

AGENDA REQUEST

5<sup>th</sup> (Kit)

FOR: COUNCIL MEETING OF JUNE 19, 2012

FROM:

SONDRA SMITH, CITY CLERK  
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Article Iv **Taxicabs** And Article V **Limousine Service** Of Chapter 117 Of The Fayetteville Code To Clarify Notice Requirements, Cancellation Of Unused Certificates Of Public Convenience And Necessity, And Other Provisions

APPROVED FOR AGENDA:

Dendrea E. Smith      5/10/12  
City Clerk                      Date

Kit Williams      5/10/12  
City Attorney                      Date

Don Man      5-14-12  
Chief of Staff                      Date

Donald J. Har      5/14/12  
Mayor                      Date



Paul a. Becher

FINANCE & INTERNAL SVC DIRECTOR

5-14-2012

05-10-12 P03:42 RCVD

5-10-12 KG

**Kit Williams**  
*City Attorney*

**Jason B. Kelley**  
*Assistant City Attorney*

**TO: Mayor Jordan**  
**City Council**

**THRU: Sondra Smith, City Clerk**

**CC: Don Marr, Chief of Staff**  
**Greg Tabor, Police Chief**

**FROM: Kit Williams, City Attorney**



**DATE: May 17, 2012**

**RE: Revisions of Taxicabs & Limousine Services Chapters  
of Fayetteville Code**

After consultations with the Fayetteville Police Department and the City Clerk, I have drafted an ordinance to remove obsolete sections, make the Taxicab and Limousine Services Chapter's notification and insurance provisions equivalent to the pedicab's more recent requirements, and clarified what City official should receive and maintain required documents. Alderman Ferrell also asked me to draft language prorating the \$100.00 license fee depending upon when the taxi or limousine is first placed in service. I have done that in sections 6 and 7 of the Ordinance. Below is a summary of the proposed changes:

**TAXICAB ORDINANCE**

(1) §117.31 (B): Remove "and Fayetteville City Clerk" from last line.

(2) §117.32 (C): Replace with my new language so that Police Department first ensures the proper and adequate application has been filed before the City Clerk schedules the public hearing. Applicant must notify other companies instead of City Clerk.

(3) §117.33: Change last two words from “finance director” to “City Clerk”. Add language requiring that the insurance policy must include an automatic notification of City Clerk if policy cancelled or is no longer in effect.

(4) §117.34 (B): Repeal (B) \$100 surety bond unnecessary. Realphabetize (C) and (D).

(5) §117.36: Add my new (C) → “deemed abandoned and shall be denoted as cancelled and invalid ...” if Certificate holder goes out of business or fails to operate for a year.

(6) §117.41: Add two sentences to change the \$100.00 annual fee to prorated amount depending upon what quarter the taxi is first placed in service.

### LIMOUSINE ORDINANCE

(1) §117.61 **License Required; Fee:** Added language identical to taxi fee proration for limousines.

(2) §117.63: Change “finance director” to “City Clerk”. Put in notification language if insurance lapses.

(3) Add §117.65: Suspension, Revocation and Cancellation of Certificate  
“A limousine service’s Certificate of Public Convenience and Necessity may be suspended, revoked or cancelled for the same reasons and by the same procedures set forth in §117.36.”

Alderman Brenda Boudreaux has scheduled an Ordinance Review Committee meeting on May 30, 2012, at 5:00 p.m. in Room 326 so the Police Department, City Clerk and I can discuss the reasons we suggest these amendments be adopted by the City Council.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND ARTICLE IV TAXICABS AND ARTICLE V LIMOUSINE SERVICE OF CHAPTER 117 OF THE FAYETTEVILLE CODE TO CLARIFY NOTICE REQUIREMENTS, CANCELLATION OF UNUSED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND OTHER PROVISIONS**

**WHEREAS**, notification of all holders of current and valid Certificates of Public Convenience and Necessity should be accomplished by the taxicab or limousine applicant (as required of pedicab applicants) rather than the City Clerk; and

**WHEREAS**, if a taxicab or limousine service's holder of a Certificate of Public Convenience and Necessity goes out of business or fails to operate for one year, the Certificate should be deemed abandoned and cancelled as it is for pedicabs; and

**WHEREAS**, other technical changes should be made to the **Taxicab** and **Limousine Service** Chapters.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.31 **Rates** of the Fayetteville Code by deleting "and Fayetteville City Clerk" from the last sentence in (B).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.32 (C) by repealing it in its entirety and enacting a new §117.32 (C) as shown below:

**“(C) Public Hearing for Certificate.** When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. The City Clerk shall thereupon notify the applicant who shall have the duty to notify all holders of current and valid Certificates of Public Convenience and Necessity for taxicabs and pedicabs and provide proof of

such service to the City Council. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.33 **Liability Insurance** by denoting the current wording as (A) and by deleting “finance director” as the last two words of (A) and replacing them with “City Clerk,” so that the required insurance policy will be filed in the City Clerk’s Office; and by enacting (B) as shown below:

“(B) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a taxicab service while the certificate is suspended under this section.”

