



REPORT TO THE CITY COUNCIL

RECEIVED

2013 FEB 27 PM 2:46

CITY CLERK, FRESNO CA

AGENDA ITEM NO.

16

COUNCIL MEETING

3/7/13

APPROVED BY

[Handwritten signature]

February 28, 2013

FROM:

Clinton J. Olivier
Council Member

SUBJECT:

CONSIDER RECOMMENDATION TO AMENDING SECTIONS 9-908, 9-919 AND 9-921 OF THE FRESNO MUNICIPAL CODE RELATING TO TAXI CABS.

RECOMMENDATION

Extend the current vehicle retirement regulation from seven years to ten years with vehicles being no older than the model year 2006. Grant authority to Fresno Police Department (FPD) to cite unlicensed taxicabs. Remove the requirement for two-way radios.

EXECUTIVE SUMMARY

The changes in the current ordinance will grant greater flexibility to taxicab businesses that have been affected by the struggling economy and heavy competition due to the rise of unlicensed taxicab companies in Fresno. Granting the FPD enforcement authority will allow the City of Fresno (COF) to enforce ordinance regulations without adding to the already overwhelmed Business License and Tax Division.

The ordinance has been determined to be categorically exempt pursuant to Section 15061(b) (d) of the California Environmental Quality Act Guidelines, in that there is no possibility that the action may have a significant effect on the environment.

BACKGROUND

In 2006, the COF received several complaints about taxicabs/drivers that were not up to standards when it came to cleanliness, mechanical and safety standards. The ordinance was overhauled and regulations added to be more comprehensive in an attempt to provide the citizens of Fresno a more adequate service. Most taxicab owners felt that most of the changes were reasonable except for one.

In the fall of 2012, taxi cab owners requested a meeting with the Seventh District office to discuss the impact of the seven year rule. The ordinance required that a taxicab be retired at its seventh model year with no vehicles older than model year 2002. Taxicabs are rarely bought new; they are usually purchased at car auctions at prices that can reach \$15,000 per vehicle. After the vehicle is purchased, the taxicab owner must equip the vehicle with a taximeter, top light, be of a distinctive color scheme, have interior upholstery that matches, and submit to a yearly inspection where the following is inspected: mileage, engine, gears, transmission, brake system, lighting system, seat belts, exhaust and air pollution control system, tires and wheels. There are no taxicab customizers located in Fresno. The work is typically performed in Los Angeles.

Typically, it may cost a taxi cab owner between \$15,000-\$20,000 to buy a vehicle and transform it into a taxi cab. The seven year rule could cost taxicab owners between \$300,000 and \$450,000 in the year 2013. Some

Presented to City Council

Date 2/28/13

Disposition Approved

REPORT TO THE CITY COUNCIL

February 28, 2013

Page 2

owners have already indicated that they cannot afford to replace their vehicle so they will need to eliminate positions when the vehicles go out of service.

The following table illustrates the impact the current ordinance will have on small business in 2013:

*The following taxicab companies attended the Taxi Summit in January of 2013.

Business	Taxicabs in fleet	Taxicabs to expire 2013
Taxicab Company 1	15	3
Taxicab Company 2	1	1
Taxicab Company 3	5	1
Taxicab Company 4	5	5
Taxicab Company 5	3	1
Taxicab Company 6	5	0
Taxicab Company 7	6	2
Taxicab Company 8	3	0
Taxicab Company 9	4	3
Taxicab Company 10	6	2
Taxicab Company 11	3	1
Taxicab Company 12	6	1
Taxicab Company 13	9	2
Taxicab Company 14	3	2
Taxicab Company 15	7	4
Taxicab Company 16	5	2
Total Cabs	86	30

Another concern of the taxi cab owners was the city's lack of enforcement on unlicensed taxi cabs. These unlicensed taxi cabs advertise a much lower rate and have impacted the business of licensed taxicab owners, who follow the rules set forth by our ordinances. Unlicensed taxicabs pose a public safety concern due to the fact that they do not have adequate insurance nor are their vehicles inspected for safety. Allowing the FPD to cite unlicensed taxicabs during their traffic patrols will add another layer of protection to our citizens without burdening our severely understaffed police force.

