of alcoholic beverages. - It shall be unlawful to transport alcoholic beverages in the taxicab or for any taxicab driver to have on his person any alcoholic beverages while driving and operating a taxicab in service. However, alcoholic beverages which are owned and in the exclusive possession and control of a fare-paying passenger may be transported. It shall be unlawful for any driver or passenger of any taxicab to have an open container of an alcoholic beverage of any kind inside the taxicab.

II. Vehicle Permit and Certificate of Public Necessity and Convenience.

A. Resolution and certificate required. - No taxicab shall be issued a vehicle permit under the provisions of this section unless the city council shall declare by resolution that public convenience and necessity requires the proposed taxicab service for which the application is made. Such resolution shall be deemed a certificate of public convenience and necessity.

B. Application for certificate; publication notice requirements. - Upon the filing of an application under the provisions of this section, the city secretary shall give at least ten (10) days notice by one publication in the official newspaper of the city of the filing of such application and that the same shall be heard at a regular meeting of the city council, provided such notice shall be given for at least the length of time herein provided for before the next regular meeting. If not, such notice shall state that it will be heard at the following meeting.

C. Factors of consideration. - In determining whether the public convenience and necessity require the issuance of a certificate for one or more taxicabs for which application has been made, the city council shall take into consideration whether the demands of public convenience and necessity require such proposed or such additional taxicab or taxicabs within the city; the financial responsibility of the applicant, the number, kind and type of equipment to be used; the increased traffic congestion on the streets of the city which might result; whether the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such vehicle permits; and such other relevant facts as the city council may deem advisable or necessary.

D. Findings of public convenience and necessity. - Upon conclusion of the investigation and public hearing, the city shall consider the above factors and either:

1. Approve the application and declare by resolution that public convenience and necessity require, in whole or in part, the proposed taxicab service or the additional taxicabs for which the application is made, and such resolution shall be deemed a certificate of public convenience and necessity hereinafter referred to as "certificate," or

2. Deny the application following which the city secretary shall immediately give notice to the applicant.

A. Insurance requirements.

1. After the application for a certificate has been approved, before any certificate shall be granted under this section, the operator of taxicabs shall procure, furnish and file with the city secretary a policy of insurance covering public liability and property damage in the standard amounts and of the standard provisions of such public liability and property damage insurance and by a public liability and property damage policy of insurance on each and every automobile to be operated by such operator of a taxicab with the minimum amounts of liability thereunder as follows:

- a. For any one single personal injury or any one person - \$40,000.00
- b. For personal injuries in any one single accident - \$80,000.00
- c. For property damages in any one single accident - \$40,000.00

2. Such insurance policy shall be approved by the city secretary and shall be one issued by a company of sufficient assets, with an agent upon whom service of process may be made. Insurance coverage shall be maintained at all times and copies of renewals, endorsements, or other changes to the policy shall be subject to approval by the risk manager and filed with the city secretary.

3. This policy is for the protection of the public that might be injured by the operation of such taxicab.

F. Vehicle permit required. - It shall be unlawful for any person to drive, operate or cause to be driven or operated, any taxicab upon or over any street in the city unless the owner of such taxicab shall first have applied for and obtained a vehicle permit for such taxicab.

G. Application for vehicle permit.

1. No vehicle permit shall be issued under this section until the owner or person in charge or control of the taxicab shall make application in writing to the city secretary for such permit, on blanks to be furnished by the city secretary, stating in such application the name of the owner, or person by whom such permit is desired; his street address; the type of vehicle to be used as a taxicab; the vehicle identification number (VIN) thereof; the factory number, and/or motor number thereof; a seating capacity of no less than five (5), according to the trade rating; proof that the vehicle is no less than 5 years old; the owner thereof, and such other relevant information as may be deemed advisable and necessary by the city secretary.

2. Such application shall be signed and sworn to by the applicant. If the applicant for a vehicle permit is a corporation, such application shall be made by some duly authorized officer of the corporation, and shall state whether it is a foreign or domestic corporation, its address and place of business, its officers and their addresses and its correct corporate name. If the applicant for a vehicle permit is a partnership or association, such application shall be made by some duly authorized officer or agent of such partnership or association, and shall give the trade name, or partnership name or association name of such partnership or association together with the names and addresses of the partners or associates.

H. Issuance of vehicle permit. - After the application and certificate of operation has been approved by the city council and the proof of insurance approved by the risk manager and filed with the city secretary, the city secretary shall issue a permit for each approved vehicle to the applicant.

IX. Duration of permit. - All vehicle permits issued under the provisions of this section shall be valid for a duration of one calendar year from the date issued.

J. Permits nontransferable. - No permit issued under the terms of this section shall be transferable without the formal consent and approval of the city council after proper written application made therefor. Such transferee of such permit shall meet all of the requirements, conditions and stipulations as contained in this section as though he were the original applicant.

K. Renewal of permits. - Each vehicle permit issued under the provisions of this section may be renewed from year to year by the certificate holder provided the same has not been revoked.

