

REPORT TO CITY COUNCIL

DATE: MAY 14, 2014

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT *mk*
LOUIS CELAYA, DEPUTY CITY MANAGER *lc*

SUBJECT: ADOPTION OF ORDINANCE NO 14-408 OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE AGOURA HILLS MUNICIPAL CODE BY ADDING A NEW CHAPTER 6 (TAXICABS) TO ARTICLE VII (STREETS) OF THE AGOURA HILLS MUNICIPAL CODE AND ESTABLISHING A TAXICAB PERMIT PROGRAM

At the April 23, 2014, City Council meeting, the Council introduced, read by title only, and waived further reading of Ordinance No. 14-408.

The proposed Ordinance will establish basic definitions, including definitions for "Drivers", "Driver's Permit", "Operator", "Operator's permit", "Taxicab", and "Taxi Meter". Additionally, Ordinance No. 14-408 requires operators and drivers to obtain a permit from the City, identifies the process for vehicle inspections, which requires all vehicle inspections be performed by a licensed mechanic and/or licensed technician, processes for obtaining criminal background investigations, and mandatory controlled substance and alcohol testing.

The ordinance also calls for permits to be renewed annually from the date of issuance, and calls for every operator and driver to also obtain a business license from the City. Finally, the ordinance also establishes processes for permit denial, revocation, and suspension of permits.

Establishing a permit system for taxicab operator's, drivers, and vehicles will assist the City with compliance with Government Code Section 53075.5, provide knowledge of operators in the City, assist the Sheriff's Department with knowledge of taxicab transportation companies operating legally within the City limits, and provide for the protection of the public health, safety, and welfare of the general public.

Attached for your reference is a copy of Ordinance No. 14-408.

RECOMMENDATION

Staff respectfully recommends the City Council adopt Ordinance No. 14-408, amending the Agoura Hills Municipal Code by adding a new Chapter 6 (taxicabs) to Article VII (Streets) of the Agoura Hills Municipal Code and establishing a Taxicab Permit Program.

Attachment: Ordinance No. 14-408

ORDINANCE NO. 14-408

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE AGOURA HILLS MUNICIPAL CODE BY ADDING A NEW CHAPTER 6 (TAXICABS) TO ARTICLE VII (STREETS) OF THE AGOURA HILLS MUNICIPAL CODE AND ESTABLISHING A TAXICAB PERMIT PROGRAM

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

Section 1. Procedural Findings. The City Council of the City of Agoura Hills does hereby find, determine and declare that:

A. After the City Council adopted Ordinance No. 13-401, to transfer the City business license program responsibilities from the County of Los Angeles to the City of Agoura Hills, City staff identified the need to adopt an ordinance to establish a taxicab permit program pursuant to state law.

B. The City Council, at a regular meeting, considered this Ordinance and on April 23, 2014, at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or opposition to this matter.

C. Following the public hearing, the City Council considered the entire record of information received at the public hearing.

D. All legal prerequisites to the adoption of this Ordinance have occurred.

Section 2. Environmental Findings. The City Council hereby finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant effect on the environment. The proposed Ordinance only relates to the regulation of taxicab services and permit processing within the City of Agoura Hills. As such, there is no possibility that the proposed amendment will have a significant effect on the environment.

Section 3. Code Amendment. The City Council hereby amends Article VII (Streets) of the Agoura Hills Municipal Code by adding a new Chapter 6 (Taxicabs) to read as follows:

"Chapter 6. TAXICABS

7601. Definitions.

For the purposes of this chapter, the following words and phrases shall mean:

"City" means the City of Agoura Hills.

"Director" means the Director of Planning and Community Development or his or her designee.

"Driver" means an individual engaged by an operator to drive a taxicab. "Driver" includes every person driving any passenger-carrying or motor-propelled vehicle, either as an owner-operator, contractor, franchisee, agent, employee or otherwise.

"Driver permit" means a permit issued by the Director to an individual, permitting that person to drive a taxicab upon the streets of the City.

"Operator" means a person or entity engaged in the business of providing transportation services for hire through the use of taxicabs.

"Operator permit" means a permit issued by the City authorizing an operator to provide transportation services for hire through the use of one or more taxicabs within the City.

"Street" means any place commonly used for the purpose of public travel.

"Taxicab" means every automobile or motor-propelled vehicle, is equipped with a taximeter, and/or is used for the transportation of passengers for hire over the public streets of the City, and not over a defined route, irrespective of whether the operations extend beyond the boundary limits of the City, at rate for distance traveled or for waiting time, or for both, and the vehicle is routed under the direction of the passenger or of the person hiring same. Taxicabs shall not include a charter-party carrier of passengers within the meaning of the Passenger Charter-Party Carriers' Act, Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code. "Taxicab" shall not include limousine services regulated by the Public Utility Commission.