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.34 **Licensing Requirements** by repealing (B) *Surety Bond required* and realphabetizing the remaining subsections.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.36 by amending the title to “**Suspension, Revocation and Cancellation of Certificate**” and enacting a new subsection C as shown below:

“(C) If any holder of a Certificate goes out of business, fails to operate under the Certificate for one calendar year, fails to have any vehicle inspected to operate under the Certificate for one calendar year or fails to have any driver or operator properly permitted under the Certificate for one calendar year, the holder’s Certificate of Public Convenience and Necessity shall be deemed abandoned and shall be denoted as cancelled and invalid by the City Clerk.”

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.41 by adding the following after the third sentence of the section:

“The license fee shall be prorated depending upon when the taxi is first operated during its first calendar year of service. Taxis placed in service after April 1 shall pay \$75.00; after July 1 shall pay \$50.00 and after October 1 shall pay \$25.00.”

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.61 **License Required; Fee** by adding the following at the end of the section:

“The license fee shall be prorated depending upon when the limousine is first operated during its first calendar year of service. Limousines placed in service after April 1 shall pay \$75.00; after July 1 shall pay \$50.00 and after October 1 shall pay \$25.00.”

Section 8: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.63 **Liability Insurance** of the **Limousine Service** Chapter by replacing “finance director” with “City Clerk” in the current language and denoting this as subsection (A) and enacting a new (B) as shown below:

“(B) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a limousine service while the certificate is suspended under this section.”

Section 9: That the City Council of the City of Fayetteville, Arkansas hereby enacts §117.65 **Suspension, Revocation and Cancellation of Certificate** as shown below:

“§117.65 **Suspension, Revocation and Cancellation of Certificate.**

“A limousine service’s Certificate of Public Convenience and Necessity may be suspended, revoked or cancelled for the same reasons and by the same procedures set forth in §117.36.”

**PASSED and APPROVED** this 19<sup>th</sup> day of June, 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

FAYETTEVILLE CODE OF ORDINANCES  
TITLE XI BUSINESS REGULATIONS

**CHAPTER 117: VEHICLE-RELATED BUSINESSES**

**ARTICLE I  
REPAIR SHOPS AND WRECKER  
SERVICES**

**117.01 Definitions**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Motor vehicle.* Every self-propelled device in, upon or by which any person or property is or may be transported or drawn over public streets and highways, except devices used exclusively upon stationary rails or tracks. "Motor vehicle" shall include, but shall not be limited to, automobiles, trucks, tractors, motorcycles, implements of husbandry, or buses.

*Motor vehicle repair shop.* Any business where motor vehicles are repaired for a charge and any place where the work of repairing motor vehicles is carried on as an incident to the business of selling new or used motor vehicles, or new or used motor vehicle parts, or as an incident to any other traffic in motor vehicles or their parts or equipment.

*Motor vehicle wrecker service.* Any business which, as a part of its operation, tows disabled motor vehicles for a charge.

*Repair work on motor vehicles.* Any work on the premises of a motor vehicle repair shop which requires direct or indirect physical contact with a motor vehicle or part thereof.

(Code 1965, §13C-1; Ord. No. 2190, 1-20-76; Code 1991, §117.01)

**117.02 Storage Of Wrecked Vehicle**

- (A) No person in charge of or in control of a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored on the premises longer than 10 days, unless said motor vehicle is stored in an enclosed building or is stored behind a six-foot fence constructed of such material that the motor vehicle is not readily visible by motorists or pedestrians. A six-foot view-obscuring fence may be constructed in accordance with this section, notwithstanding any provision of the city's zoning code (Chapter 160).
- (B) No person in charge of, or in control of, a motor vehicle repair shop, or a motor vehicle wrecker

service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored within 50 feet of a public street right-of-way; provided, if a building structure is lawfully located closer than 50 feet from the street right-of-way, no partially dismantled, nonoperable or wrecked motor vehicle shall be stored closer to the street right-of-way than the wall of the building.

(Code 1965, §§13C-2, 13C-3; Ord. No. 2190, 1-2-76; Ord. No. 2196, 2-17-76; Code 1991, §117.02)

**117.03-117.09 Reserved**

**ARTICLE II  
USED CAR SALES**

**117.10 Report To Police Department  
Required**

All automobile dealers in the city are required to furnish to the police department a list of all used cars sold by the dealer, setting forth such information as is prescribed by the police department.