L. Fees prescribed. - The holder of a certificate to operate taxicabs within the city shall be subject to an annual permit fee of \$200.00 plus an additional fee of \$50.00 per vehicle.

M. Effect of failure to pay fees.

1. If any certificate holder under the provisions of this section shall fail to pay the vehicle permit fees within ten (10) days after the date the same becomes due, the city secretary shall, unless for good cause shown, extend the time for payment thereof for a period not to exceed fifteen (15) days. The privilege of the

certificate holder to conduct a taxicab business in this city shall be deemed suspended until the payment required by the preceding section and the

requirements pertaining thereto have been fully met.

2. In the event of failure to pay the vehicle permit fees required within thirty (30) days of the due date, the certificate of operation shall be revoked automatically. It shall be unlawful for any certificate holder to continue to transport passengers for hire after his certificate has been suspended or revoked.

N. Suspension of permit or certificate. - If for any reason the city council deems that the general welfare of the citizens requires such action, and the best interest of the city will be served thereby, the city council may, by formal action, suspend for any period up to but not exceeding thirty (30) days any vehicle permit or certificate issued under the provisions of this section. In the event of such a suspension, then from and after the time of such suspension, and for the duration of such suspension, such permit or certificate shall be of no force and effect and the certificate holder shall not be authorized to operate taxicabs in the city. For good cause, the city council may by formal action lessen or terminate any such period of suspension.

O. Revocation of certificate. - If any certificate holder under the provisions of this section shall show by his actions that he/she is not a fit and proper person to operate taxicabs in this city, or if the financial position of such certificate holder shall reach such a condition that the city council does not deem such certificate holder able to pay in full reasonable claims for damages which might be legally established and confirmed, or if such certificate holder shall violate any provision of this section, or if for good and sufficient reason the general welfare of the citizens of the city will best be served by such action, the city council may, at any time after a hearing, revoke and cancel any certificate issued by it under the provisions of this section. In the event of such revocation and cancellation, such certificate shall be thereafter completely null and void and of no further force and effect.

P. Hearing on revocation.

1. The hearing to determine whether or not to revoke any certificate of necessity and convenience shall not be held until notice thereof has been given to the holder of the certificate in question by personal delivery or registered or certified mail, return receipt requested, addressed to such holder at the address shown on the records of the city and until a period of at least five (5) days has elapsed since the mailing or delivery of such notice. Effective notice by mail shall be deemed complete upon deposit of the notice in a postpaid, properly addressed envelope in a post office or official depository under the care and custody of the

the city secretary in writing in the event of any change of street or mailing address. Such notice shall specify the time and place of hearing and shall list the reasons why the general welfare of the city requires the revocation and cancellation of such certificate.

2. The holder of the certificate in question shall be allowed to be present at such hearing, and shall be allowed to be represented by legal counsel at his/her own expense if the holder deems it advisable. He/She shall have full opportunity to disprove any and all charges and allegations set out against him/her or his/her operations in such notice.

3. Such hearing may be conducted by the city manager or by any agent, employee or representative designated by him. If conducted by any agent employee or representative, then upon approval by the city manager, such findings of fact shall be adopted as the findings of fact of the city council. If such hearing shows that the operator is not a fit and proper person to conduct such business; or is unable to pay in full reasonable claims for damages which might be asserted; or if for any reason the general welfare of the citizens of the city or the interests of the city will be served best by such action, then the city council shall revoke and cancel the certificate of necessity and convenience in question. There shall be no appeal of any nature from such action.

III. Drivers.

A. Personal appearance of drivers. - It shall be the responsibility of every person operating a taxicab service in the city to require the drivers of such taxicabs to be neat and clean in appearance while on duty.

B. Qualifications of drivers.

1. All taxicabs shall be operated by a responsible person qualified both physically and mentally to operate a motor vehicle on the city streets and having a current license as required by the state. Each driver of a taxicab shall comply with the minimum safety standards and conditions set forth in this section and have a working knowledge of city streets.

2. It shall be unlawful for any person to operate a taxicab upon the streets of the city if he or she has been convicted of a felony or a class A misdemeanor for which he or she has not been pardoned or had full rights of citizenship restored by other official action.

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IV. Fares*

***State law reference:** Authority of city to fix rates of vehicles carrying passengers for hire, V.T.C.A. Local Government Code §215.004.

A. City council shall fix.

1. The city council shall have the power to fix the rates, charges and fares of all taxicabs operating within the city. There shall be displayed in a prominent place within every taxicab doing business within the city a rate schedule for fare charges, and the telephone number of the city action line.

2. The maximum fares to be charged by any taxicab operator or driver in the city and which shall, in all instances, be calculated based upon the shortest distance to the passenger's destination, which fares are hereby declared to be reasonable and fair for such services, per passenger, unless otherwise stated, shall be as follows:

- a. For the first one-tenth (1/10) mile or fraction - \$2.50
- b. For each additional one-fourth (1/4) mile or fraction - 0.50
- c. For each additional passenger on the same trip and from the same point of origin, regardless of the distance traveled - 1.00
- d. For each one minute of waiting time - 0.33
- e. For pickup and delivery of small packages - 2.00
- f. For each bag in excess of two bags - 0.50

B. Failure to pay fare. - It shall be unlawful for any person to refuse to pay the legal fare of any taxicab after having hired the same or to hire any taxicab with intent to defraud the person from whom it is hired of the value of such service.

C. Display of rates, fares. - There shall be posted in a conspicuous place on the inside of each taxicab a card showing the rates charges passengers of such taxicab.

D. Refusal to convey at specified rate; excessive fares. - It shall be unlawful for the owner or driver of any taxicab to refuse to convey a passenger at the rate specified on the rate card displayed in the taxicab, or demand or receive an amount in excess of the rates displayed on such card.

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E. Receipt for payment. - It shall be unlawful for the driver of any taxicab, upon receiving full payment of a fare, to refuse to give a receipt upon the request of the passenger making such payment.

V. Taximeters

A. Required.

1. It shall be unlawful for any taxicab to be operated or advertised for public hire in the city unless it is equipped with a taximeter, which taximeter shall be used as provided in this section.

2. It shall be unlawful for any person owning, operating, driving or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi", "taxicab" or "cab," or in soliciting trade from the public, to represent or exhibit such vehicle as a taxi, taxicab or cab, unless each vehicle is equipped with a taximeter.

A. To be used in determining fare. - It shall be unlawful for any person owning, operating, driving or in charge of a taxicab to operate or drive such taxicab unless a taximeter is used in determining the fare to be charges, and no other or difference fare shall be charged than the fare recorded on the reading face of such taximeter for such trip and no other rates or methods of measuring the distance or time charges shall be allowed except as otherwise expressly permitted by this section.

B. Size, design, specifications. - Every taxicab shall use a taximeter of a size and design approved by the chief of police or his designee. Such taximeter shall conform to the following specifications:

1. The taximeter shall be a mechanical instrument or devise by which the charge for hire of a taxicab is mechanically calculated for distance traveled, for waiting time, if any, and extra passengers, if any, and upon which such charge or charges shall be indicated by means of clearly legible figures which are electrically lighted each time the taximeter flag is thrown from nonearning to earning position.

2. Every taximeter must register upon visual counters the following items:

a. Total miles (unless shown by accurate registration on speedometer tested and in good working order on the taxicab).

b. Paid miles.

c. Number of units.

d. Number of trips.

e. Number of extra passengers.

3. Each taximeter must be furnished with a tamperproof switch, and system of electrical distribution so that when the taximeter flag is in the “vacant” or nonearning position, a “vacant” sign on the top of the taxicab will be lighted.

4. No taximeter shall be in such condition as to be more than three percent incorrect to the prejudice of any passenger.

C. Operation required. - No taxicab shall be operated at any time with a passenger or passengers unless the taximeter in such taxicab is correctly operating and showing the rates that are being charged. If at any time such taximeter stops or fails to operate or is operating incorrectly, it shall be the duty of the operator of such taxicab to immediately take such taxicab to its terminal and not operate the same until such meter has been fixed and adjusted.

D. Inspection. - It shall be the duty of the operator of each taxicab to have the taximeter certified annually to see that same is in good working order and free of mechanical defects. Said certification shall be filed with the City Secretary within sixty (60) days of said certification. The City shall have the right to inspect such taximeter at any time it so desires.

E. Changing size of wheels, tires or meter gears after inspection and tests. - After a taximeter has been duly tested, inspected, and approved as required by this section, it shall be unlawful to change the size of the wheels or tires of any taxicab, or the gears operating the taximeter, from one taxicab to another unless the taximeter is again tested, inspected and approved under supervision of the chief of police before using.

F. Case to be sealed; cover and gear intact. - No person shall use or permit to be used or driven for hire a taxicab equipped with a taximeter the case of which is unsealed and not having its cover intact.

G. Changing flag to “vacant” position. - It shall be the duty of the driver to call the attention of passengers of the amount registered on the taximeter, and the taximeter flag shall not be changed to “vacant” position until after the fare is paid.

I. Unauthorized display of signal. - No driver of a taxicab equipped with a taximeter, while carrying a passenger or passengers, or while under employment, shall display the signal affixed to such taximeter in such position as to denote such vehicle is not employed, or in such position as to denote that the taxicab is employed at a rate that is different from that which the use of the taxicab legally justifies under the provisions of

this section.

- VI. Penalty - Violation of any provision of this section shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and each day that any violation continues shall constitute a separate offense. However, an offense related to any provision of this section which also constitutes an offense under state law shall be punishable in accordance with the applicable state law. Further, continued violation of any provision of this section may constitute grounds for the Chief of Police to suspend operations of any taxicab pending a hearing as described in Section II. P. above.

ARTICLE II.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE IV.

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

PASSED AND APPROVED THIS 5TH DAY OF MAY, 2009.

PASSED AND ADOPTED ON THIS THE 19TH DAY OF MAY, 2009.

APPROVED:

HAL RICHARDS, Mayor

ATTEST:

APPROVED AS TO FORM:

John Rounsavall, City Secretary

Mary Gayle Ramsey, City Attorney