"Taximeter" means and includes an instrument or device by which the charge for hire of a passenger-carrying vehicle is mechanically or electronically calculated either by distance traveled or by waiting time, or both, and upon which such charge is indicated by means of figures and a printed receipt.

7602. Operator permit required.

A. It is unlawful for any person to operate, or cause to be operated, a taxicab without having first obtained an operator permit from the City as provided in this chapter. The operator permit shall include a list of the vehicle identification numbers ("VIN") of the taxicabs which have passed the vehicle safety inspection required by this chapter and only vehicles so listed on the operator permit may be operated as taxicabs within the City.

B. The operator shall maintain with the City a current list of all drivers authorized to operate any vehicle listed in its operator permit, and shall notify the City upon termination of employment of any drivers by reporting additions and deletions of names of the drivers from its most recent list.

C. Operators are required to ensure that all drivers operating a taxicab listed in their operator permit are familiar with the provisions of this chapter and with all regulations adopted by the City. Operators shall promptly notify their drivers of any changes in the provisions of this ordinance and regulations adopted to implement it.

D. Operators shall provide the address where the vehicles, proposed to be used as taxicabs in the business, are to be regularly garaged when not in use. Where facilities are located in the City, operators must comply with all zoning and other applicable ordinances regulating the conduct of business and/or garaging of taxicabs within the City.

E. An applicant for an operator permit shall pay the appropriate fee established by resolution of the City Council, and complete an application form which shall contain the following information:

1. The name, business address, mailing address, if a natural person; or if a corporation, its name, date and place of incorporation, address of its principal place of business and the names of its principal officers, together with their respective addresses; or if a partnership, association or unincorporated company, the names of the partners, or the persons comprising the association or company, with the place of business and residence of each such partner or person;

2. A description of each vehicle which the applicant proposes to use, giving the type of each vehicle, the name of the manufacturer thereof, the horsepower and the seating capacity thereof, according to its trade or factory rating;

3. A certificate of inspection by a state licensed garage or service station indicating that each vehicle's brakes and lights are in safe condition and good working order;

4. The street number and exact location of the public or private garage from which each such vehicle is to be operated;

5. A schedule of the rates of fare or uniform tariffs to be charged for carrying passengers;

6. The applicant's experience in operating a taxicab business and the name, address and experience of the person to be in charge of the premises or business;

7. Whether or not any similar permit has been revoked, and if so, the circumstances of such revocation;

8. The color scheme, name, monogram or insignia which the applicant proposes to use. The color scheme, name, monogram or insignia to be used upon such taxicab shall not conflict with or imitate any color scheme, name, monogram or insignia used by another taxicab operator in such manner so as to be misleading, or tend to deceive or defraud the public, or that a color scheme, name, monogram or insignia has theretofore been designated for the applicant; and

9. Such further information as the Director may require.

7603. Insurance requirement for operator permit.

Before any operator permit required by this chapter is issued for a prospective operator, the operator shall procure and maintain during the term of the permit, at its cost, insurance with such coverage and provisions as established by resolution of the City Council.

7604. Vehicle inspection.

A. The operator of a taxicab shall have all vehicles listed in its operator permit application inspected by a licensed mechanic within sixty (60) days of applying for an initial operator permit and each subsequent operator permit. No operator permit shall be granted unless the applicant presents a signed and dated certification statement and a copy of the invoice from a licensed mechanic and/or licensed service technician who inspected the vehicle certifying that the vehicle and its safety systems are in safe operating condition. Vehicle inspections required for an operator permit

shall include, but are not limited to, fire extinguisher, motor, lights, tires, brakes, safety restraints, upholstery and general cleanliness. The Director may establish and publish vehicle safety inspection standards and procedures which will apply to initial operator permit and each subsequent operator permit. Every taxicab shall at all times be subject to inspection, by any City police officer or City code enforcement officer or including upon request by the City to deliver a taxicab to the City or police station for inspection to ensure the vehicle is in compliance with the provisions of this chapter.

B. Whenever an operator proposes to add a vehicle or substitute a vehicle for an existing vehicle on the operator permit, the operator shall, prior to placing the vehicle in operation as a taxicab, submit to the Director a signed statement and invoice as referenced above indicating that the vehicle is in a safe operating condition. The Director shall verify the VIN of the vehicle, and shall amend the operator permit to include the vehicle. Each addition or substitution shall require a fee as established by resolution.