The change in ordinance will give the FPD authority to cite unlicensed taxicabs and issue a \$100 fine. This amendment will also allow FPD to cite taxicab owners who do not properly display their taxicab license sticker in the assigned area, the fine will be \$50.

FISCAL IMPACT

The amount of revenue this would bring into the general fund cannot be determined at this time. The number of illegal taxicabs in the COF is unknown. There could be a small increase in general fund revenue depending on how many citations are issued.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTIONS 9-908, 9-919 AND 9-921 OF THE
FRESNO MUNICIPAL CODE RELATING TO TAXI CABS.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 9-908 of the Fresno Municipal Code is amended to read:

SECTION 9-908. POSTING REQUIREMENTS.

(a) There shall be displayed in the taxicab passenger compartment in full view of any passenger:

- (1) A copy of a valid permit issued pursuant to this chapter;
- (2) A rate schedule that is consistent with the requirements of this article; and
- (3) The register display of the taximeter;
- (4) Complaint hotline phone number(s).

(b) There shall be displayed on each exterior side of the taxicab in full view of prospective passengers:

- (1) In letters not less than two inches in height, the business name and telephone number of the taxicab vehicular permittee; and
- (2) A rate schedule in the following format:

FIRST MILE: (fee) *

ADDITIONAL MILES: (fee/miles) *

* subject to time clock

Date Adopted: _____

Date Approved: _____

Effective Date: _____

City Attorney Approval:

(c) All letters and numbers in the first two lines of the above format shall be not less than one and one-half inches in height. The third line of the above format shall be in letters not less than three-quarters of an inch in height. The rate schedule shall be consistent with the requirements of this article.

(d) In letters not less than one and one-half inches in height and adjacent to the schedule required by subsection (b) above, any additional types of fees to be charged and the amount of such fees, as indicated on the rate schedule filed/amended pursuant to this article.

(e) Nothing in this section shall preclude the display on the taxicab exterior fees calculated on a different basis than required above; provided, however, that such display must be located below the information required by this section.

[(f) There shall be displayed in the left lower rear window of each taxicab a City issued current and valid taxicab registration sticker, which shall be plainly visible from the rear of the vehicle. The sticker shall be applied to the window in such a manner that it may not be easily transferred to another vehicle. Failure to properly display the registration sticker shall constitute prima facie evidence of the failure of the taxicab to have a valid taxicab permit. Any violation of this section shall be an infraction, with a fine not to exceed fifty dollars (\$50.00). Taxicab operators shall have ninety (90) days from the effective date of this amended section to obtain and display the registration sticker as required in this section.]

SECTION 2. Section 9-919 of the Fresno Municipal Code is amended to read:

SECTION 9-919. RULES AND REGULATIONS.

[(a)] The city manager, with the assistance of the controller and the directors of transportation and aviation, may make rules and regulations enforceable hereunder, which are not inconsistent with the provisions of this article and which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary policies and procedures for the issuance of the permits, administration and enforcement of this article, collection of fees and bonds and/or indemnities, or proof(s) of insurance.

[(b) The rules and regulations authorized under subsection (a) shall not require any taxicab to be removed from service or refused a permit or permit renewal solely for the reason the taxicab is any model year of age less than ten (10).]

SECTION 3. Section 9-921 of the Fresno Municipal Code is amended to read:

SECTION 9-921. PENALTIES, SUSPENSION AND REVOCATION

(a) For any violation of this article including rules and regulations promulgated and enforceable hereunder code enforcement proceedings under Section 301 et seq. of Chapter 1 of this code shall apply, including penalties approved by resolution of the city council, as modified from time to time.