(Code 1965, §19-8; Ord. No. 1447, 6-7-65; Code 1991, §117.10)

**117.11-117.19 Reserved**

**ARTICLE III  
REPEALED**

**117.20-117.29 Reserved**

**ARTICLE IV  
TAXICABS**

**117.30 Definitions**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Certificate.* A Certificate of Public Convenience and Necessity issued by the City Council, authorizing the holder thereof to conduct a taxicab business in the city.

*Driver's permit.* The permission granted by the Chief of Police, or his duly-appointed representative, to a person to drive a taxicab upon the streets of the city.

*Holder.* A person to whom a Certificate of Public Convenience and Necessity has been issued.



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*Manifest.* A daily record prepared by a taxicab driver and/or taxicab company of all trips made by company vehicles showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

*Person.* Includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

*Rate card.* A card issued by the city for conspicuous display in each taxicab which contains the rates of fare then in force.

*Taxicab.* A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than seven passengers and not operated on a fixed route. This definition expressly excludes limousines.

*Waiting time.* The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.

(Code 1965, Sec. 20-16; Ord. No. 1910, 4-3-73; Code 1991, §117.30; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

### 117.31 Rates

- remove*
- (A) All taxicabs shall utilize a meter for calculation of rates and such apparatus shall be clearly visible to the occupant of the vehicle.
  - (B) The City Council has the authority to establish the maximum allowable rates for all taxicabs, consistent with the provisions of Arkansas Code Annotated § 14-57-303 for the City sponsored taxi program utilizing City issued taxi coupons. The City Council shall utilize the percentage change as calculated utilizing the change, from year to year, of the rate per mile published by the Internal Revenue Service for the allowed mileage reimbursement rate for Federal Income Tax purposes. Each licensed taxi company shall, on an annual basis, submit to the Fayetteville Police Department and Fayetteville City Clerk the fare schedule the taxi company will utilize for the next twelve (12) months and each taxi company shall cause this fare schedule to posted prominently within each taxi in full view of the passenger.
  - (C) The maximum allowable rate effective November 1 shall be left undetermined and shall be established by City Council Ordinance at any time deemed necessary by the Fayetteville City Council.

- (D) Zone A shall be bounded on the west by Razorback to Maple to Garland, on the North by Drake to Gregg Avenue to Futrall/Milsap Road, on the East by College Avenue, Rock Street to Mill Avenue to Huntsville Road to Morningside Drive and on the South by 15<sup>th</sup> Street. Zone B shall be the remaining portions of Fayetteville not incorporated in Zone A. A Taxi Zone Map, marked Exhibit A, is attached hereto and made a part hereof.

(Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04; Ord. 4777, 10-04-05)

Cross reference(s)--Public Transit Board, §33.320.

### 117.32 Certificate Of Public Convenience And Necessity Required; Issuance Procedure

- (A) No person shall operate or permit a taxicab or limousine owned, leased or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.
- (B) An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:
  - (1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name of the person to whom complaints should be directed;
  - (2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;
  - (3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers;
  - (4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;
  - (5) The number of vehicles to be available for operation or controlled by the applicant and the location of proposed depots and terminals. The applicant shall furnish a minimum and maximum number of vehicles to be permitted;



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- (6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;
- (7) The hours between which the applicant proposes to provide taxicab or limousine service to the general public, and the days, if any, on which the applicant does not propose to provide taxicab service to the general public, and;
- (8) The rate schedule which the applicant proposes to use to charge passengers.

Replace with  
new  
(C)

(C) Upon the filing of an application, the City Clerk shall fix a time and place for a public hearing thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

(D) Findings of the City Council.

- (1) If the City Council finds that further taxicab or limousine service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the city clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.
- (2) The City Council shall deny any application in which the proposed hours of service or the proposed rate schedule are found to be unreasonable to meet the public need.
- (3) In making the above findings, the City Council shall take into consideration the number of taxicabs or limousines already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.

(Code 1965, §§20-17--20-20; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.32; Ord 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.33 Liability Insurance**

(A) No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect automobile liability insurance for each vehicle. The insurance shall have limits of not less than \$25,000 for personal injury to, or death of, any one person in any one accident, and liability limits of \$50,000 for personal injury to, or death of, two or more persons in any one accident, and \$25,000.00 for injury to or destruction of property or others in any one accident. The insurance shall be maintained with an insurance company authorized to do business in the state. A certificate evidencing such insurance shall be filed with the finance director.

Change to City Clerk

(Code 1965, §20-21; Ord. No. 1910, 4-3-73; Ord. No. 3038, 10-2-84; Code 1991, §117.33; Ord. 4661, 12-21-04)

**117.34 Licensing Requirements**

(A) Decal required.

No certificate shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the taxicab business. Permit decals shall be placed on the rear window of the permitted vehicle, and be clearly visible at all times. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

(B) Surety Bond required.

