



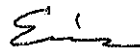
HISTORIC
FRANKLIN
TENNESSEE

ITEM #11
WRK S 02/09/10

MEMORANDUM

DATE: January 26, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator 
Shauna R. Billingsley, Interim City Attorney
Kristen Corn, Staff Attorney

SUBJECT: Amendments to Title 9, Chapter 4 relative to taxicabs and other vehicles for hire

Purpose

The purpose of this memorandum is to present information to the Board of Mayor and Aldermen (BOMA) to consider Ordinance 2010-12, to amend Title 9, Chapter 4 relative to the franchising and licensing scheme for taxicabs and vehicles for hire.

Background

Currently, the City's taxicab franchising ordinance is very lengthy and extensive, and we are aware that many taxicab businesses are operating within the City limits and not abiding by it. Due to the extensiveness, it is costly and time-consuming for the City to enforce the provisions set forth in the current ordinance. However, having an unenforceable ordinance may expose the City to liability. After detailed research of other cities' taxicab ordinances, we discovered that the Metropolitan Transportation Licensing Commission has a thorough application and testing process for taxicab businesses. We have attached a copy of this for your review.

The revised ordinance as proposed provides that no taxicab or vehicle for hire business shall operate within the City of Franklin unless they have first obtained a certificate of public convenience and necessity from the Metro Transportation Licensing Commission. Further, they must file a copy of this certificate annually with the Franklin Police Department. Because it is likely that most taxicab/vehicle for hire businesses are already licensed by Metro, it should not be a burden for the business owners. In addition, this will benefit the City by ensuring that the taxicabs/vehicles for hire operating in the City have met stringent requirements.

Financial Impact

Adoption of this ordinance will have little to no financial impact on the City.

Recommendation

Adoption of the proposed ordinance as presented is recommended.

ORDINANCE 2010-12

**TO BE ENTITLED: "AN ORDINANCE TO AMEND TITLE 9, CHAPTER 4
RELATIVE TO THE REGULATION OF TAXICABS IN THE CITY OF
FRANKLIN"**

WHEREAS, the Franklin Municipal Code currently provides for an extensive taxicab franchising process; and

WHEREAS, the purpose of the current and proposed revision to Title 9, Chapter 4 is public safety, which is entrusted to drivers of taxicabs and other vehicles for hire; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, desires to amend Title 9, Chapter 4 of the Franklin Municipal Code to allow taxicab and vehicles for hire to operate within the corporate limits of the City provided they are currently permitted by the transportation licensing commission of the Metropolitan Government of Nashville and Davidson County, Tennessee.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Title 9, Chapter 4 of the Franklin Municipal Code shall be deleted in its entirety and replaced with the following:

"TITLE 9

*** * ***

Chapter 4. VEHICLES FOR HIRE

Sec. 9-401. Definitions.

(1) *Operating within the corporate limits of the City of Franklin* shall mean the pick-up of passengers with point of origin within the corporate limits of the City of Franklin to a destination either within or outside the city limits or operating a base of operations, headquarters, dispatch operation, or coordination center which directs, assigns, schedules, or otherwise controls the operation of taxicabs from its location.

(2) *Taxicab or vehicle for hire* shall include any motor vehicle for hire operating under the definitions of Tennessee Code Annotated, § 65-15-102, designed or constructed to accommodate and transport not more than 15 passengers, exclusive of the driver, operating within the city's corporate limits and suburban territory adjacent thereto and not operating on a fixed route or schedule. Includes airport limousines, limousines, sedans, and shuttles but excludes common carriers of more than 15 passengers and ridesharing pools as defined by Tennessee Code Annotated, § 65-19-202. This Chapter specifically excludes school and church vehicles used for transporting persons to or from school, religious education, church or religious services of any kind, upon special prearranged trips or excursions under the auspices of any religious or charitable organization.

(3) *Taxicab business* shall include the operation of one or more taxicabs within the city limits of Franklin.

Sec. 9-402. Restrictions on operating within corporate limits.

(1) It shall be unlawful for any person to operate a taxicab business or a vehicle for hire within the corporate limits of the City of Franklin without a current certificate of public convenience and necessity issued by the Metropolitan Transportation Licensing Commission of the Metropolitan Government of Nashville and Davidson County, Tennessee.

(2) A copy of such certificate of public convenience and necessity shall be filed annually with the City of Franklin Police Department.”

SECTION II. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the public health, safety and welfare requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY:

ERIC S. STUCKEY
City Administrator

BY:

JOHN C. SCHROER
Mayor

PASSED FIRST READING

PASSED SECOND READING

Article I. Certificate of Public Convenience and Necessity

6.72.020 Required.

No person shall operate or permit a taxicab, as defined in Section 6.72.010, owned or controlled by him or her to operate upon the streets and roads in the area of the metropolitan government without having first obtained a certificate of public convenience and necessity from the metropolitan transportation licensing commission.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.030 Application--Information and fees required.