C. Every taxicab must be accompanied by a copy of the statement and invoice as referenced above certifying that the vehicle and its safety systems are in safe operating condition. Every taxicab shall be equipped at all times with a fully charged type 2A:5BC fire extinguisher in good working condition.

D. The taxicab business must keep and maintain a maintenance log on every taxicab. The maintenance log must include the following information:

1. A record of brake inspection, the name and address of the garage that performed the inspection, the date of the inspection; and

2. Any other inspection or maintenance performed on the taxicab vehicle or its safety systems. The garage mechanic must sign and date the maintenance log after each appointment. The maintenance log must be kept at the taxicab business principal office and be available for review by the Director. Records shall be maintained for at least three years prior to the date of the last entry in the log.

7605. Driver permit required.

A. It is unlawful for any person to drive a taxicab for hire, unless he or she obtains a driver permit from the City.

B. An applicant for a driver permit shall pay the appropriate fee established by resolution of the City Council, and complete an application form which shall contain the following information:

1. Applicant's full name, address and age;

2. A listing of all equivalent permits which have been issued to the applicant by any other governmental agency;
3. Applicant's height, weight, sex, and color of eyes and hair;
4. The number, class and expiration date of applicant's California driver's license; any restrictions thereon, if any; and whether any license of applicant has been revoked, refused or suspended, the reasons therefore, and the disposition of such matters;
5. All criminal convictions other than minor traffic violations, including dates of conviction and the court where the conviction was rendered;
6. Authorization for the City, its agents or employees to seek information and conduct an investigation into the qualifications of the applicant;
7. The name of the registered owner of the taxicab;
8. The driver's taxicab operator (*i.e.*, employer);
9. A copy of the operator permit under which the driver is authorized to drive a taxicab in the City.

C. At the time the application is submitted, the applicant shall pay the driver permit fee as established by resolution of the City Council. No driver permit application shall be processed without the payment of such fee.

D. Applications for a driver permit shall be used for the purposes of conducting a local criminal background check. The City shall conduct a criminal background check, which shall include fingerprinting of the applicant. A recommendation for denial by the Director may be based only on the applicant's conviction of an offense enumerated in Section 7616 of this Code or the applicant's failure to complete the mandatory controlled substance and alcohol testing certification program pursuant to subsection I of this section.

E. In the event of a recommendation for denial of an application for a driver permit, the applicant may, within ten days of notification of such recommendation, apply for a hearing and reconsideration of such recommendation in accordance with the procedures set forth in Section 7617 of this Code.

F. A copy of the application along with the fingerprint card shall also be referred to the California Department of Justice for a general criminal background check. If the results of a general criminal background check indicate that the applicant has been convicted of any criminal charges enumerated in Section 7616 of this Code, the Director may revoke any driver permit.

G. An applicant eighteen years of age or older holding a valid California driver's license is entitled to a driver permit provided that the following conditions are satisfied:

1. The City conducting the criminal background check recommends granting the driver permit; and

2. The applicant successfully completes any driver certification requirements established by the Director, including but not limited to a mandatory controlled substance and alcohol testing certification program.

H. Applicant shall complete the City's mandatory controlled substance and alcohol testing certification program, which shall include, at minimum, all of the following requirements:

1. Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall continue to test negative for these controlled substances and for alcohol as a condition of permit issuance. As used in this Section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

2. Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing. Requirements for rehabilitation and for return-to-duty and follow-up testing and other requirements, except as provided otherwise in this Section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

3. A test in another jurisdiction shall be accepted as meeting the City's testing requirement so long as said jurisdiction's test meets the requirements of subsection I of this Section. Any negative test result shall be accepted for one year from the date of the test result as meeting a requirement for permit testing, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment.

4. In the case of a self-employed independent driver, the test results shall be reported directly to the City, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the taxicab operator, who shall be required to notify the City of positive results.

5. All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

6. Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and follow-up testing.

7. Upon the request of a driver applying for a driver permit, the City shall give the driver a list of the consortia certified pursuant to Part 382 (commencing

with Section 382.101) of Title 49 of the Code of Federal Regulations that the City knows offer tests in or near the jurisdiction.

8. No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

I. The driver permit shall be valid for a period of one year from issuance unless suspended, revoked or surrendered earlier, and shall become void upon termination of employment at which time the driver shall return the driver permit to the City.

7606. Display of information.

Every taxicab shall display at all times in a conspicuous place of the passenger compartment a sign stating in clearly legible character the rates of fare or tariff charged for carrying passengers, the operator's name or the fictitious name under which he or she operates, the business address and telephone number of such operator, the driver's name and a picture of the driver.

7607. Taximeters.

A. Taximeters must be annually inspected and approved by the department of weights and measures of the County of Los Angeles and the appropriate seal must be displayed on the taximeter.