(b) In addition to the penalties above, subject to emergency suspension procedures in section 9-922 below and variously through rules and regulations promulgated hereunder, the city manager may suspend or revoke a permit issued

under this article upon written notice to affected permittee(s) specifying any of the following grounds for the proposed action and a date and place for city manager's hearing thereon:

- (1) Any of the conditions thereof are being violated;
- (2) Suspension or revocation is warranted pursuant to any points system promulgated by rule or regulation hereunder;
- (3) The permit is being exercised in violation of this Code, an ordinance, statute, regulation, permit or license issued by a regulatory agency other than the city;
- (4) The fact(s) which supported the determination of the city manager that grounds existed for the issuance of said permit no longer exists;
- (5) The permit is being used for a purpose detrimental to public morals, peace, or order, or is being used for a purpose contrary to that for which the permit was issued;
- (6) The application contained falsehoods;
- (7) Any fact or condition exists which, if it had been known to exist at the time of the original application for such permit, reasonably would have warranted the city manager in refusing originally to issue the permit;

///

///

(8) The licensee fails to pay a monetary penalty imposed under this chapter within thirty (30) days after an unappealed notice of violation or final decision or order imposing such monetary penalty is issued;

(9) The taxicab or its equipment is in such condition that its operation violates the State Vehicle Code;

(10) Transfer or sale of the permit to a vehicle or taximeter other than that identified in the permit application;

(11) Failure of the permittee to notify the city of cancellation, expiration, or change of insurance coverage as required by this article;

(12) Operation of a taxicab for which the insurance coverage required by this article is not in effect;

(13) Submitting a false controlled substance and/or alcohol test declaration or employment declaration. Such suspension or revocation may apply to all taxicab permits in the name of the person, persons or business in whose behalf the declaration is submitted;

(14) Allowing an employee without a valid taxicab driver permit to operate a taxicab vehicle for compensation. Such suspension or revocation may apply to all permits in the name of the person, persons or business who allow an employee without a valid taxicab driver permit to operate a taxicab vehicle for compensation;

(15) If permittee or permittee's employer submits a false controlled substance and/or alcohol test declaration or employment

declaration; or

(16) Operation of a taxicab in an unsafe manner or any conduct which places any passenger, motorist or pedestrian at unreasonable or unnecessary risk.

(c) Upon written notice by an insurer or verification of cancellation, expiration or change in insurance coverage resulting in noncompliance with this article, a permit issued pursuant to this article shall be automatically suspended effective upon the effective date of the cancellation, expiration, or change in coverage. The suspension shall continue until the earlier of the required insurance coverage being reinstated and the city receives written notice from the insurer indicating compliance with the requirements of this article, or permit expiration.

(d) Any taxicab driver permit suspended or revoked for positive results of a controlled substance and/or alcohol test, shall not be reinstated, nor shall a new permit be issued, until the requirements for rehabilitation and return-to-duty in accordance with Government Code Section 53075.5 are satisfied.

(e) Except in the case of a section 9-922 regarding emergency suspension, permit suspension or revocation shall become effective only following city manager's hearing/opportunity therefore. The hearing shall be informal and shall provide permittee(s) noticed pursuant to this section with the opportunity to present and examine witnesses and documentary evidence and to be represented by counsel. At the hearing any issuance of a written notice of cancellation, expiration or change in coverage by an insurance company shall be

conclusive proof at the hearing of the change in the policy so indicated. Any unexcused failure by Permittee(s) to appear for hearing shall be deemed acquiescence in the proposed action. The city manager, within fifteen (15) days following the hearing shall mail or otherwise furnish to persons noticed pursuant to this section a written decision stating the grounds for the decision. The decision of the city manager may be appealed pursuant to section 9-930 of this article 9 of this chapter 9, provided such an appeal shall not stay the effectiveness of the city manager's decision.

(f) Any permit suspension shall continue in effect until the earlier of (i) satisfaction of the requirements specified to the end the suspension period, or (ii) expiration of any period of suspension as may be specified therein. The permit holder may not exercise the permit at any time during the suspension period unless expressly allowed under this Code.

(g) A suspended or revoked permit may not be renewed.

[(h) No person may allow a vehicle to provide taxicab services as defined in this article without a valid permit. Any violation of this section shall be an infraction, with a fine not to exceed one hundred dollars (\$100.00). In addition to all other penalties and remedies listed in this article, more than one violation of this article may subject the vehicle to be immediately towed and impounded by order of a police officer.]

SECTION 4. Severability. If any section or portion of this ordinance shall be determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions shall remain in full force and effect.

SECTION 5. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2013.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2013
Mayor Approval/No Return: _____, 2013
Mayor Veto: _____, 2013
Council Override Vote: _____, 2013

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Michael D. Flores, Deputy

MDF:ns [60962ns/mdf]- 2/27/13