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INDEX NO.

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9-13-10

ORDINANCE NO. 12412

AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 35, SECTIONS 22, 26, 36, 45, 46, 47, 49, 52, 53, 54, 55, AND ADDING SECTIONS 62 THROUGH 67 RELATIVE TO VEHICLES FOR HIRE.

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SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division I, Section 22, definition of "Owner" is amended by deleting the definition in its entirety and inserting in lieu thereof the following definition:

*Owner:* A person, entity or company authorized to operate a vehicle for hire business under this Article.

SECTION 2. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division I, Section 22, definition of "Permit or privilege" is amended by deleting the definition in its entirety and inserting in lieu thereof the following definition:

*Permit:* The authority given by the Transportation Board to drive or operate a vehicle for hire upon the streets and public highways of the City of Chattanooga.

*Privilege:* The authority given by the Transportation Board to own and operate a vehicle for hire under the umbrella of a valid Certificate Holder upon the streets and public highways of the City of Chattanooga. A Privilege Holder is not required to be a Certificate Holder, but must operate a vehicle for hire under the umbrella of a Certificate Holder.

SECTION 3. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division I, Section 22, definition of "Vehicle for hire" is amended by deleting the third sentence of that definition in its entirety and inserting in lieu thereof the following language:

Vehicle for hire for purposes of regulation under this Chapter does not include any motor vehicle to the extent that such motor vehicle is regulated in a particular area by the Tennessee Department of Safety.

SECTION 4. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division I, Section 26(a)(2) is amended by deleting the first sentence of that subsection in its entirety and inserting in lieu thereof the following language:

Nothing contained in this subsection shall prohibit a certificate holder from making a contractual agreement with any passenger, company, agency or organization to furnish transportation for employees, associates, clients, patients, customers or members at a rate that is based on mileage, number of passengers, number of trips, number of passenger hours, weekly or monthly fees, or any other reasonable and calculable basis, irrespective of the mileage charges, minimum charges, and waiting time charges contained in this chapter or the certificate holder's filed rates for ordinary radio dispatch, taxicab stand, personal call or hailed service.

SECTION 5. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division I, Section 26(a)(7), is amended by deleting the third sentence of that subsection in its entirety and inserting in lieu thereof the following language:

Failure to display said rate card in a conspicuous manner shall be grounds for revocation or suspension of the privilege for the taxicab failing to display the rate card.

SECTION 6. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division I, Section 36, is amended by deleting the words "one dollar" in the second sentence and replacing with the words "five dollars."

SECTION 7. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division I, Section 45, is amended by adding a Subsection (d) to include the following language:

All vehicles for hire must meet the insurance requirement of this section even if the privilege for a vehicle for hire has been suspended by this board. If a vehicle for hire becomes inoperable for any reason other than suspension of the privilege and is not being used in the business of transporting passengers for hire, the certificate holder shall notify the transportation inspector in writing that the vehicle is inoperable and insurance will no longer be required after such written notice is given. The certificate holder shall keep an accurate list of all privileges for vehicles operating under the certificate holder's franchise or umbrella.

SECTION 8. BE IT FURTHER ORDAINED; That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 46(b), is amended by deleting the subsection in its entirety and inserting in lieu thereof the following language:

Any type of motor vehicle for hire authorized to operate under this Chapter through a privilege must be operated under the franchise or umbrella of a valid Certificate of Public Convenience and Necessity approved by the Transportation Board and pursuant to rules and policies set by the Transportation Board. The Transportation Board must approve the number of privileges and any transfer of privileges associated with a Certificate Holder.

SECTION 9. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 47, Subsection (a)(1) is amended by deleting the words "The address must be within the City of Chattanooga.", and Subsection (a)(5) is amended by adding at the end Subsection the following language:

The interest that the applicant will have in each of the vehicles.

SECTION 10. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 47, Subsection (a)(7) is amended by deleting the words "~~three (3) years.~~" and inserting in lieu thereof the words "~~ten (10) years, or any offense~~"

involving driving under the influence of drugs or alcohol. The applicant shall submit a complete Tennessee Bureau of Investigation Tennessee Criminal History of the applicant and any owner of the business having a ten percent (10%) or greater financial interest in the business at the cost of the applicant.”

SECTION 11. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 48, is amended by deleting the word “permits” in the first sentence and replacing in lieu thereof the word “privileges.”

SECTION 12. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 49, Subsection (a) is amended by deleting the last sentence of that section in its entirety and inserting in lieu thereof the following language:

If the applicant or any owner of the business having a ten percent (10%) or greater financial interest in the business has been convicted of two (2) or more felonies within ten (10) years of the date of the application, the certificate shall be denied. If the applicant or any owner of the business having a ten percent (10%) or greater financial interest in the business has been convicted of a felony within ten (10) years, the certificate may be denied.

SECTION 13. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 49(b), is amended by deleting the word “permits” in the last sentence and replacing in lieu thereof the word “privileges.”

SECTION 14. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 49(c), is amended by deleting the word “permits” in the subsection and replacing in lieu thereof the word “privileges.”

SECTION 15. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 49(d), is amended by deleting the last sentence of that section in its entirety and inserting in lieu thereof the following language:

Applicants shall have ninety (90) days following the approval of a certificate of public convenience and necessity to obtain and have inspected all vehicles for hire authorized by the Transportation Board. If a vehicle for hire shall not be operated for ninety (90) or more consecutive days, the privilege for that vehicle for hire shall be revoked by the Transportation Board unless the certificate holder notifies the Transportation Board and obtains a replacement vehicle that is inspected and approved by the Transportation Board Inspector or the Transportation Board approves additional time with adequate justification.

SECTION 16. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Part II, Chattanooga City Code, Chapter 35, Article III, Division II, Section 52, is amended by deleting the words "or permit" in the first sentence and deleting the word "permit" in the last sentence.

SECTION 17. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division III, Section 53, Subsection (a) is amended by inserting the following words "and/or any privileges associated thereto" in the first sentence after the words "A certificate of public convenience and necessity", and Subsection (a)(2) is amended by deleting the sentence of that Subsection in its entirety and inserting in lieu thereof the following language:

Allows a vehicle for hire to be operated by a person who does not have a drivers permit issued by the Transportation Board or a chauffeur's license issued by the State of Tennessee.

SECTION 18. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division III, Section 54(a) is amended by deleting the first sentence of that Subsection in its entirety and inserting in lieu thereof the following language:

All certificate holders and privilege holders are required to maintain a current driver's permit or a chauffeur's license issued by the State of Tennessee.

SECTION 19. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, Division III, Section 55, Subsection (f)(3) is amended by deleting the section in its entirety and inserting in lieu thereof the following language:

- (3) the driver provides a statement disclosing any felony convictions or any convictions involving driving under the influence of drugs or alcohol or sexually related offenses within ten (10) years of the date of the drivers' permit application and provides a complete Tennessee Bureau of Investigation Tennessee Criminal History of the applicant;

SECTION 20. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, is amended by creating a new Division IV title "Vehicle for Hire Privilege", Section 62 titled "Required." to include the following language:

- (a) No person shall operate or permit a vehicle for hire as defined in Section 35-22 of this Code as amended, upon the streets, roads and public highways of Chattanooga without having first obtained a privilege to operate the vehicle from the Transportation Board.
- (b) Any type of motor vehicle for hire authorized to operate under this Chapter must be operated under the franchise or umbrella of a Certificate of Public Convenience and Necessity issued by the Transportation Board.

SECTION 21. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, is amended by creating a new Division IV title "Vehicle for Hire Privilege", Section 63 titled "Application." to include the following language:

- (a) An application for a privilege shall be filed with the Transportation Board upon forms provided by the Transportation Inspector(s) and upon the payment of a nonrefundable fee of fifty dollars (\$50.00). A renewal application shall be filed upon forms

provided by the Transportation Inspector(s) on or before the annual renewal date of the privilege. Such application shall be verified under oath and shall furnish the following information:

- (1) The name and address of the applicant;
  - (2) The experience of the applicant in the transportation of passengers;
  - (3) The name of the certificate holder with which the privilege holder will be associated or affiliated with for operation of the privilege;
  - (4) The color scheme and insignia to be used to designate the vehicle to be operated under the privilege;
  - (5) The ownership interest that the applicant has in the vehicle to be operated under the privilege;
  - (6) The make, model and year of the vehicle to be operated under the privilege;
  - (7) Whether the applicant has been convicted of any felony or any convictions involving driving under the influence of drugs or alcohol or sexually related offenses within ten (10) years of the date of the privilege application and provides a complete Tennessee Bureau of Investigation Tennessee Criminal History of the applicant; and
  - (8) Such further information as the Transportation Board may require.
- (b) If an application is incomplete, it shall be returned to the applicant for completion prior to being acted upon.
- (c) Each application shall be signed by the certificate holder and the privilege holder, which shall be deemed to be a certification that the information on the application is accurate. Any material misrepresentation made on an application shall be grounds for revocation of the certificate.
- (d) The lawful operation of any privileges prior to January 1, 2010 shall not be affected by the Section and shall not be required to complete an initial application but shall be required to complete a renewal application prior to January 1, 2011.

SECTION 22. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, is amended by creating a new Division IV title "Vehicle for Hire Privilege", Section 64 titled "Public Hearing." to include the following language:

Upon the filing of an application for a privilege, the Transportation Board shall fix a time and place for a public hearing thereon, to be not less than thirty (30) days after receipt of the application or request.

SECTION 23. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, is amended by creating a new Division IV title "Vehicle for Hire Privilege", Section 65 titled "Issuance." to include the following language:

- (a) If the Transportation Board finds that further vehicle for hire services in Chattanooga is required and the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this Chapter, the Transportation Board shall issue a privilege to the applicant, stating the name and address of the applicant, the certificate with which the privilege is associated or affiliated, the make, model and year of the vehicle and the privilege number assigned to the privilege; otherwise, the application shall be denied.
- (b) Applicants shall have ninety (90) days following the approval of a privilege to obtain and have inspected the vehicle for hire authorized by the Transportation Board. If a vehicle for hire shall not be operated for ninety (90) or more consecutive days, the privilege for that vehicle for hire shall be revoked by the Transportation Board unless the certificate holder or the privilege holder notifies the Transportation Board and obtains a replacement vehicle that is inspected and approved by the Transportation Board Inspector or the Transportation Board approves additional time with adequate justification.
- (c) The action of the Transportation Board in issuing or denying a privilege shall be final, except as it may be subject to review at law.

SECTION 24. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, is amended by creating a new Division IV title "Vehicle for Hire Privilege", Section 66 titled "Transfer." to include the following language:

No privilege may be sold, assigned, mortgaged or otherwise transferred by a privilege holder without the consent of the Transportation Board and payment of a transfer and inspection fee of fifty dollars (\$50.00).

SECTION 25. BE IT FURTHER ORDAINED, That Part II, Chattanooga City Code, Chapter 35, Article III, is amended by creating a new Division IV title "Vehicle for Hire Privilege", Section 67 titled "Suspension and Revocation." to include the following language:

- (a) A privilege issued under the provisions of this division may be revoked or suspended by the Transportation Board if the holder thereof:
  - (1) Violates any of the provisions of this article, including failing to maintain financial responsibility for the vehicle.
  - (2) Willfully fails to submit to a vehicle for hire inspection.
  - (3) Willfully fails to notify the Board of a change in the certificate holder under which the privilege is being operated.
  - (4) Fails to report an accident as required by this Chapter.

(b) Prior to suspension or revocation, the privilege holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard. The action of the Transportation Board at such hearing shall be final subject to review at law.

SECTION 26. That this Ordinance shall become effective immediately after its passage.

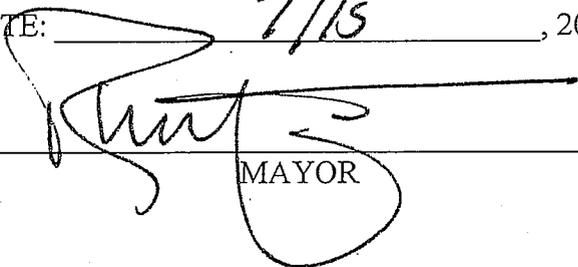
PASSED on Second and Final Reading

July 13, 2010.

  
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CHAIRPERSON

APPROVED:  DISAPPROVED:

DATE: 7/15, 2010.

  
\_\_\_\_\_  
MAYOR

CRF/kac