B. The charge for any service to all patrons of a taxicab shall be calculated and indicated by the taximeter, which shall be placed in each taxicab so that the reading dial showing the amount to be charged shall be well lighted and readily discernible by the passenger riding in any such taxicab.

C. No driver of any taxicab, while carrying passengers, shall operate the taximeter in such a way as to denote that such vehicle is not employed or to fail to disengage the taximeter at the termination of each and every service.

7608. Fare receipt.

No driver of any taxicab, upon receiving full payment for a fare as indicated by the taximeter, shall refuse to give a receipt upon the request of any passenger making such payment.

7609. Passenger to pay legal fare.

No passenger shall refuse to pay the legal fare of any taxicab after having hired the same and any passenger who shall hire any such taxicab with the intent to defraud the person from whom it is hired shall be deemed to have violated this Section.

7610. Direct route.

Every driver of a taxicab who is engaged in carrying passengers shall take the most direct route available, unless otherwise directed by the passengers.

7611. Exclusive right of passengers.

When a taxicab for hire is engaged, the occupants shall have the exclusive right to the full and complete use of the passenger compartment, and no driver of such taxicab shall solicit or carry additional passengers therein.

7612. Business license required.

Every operator and every driver shall obtain a business license and pay the fees required by Section 6802 of this Code. No business license shall be issued to an operator or a driver until the permits required by this Chapter have been obtained.

7613. Duration of permits.

All permits issued under the provisions of this chapter shall expire one year from the date of issuance. All operators and drivers must apply for operator permits and driver permits on an annual basis under this chapter.

7614. No transferability.

No permit issued under the provisions of this chapter shall be transferable.

7615. Permits – Authority.

A. The City Manager or his or her designee shall have the authority to adopt and promulgate such rules and regulations as may be necessary for the implementation of this Chapter and as necessary for the service and safety of the operation of taxicabs within the City and the passengers carried therein.

B. The Director shall have the power to grant, deny, suspend or revoke any or all of the permits and approvals required by or authorized by this chapter when, in the exercise of reasonable discretion, it has determined that the applicant has or has not complied with all the provisions of this chapter.

7616. Denial, revocation, expiration, or suspension of permits.

A. The Director may, and is authorized to deny, suspend or revoke any of the permits and approvals mentioned in this chapter when the permittee:

1. Has not complied with the provisions of the chapter; or

2. Has knowingly made a false statement of fact required to be revealed in an application for such permit; or

3. Has charged rates other than those which the permittee has on file with the City; or

4. Has violated any of the rules and regulations of the City Council or the Director pertaining to the operation of taxicabs; or

5. Has been convicted of a crime, if the crime is substantially related to the qualifications, functions or duties of an operator or driver. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the Director is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

B. Crimes which are substantially related to qualifications, functions or duties of an operator and driver include, but not limited to, the following:

1. Reckless driving; murder; rape; vehicular manslaughter; a violation of California Vehicle Code Sections 20001, 20002, or 20003 or any corresponding substitute sections; robbery; a violation of California Penal Code Section 314 or any corresponding substitute section; pandering; crimes related to the use, sale, possession, or transportation of controlled substances, narcotics or intoxicating liquors; assault; battery; or indecent exposure, or comparable violations in other jurisdictions.

2. In addition to the crimes listed above, no permit shall be granted to an applicant who has been convicted of three or more hazardous moving violations within the state of California, or comparable violations in other jurisdictions, within three years previous to submission of the application.

C. From the time of expiration or revocation, or during the suspension of an operator permit or a driver permit granted under the provisions of this chapter, it is unlawful for any person whose permit is expired, suspended or revoked to operate or drive, respectively, a taxicab within the City limits until a new permit has been procured or until the period of suspension has ended.

7617. Appeals.

Any applicant for an operator permit or driver permit whose application was denied by the Director, any holder of an operator permit or driver permit whose permit has been suspended or revoked by the Director, and any operator or driver assessed administrative monetary penalties by the Director may appeal such action(s) pursuant to Section 6822 of this Code. All appeals procedures shall be conducted in the manner set forth in Sections 6822-6827 of this Code.

7618. Administrative enforcement and penalties.

Violation of the provisions of this chapter may be enforced pursuant to the enforcement provisions set forth in Chapter 2 of Article I of this Code.”

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. Certification and Posting. The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law. This Ordinance shall go into effect on the 31st day after its adoption.

PASSED, APPROVED AND ADOPTED this ____th day of _____, 2014, by the following vote to wit:

- AYES: ()
- NOES: ()
- ABSENT: ()
- ABSTAIN: ()

ATTEST:

William D. Koehler, Mayor

Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney