

ORDINANCE 2008-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMOORE AMENDING TITLE 3, CHAPTER 6, ARTICLE A OF THE LEMOORE CITY CODE RELATING TO TAXICAB PERMITS

The City Council of the City of Lemoore does ordain as follows:

SECTION 1. Section 3-6A-8 of the Lemoore City Code is amended to read as follows:

“3-6A-8: POSTING REQUIREMENTS.

- A. There shall be displayed in the taxicab passenger compartment in full view of any passenger:
1. A copy of a valid taxicab vehicle permit;
 2. A copy of a valid taxicab driver’s permit;
 3. A rate schedule; and
 4. The register display of the taximeter.
- B. There shall be displayed on each exterior side of the taxicab in full view of prospective passengers in letters not less than two inches (2") in height, the business name, and telephone number of the taxicab vehicle permittee.”

SECTION 2. Section 3-6A-12 of the Lemoore City Code is amended to read as follows:

“3-6A-12: ISSUANCE/RENEWAL OF TAXICAB DRIVER’S PERMIT.

- A. The Police Chief shall cause an investigation to be made of the facts stated in the application and shall, within thirty (30) days, make a determination.
- B. The Police Chief may deny issuance/renewal of a permit in the event he or she makes a finding adverse to the applicant with respect to any of the above factors including the following grounds:
1. Failure to submit a complete application.
 2. Failure to submit fingerprinting and photographs.
 3. Making a false statement of fact required to be revealed in the permit application.
 4. The applicant has been convicted of a crime involving moral turpitude or a crime substantially related to the qualifications, functions, or duties of a taxicab driver, and the time for appeal has elapsed, or when an order granting parole or probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under Penal Code section 1203.4. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under state Penal Code

section 4852.01 et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under state Penal Code section 4852.01(a).

5. Refusal or failure to submit to a controlled substance and/or alcohol test required by Government Code section 53075.5.
 6. Applicant tests positive for any controlled substance or alcohol when tested for controlled substances and/or alcohol in accordance with Government Code section 53075.5.
 7. Failure to pay application, permit and related fees.
- C. If a permit is denied, the Police Chief shall give the applicant prompt written notice of such decision. The notice shall include a statement of the specific reasons for denial including any complaints received against any applicant currently holding a permit and the right to appeal the decision under the city's administrative hearing procedures ordinance.
- D. If the Police Chief concludes that the applicant meets the requirements of this article, the Police Chief shall issue the taxicab driver's permit. Any taxicab driver's permit issued/renewed shall be subject to such terms, conditions or restrictions on the taxicab driver's permit as the Police Chief deems necessary to provide adequate and dependable service to the public and to protect the use of public streets and facilities, including, without limitation, the following conditions and requirements:
1. The Police Chief may, upon reasonable cause, require any taxicab driver permittee to take a controlled substance test in accordance with Government Code section 53075.5. Such test shall be taken by a driver within twenty-four (24) hours after Police Chief gives notice of the requirement. Notice shall be given to permittee and to permittee's employer if permittee is not self-employed. Notice shall be deemed effective upon depositing said notice in the U.S. mail, first class postage prepaid, addressed to the permittee and permittee's employer, if applicable, at the last address on record with the Police Chief. Failure to take the test within the time specified shall result in automatic suspension of the permittee's taxicab driver's permit and shall be grounds for revocation of the permit.
 2. The applicant's photograph shall be permanently attached to the taxicab driver's permit. The taxicab driver's permit shall be posted in a place conspicuous from the passenger's compartment of the taxicab.
 3. All employers shall maintain, and all drivers shall comply with, a mandatory controlled substance and alcohol testing certification program. The program shall include, but need not be limited to, all of the following requirements:
 - a. 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. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit issuance/renewal and at such other times as the Police Chief shall designate. 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.

- b. 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, and except as provided otherwise in this section.
 - c. A test in one jurisdiction shall be accepted as meeting the same requirement in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other jurisdiction, 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, or any testing requirements under the program other than periodic testing.
 - d. 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 employing transportation operator, who shall be required to notify the city of positive results.
 - e. All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.
 - f. Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation 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.
- 4. Upon the request of a driver applying for a permit, the city shall give the driver a list of entities 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.
 - 5. 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.
- E. For purposes of this section, "employment" includes self-employment as an independent driver.”

SECTION 3. Section 3-6A-13 of the Lemoore City Code is amended to read as follows:

“3-6A-13: UNLAWFUL ACTIVITIES

- A. It is unlawful for any person to operate a taxicab for compensation with knowledge that the taxicab, driver, or taximeter is not authorized by a valid permit or that grounds for revocation or suspension of the permit under this article exist.
- B. It is unlawful for any taxicab driver or person in the business of operating a taxicab for compensation to do any of the following:
 - 1. Charge an additional type of fee or higher fee other than those fees posted;
 - 2. Transport a greater number of passengers than the rated seat capacity of the taxicab;
 - 3. Fail to answer all calls received in the order of receipt;
 - 4. Refuse, upon request, to give a passenger a written receipt showing the fare due, and the miles and minutes employed;
 - 5. For the primary purpose of obtaining higher fees, drive passengers via indirect or circuitous routes;
 - 6. Refuse to provide service on the basis of the short length of the prospective ride;
 - 7. Fail to display a valid permit, issued pursuant to this article, in the taxicab interior in full view of any passenger;
 - 8. Pick up additional passengers without prior consent of the passenger(s) already in the taxicab;
 - 9. Solicit or carry passengers for compensation in a taxicab not posted in compliance with this article, or not equipped with an operable accurate taximeter;
 - 10. Knowingly fail to report to the taxicab vehicle permittee or authorized agent thereof all property of value left by a passenger in the taxicab within twenty-four (24) hours of discovery of such property;
 - 11. Operate the taxicab for hire without engaging the taxicab meter;
 - 12. Refuse to drive to a destination different from that originally stated;
 - 13. Refuse, upon request, to allow a passenger to disembark at a location different from the originally stated destination;
 - 14. Operate a taxicab for which insurance coverage as required by this article is not in effect;
 - 15. Operate a taxicab with an invalid, suspended, or revoked driver’s license;

16. Employ or contract with any person to be a taxicab driver while the owner or permittee is not in full compliance with the applicable provisions of this Title; or
 17. Park an out-of-service or off-duty taxicab on a public street in excess of 2 (two) hours.
- C. Except where credit is extended, any person who shall willfully or fraudulently fail or refuse to pay, at the end of the trip, or the termination or discharge or service, the legal fare for a taxicab that he or she has hired, shall be guilty of a misdemeanor.”

SECTION 4. Section 3-6A-15 of the Lemoore City Code is amended to read as follows:

“3-6A-15: GENERAL PROVISIONS REGARDING TAXICAB VEHICLE AND DRIVER PERMITS

- A. All permits issued under this article are enforceable and subject to suspension and revocation in accordance with this article, and are to be exercised only in conformance with any and all rules and regulations promulgated and enforceable hereunder.
- B. All permits issued under this article are personal to the permittee. A permittee shall not permit any right or privilege thereunder to be exercised by another, nor shall any permit or any interest therein or any right or privilege thereunder be sold, transferred, leased, assigned or otherwise disposed of except as may be provided in this article. A transfer in violation of this subsection shall be ineffective and shall constitute permittee's violation of this article.
- C. Upon the death of any taxicab permittee, the permit may be exercised by the executor or administrator of the deceased permittee's estate during the period of estate administration. The period shall not exceed one year from the permittee's death.
1. A deceased permittee's surviving heir(s) who inherits the permittee's entire taxicab company may apply for the taxicab permit(s) held by decedent permittee.
 2. A permittee may sell the taxicab company, or one or more taxicabs, to another current permittee, who may then apply for the taxicab permits held by the selling company.
- D. A permit issued under this article is an annual permit which expires on the following December 31, provided, that whenever a taxicab vehicle or driver's permit has been applied for and issued within a period of sixty (60) days before December 31, it shall be valid when issued and may be issued for the next ensuing year. Application for renewal must be received by the police chief before expiration of the permit and will require permittee attest to that all information on file remains current and correct and submission of current insurance certificates and other required certifications and declarations, as applicable.
- E. The renewal fee shall be the annual amount designated in the master user's fee resolution and shall be paid at such times designated in the master user's fee resolution. If any permit is not exercised or is suspended or rescinded, the fee shall not be

refunded. The fee required is a permit fee and shall not be deemed to be in lieu of a business tax as required by the provisions of this code. Prior to the payment of the annual permit renewal fee for a taxicab permit, the permittee must submit a valid state of California vehicle registration card.

- F. Late penalty on renewal shall be charged on all applications for renewal received later than ten (10) working days after the expiration date. The amount of such late penalty shall be fixed annually in the master user's fee resolution.”

SECTION 5. The City Clerk is authorized and directed to cause this ordinance or a summary of this ordinance to be published in a newspaper of general circulation published and circulated by the City of Lemoore, within 15 days after its adoption. If a summary of this ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the June 17, 2008 meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The summary shall become effective 30 days after its adoption.

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The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 17th day of June, 2008, and was passed and adopted at a regular meeting of the City Council held on the 1st day of July, 2008, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

John Murray, Mayor

ATTEST:

Nanci C.O. Lima, CMC
City Clerk