A. An application for a certificate of public convenience and necessity shall be filed with the metropolitan transportation licensing commission upon forms provided by the commission and upon the payment of a nonrefundable fee in an amount to be established by the commission based upon the cost of processing the application.

B. Such application shall, at a minimum, require the following information:

1. The name and address of the applicant, which must be in the metropolitan government area;
2. Proof of United States citizenship or residency authorization by the United States Immigration and Naturalization Service;
3. The financial status of the applicant, including any judgments against the applicant, together with information regarding the amount of any such judgment and the nature of the transaction or acts giving rise to such judgments. This information shall be presented in a certified financial statement current within thirty days of the date of application submission;
4. The experience of the applicant in the transportation of passengers;
5. Any facts and information, as listed in Section 6.72.060(B), which the applicant believes tends to prove that public convenience and necessity require the granting of the certificate;
6. The number of vehicles and their year models to be operated or controlled by the applicant and the location of proposed depots and terminals. A new applicant must have no fewer than twenty vehicles. An applicant for renewal must continually sustain no fewer than fifteen vehicles for renewal;
7. The color scheme and insignia to be used to designate the vehicles of the applicant;
8. Any commitment to deliver services in areas not currently adequately served or service improvements above the level of service generally available from taxicabs currently operating in the metropolitan government area;
9. Procedures for training drivers;
10. Rules and regulations governing driver appearance and conduct;
11. Such further information as the metropolitan transportation licensing commission may require.

C. An applicant for a certificate of public convenience and necessity will be ineligible for consideration if:

1. Any of the partners, officers or directors are under twenty-one years of age and/or the taxicab business has no separate legal existence beyond a shareholder, owner, or partner who is under eighteen years of age;
2. Any of the partners, officers or directors have been convicted of, forfeited a bond, or pleaded guilty or nolo contendere to a felony or offense involving a controlled substance, prostitution, assignation, obscenity, or any crime of a sexual nature in any jurisdiction within five years immediately preceding the date of application.
3. Any of the owners, partners, officers or directors have violated any portion of this chapter within five years immediately preceding the date of application.
4. The application or any portion of the application is incomplete or contains incorrect or false information.

D. The commission shall conduct hearings for the issuance of certificates of public convenience and necessity.

1. The metropolitan transportation licensing commission shall fix a time and place for a public hearing, to be held annually, to review applications for certificates of public convenience and necessity.
2. Notice of such hearing shall be given to each applicant and to all persons to whom certificates of public convenience and necessity have been previously issued. Due notice shall be given to the general public by posting a notice of such hearing in the morning edition of a newspaper of general circulation in the metropolitan government area for at least three days, but not more than five days prior to the public hearing.
3. Any person may file with the metropolitan transportation licensing commission a memorandum or letter in support of or opposition to the issuance of a certificate of public convenience and necessity.
4. The metropolitan transportation licensing commission may, in its discretion, call special meetings in addition to the annual meeting for the consideration of new certificates of public convenience and necessity.
5. There shall be a nonrefundable fee, in an amount to be established by the commission based upon the cost of processing the application, charged for each request for certificates, payable at the time of application. An additional fee of seventy-five dollars shall be charged for the issuance of each approved permit associated with the certificate.
6. The notice provisions set forth in this section shall be followed when special meetings are called.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.035 Annual renewal.

All certificates of public convenience and necessity shall expire on August 31st of the year following the date on which the certificate was issued. All certificates may be renewed by the director for each successive year between August 1st and August 31st of each year. A renewal fee of seventy-five dollars for each approved permit to operate a taxicab shall be charged at the annual renewal of the certificate of public convenience and necessity. Failure to renew a certificate by August 31st shall result in forfeiture of the certificate.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.040 Request for additional permits.

- A. The metropolitan transportation licensing commission shall fix a time and place for a public hearing, to be held annually, to review applications from current certificate holders for additional taxicab permits.
- B. Notice of such hearing shall be given to each applicant and to all persons to whom certificates of public convenience and necessity have been previously issued. Due notice shall be given to the general public by posting a notice of such hearing in the morning edition of a newspaper of daily circulation within the metropolitan area at least three days, but not more than five days, prior to the public hearing.
- C. Any person may file with the metropolitan transportation licensing commission a memorandum or letter in support of or in opposition to a request for additional taxicab permits.
- D. The metropolitan transportation licensing commission may, in its discretion, call special meetings in addition to the annual meeting for the consideration of applications for new taxicab permits.
- E. There shall be a nonrefundable fee, in an amount to be established by the commission based upon the cost of processing the application, charged for each request for additional permits, payable at the time of application. An additional licensing fee of seventy-five dollars shall be charged for the issuance of each approved permit.
- F. The notice provisions enumerated in this section shall be followed when special meetings are called.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.050 Proof of financial responsibility required.

No certificate of public convenience and necessity shall be issued or continued in operation unless there is in full force and effect proof of financial responsibility for each vehicle, in an amount that is in compliance with the greater of the minimum limits set by the law of the State of Tennessee for owners and operators of motor vehicles or the minimum amount as is established by the commission. Such security shall inure to the benefit of any person who is injured or who sustains damage to property proximately caused by the negligence of a holder, his servants or his agents. Proof of financial responsibility shall be filed in the office of the metropolitan transportation licensing commission and shall have as a surety thereon a surety company authorized to do business in the State of Tennessee.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.060 Findings--Issuance of certificate or additional permits.

- A. If the metropolitan transportation licensing commission finds that further or additional taxicab service in the metropolitan government area is required by the public convenience and necessity and that the applicant is fit, willing and able to provide such public transportation and to conform to the provisions of this chapter and the rules promulgated by the metropolitan transportation licensing commission, the metropolitan transportation licensing commission may issue a certificate of public convenience and necessity, stating the name and address of the applicant, the number of vehicles authorized upon such certificate and the date of issuance.
- B. In making the above findings, the metropolitan transportation licensing commission shall, at a minimum, take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need; the character, experience, financial condition and responsibility of the applicant, and such criteria as may be adopted by the commission in its rules.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.065 Commission notification.

Persons granted certificates of public convenience and necessity under this article shall not change the address, company name, officers, ownership, or otherwise make any material change in the company or its identity from that set forth upon the taxicab company's original application without prior notification and approval to commission staff. Any such proposed material changes shall be brought before the commission for consideration prior to implementation.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.070 Quarterly reporting and fees--Disposition of revenue.

A. Persons granted certificates of public convenience and necessity under this article shall keep the metropolitan transportation licensing commission advised, quarterly, of the cabs being insured and operated, and shall, quarterly, pay to the metropolitan transportation licensing commission a fee of forty-five dollars for each of its cabs in operation, including those vehicles which as of the reporting date may be temporarily out of commission for repair, etc., as a condition precedent to the operation of such vehicle as a taxicab; and failure to comply herewith shall subject such person to the penalty provided in Section 1.01.030. The time to commence reporting quarterly and paying of the quarterly fee shall be established by rule and regulation of the metropolitan transportation licensing commission. Appropriate identification, in sticker form, shall be issued to the reporting companies for attachment to the vehicle upon which the required fee has been paid, evidencing compliance with this section. The sticker must be attached to the lower left side of the state license plate or such other place as the commission may designate. Such stickers shall be identified with the vehicles to which they are issued and shall not be transferable. Failure to display the sticker shall place the taxicab in out-of-service status and may also be cited as a violation.

B. The metropolitan transportation licensing commission shall turn over to the metropolitan treasurer all funds derived from the payment specified, and the metropolitan treasurer shall keep a separate account thereof.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.080 Transfers--Fee.

A. No certificate of public convenience and necessity may be sold, leased, assigned, mortgaged or otherwise transferred, nor may there be any modification of ownership as to stock, new or additional partners, etc., by a holder of a certificate of public convenience and necessity without the prior consent of the metropolitan transportation licensing commission. An application for a transfer shall be filed with the metropolitan transportation licensing commission upon forms provided by the metropolitan government and upon the payment of a nonrefundable fee, in an amount to be established by the commission based upon the cost of processing the application by the transferee of a certificate or stock in a company holding a certificate, or any new partner in a business holding a certificate.

B. An applicant for the transfer of a certificate will be ineligible for consideration if:

1. Any of the partners, officers or directors are under twenty-one years of age and/or the taxicab business has no separate legal existence beyond a shareholder, owner, or partner who is under the age of eighteen years of age;
2. Any of the owners, partners, officers or directors have been convicted of, or had a bond forfeited, or pleaded guilty or nolo contendere to a felony or any crime involving moral turpitude, or offense involving a controlled substance, prostitution, assignment, obscenity,

or any crime of a sexual nature in any jurisdiction within the five years immediately preceding the date of application.

3. Any of the owners, partners, officers or directors have violated any portion of this chapter within the five years immediately preceding the date of application.

4. Any portion of the application is incomplete or contains incorrect or untruthful information.

C. Upon the filing of an application to transfer a certificate of public convenience and necessity, the metropolitan transportation licensing commission shall fix a time and place for a public hearing on the application.

(Ord. BL2000-325 § 1 (part), 2000)

6.72.090 Suspension and revocation.

A. A certificate of public convenience and necessity issued under the provisions of this article may be revoked or suspended by the metropolitan transportation licensing commission if the holder thereof has:

1. Violated any of the provisions of this chapter;
2. Discontinued operations for more than five days;
3. Has violated any provision of this code or other ordinances, laws or regulations of the metropolitan government or the laws of the United States or the State of Tennessee or any other state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.
4. Made a misrepresentation or false statement when applying for a certificate of public convenience and necessity, additional permits, or for the transfer of a certificate.
5. Fails to maintain fifteen or more vehicles in service for a period of more than five days.

B. Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and the general basis for the proposed action and shall have an opportunity to be heard.

(Ord. BL2000-325 § 1 (part), 2000)