No certificate shall be issued unless and until the applicant shall file with the City Clerk a surety bond in the amount of \$100.00, conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the certificate issued to the applicant is cancelled, withdrawn, or has expired.

Remove

(C) Radio dispatch required.

Every certificate holder shall maintain a radio dispatch system in operation during the hours of operation set forth in the application for the Certificate of Public Convenience and Necessity, capable of providing reasonably prompt service in response to requests received by telephone. Two-way radios are the preferred system. Citizens Band (CB) radios shall not be used. Any holder of a Certificate of Public Convenience and Necessity at the time of passage of this ordinance shall have six (6) months from the effective date thereof to comply with this provision.

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(D) *Scanners prohibited.*

The use of scanners or other similar devices to monitor other taxicab operator's calls is hereby prohibited.

(Code 1965, §20-22; Ord. No. 1910, 4-3-73; Code 1991, §117.34; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.35 Transfer Of Certificate**

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City Council.

(Code 1965, §20-23; Ord. No. 1910, 4-3-73; Code 1991, §117.35; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.36 Suspension, Revocation Of Certificate**

(A) A certificate issued under the provisions of this article may be suspended by the Chief of Police, or his duly-appointed representative, if the holder thereof has (1) violated any of the provisions of this article, (2) discontinued operations for more than 20 days, (3) violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(B) The Chief of Police, or his duly-appointed representative, shall inform the City Council of all such suspensions, and may also recommend the revocation of a certificate. Upon such recommendation, the City Council shall set a time and place for a revocation hearing. The holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

Add (C) out of business → certificate cancelled

(Code 1965, §20-24; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.36; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.37 Taxicab Driver's Permit Required; Issuance Procedure**

(A) No person shall operate a taxicab for hire upon the streets of the city and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this subchapter.

(B) *Application required.*

(1) An application for a taxicab driver's permit shall be filed with the Chief of Police, or his duly-appointed representative, on forms provided by the city, and such application shall be verified under oath and shall contain the following information:

(a) The names and addresses of four residents of county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant.

(b) A concise history of his employment; and,

(c) satisfactory proof that the applicant is twenty one (21) years of age or over, as required by Arkansas Code Annotated § 14-57-404.

(C) Before any application is finally passed upon by the Chief of Police, or his duly-appointed representative, the applicant shall be required to present a current Arkansas Drivers License, with the appropriate endorsement allowing the transport of passengers for hire.

(D) The police department shall conduct a local background check of each applicant for a taxicab driver's permit, and a report of such background check and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the Chief of Police, or his duly-appointed representative.

(E) The Chief of Police, or his duly-appointed representative, shall, upon consideration of the application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the City Council to offer evidence why his application should be reconsidered.

(F) *Form and term of permit.*

(1) Upon approval of an application for a taxicab driver's permit, the Chief of Police, or his duly-appointed representative, shall issue a permit to the applicant which shall bear the name, address, age, signature and photograph of the applicant.

(2) Such permit shall be in effect for the remainder of the calendar year. A renewal permit for each calendar year thereafter shall be issued, unless the permit for the preceding year has been revoked.

INSERT PROVIATION LANGUAGE

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Each certificate holder shall maintain copies of the drivers permit application and other supporting information so long as the driver is employed by the certificate holder. Each certificate holder shall promptly inform the Chief of Police, or his duly-appointed representative, upon the termination or resignation of a driver.

(Code 1965, §§20-25--20-31; Ord. No. 1910, 4-3-73; Code 1991, §117.37; Ord. 4632, 10-05-04; Ord. 4661, 12-21-04; Ord. 4796, 11-15-05)

### 117.38 Display Of Permit

Every permittee under this article shall post his driver's permit in such a place as to be in full view of all passengers while the driver is operating a taxicab, and the permit shall be illuminated when necessary for viewing.

(Code 1965, §20-32; Ord. No. 1910, 4-3-73; Code 1991, §117.38; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

### 117.39 Suspension, Revocation Of Permit

The Chief of Police, or his duly-appointed representative, is hereby given the authority to suspend any driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten days. The Chief of Police, or his duly-appointed representative, is also given authority to revoke any driver's permit for failure to comply with the provisions of this article. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf.

(Code 1965, §20-33; Ord. No. 1910, 4-3-73; Code 1991, §117.39; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

### 117.40 Failure To Comply With Applicable Law

Every driver licensed under this article shall comply with all city, state, and federal laws. Failure to do so will justify the Chief of Police, or his duly-appointed representative, in instituting proceedings for revocation of the permit.

(Code 1965, §20-33.1; Ord. No. 1910, 4-3-73; Code 1991, §117.40; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

### 117.41 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City, to include verification of the accuracy of each fare meter. The cost of said

inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. In addition, certificate holders shall pay an annual one hundred (100) dollar fee per vehicle, to defray the City's administrative costs. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the City of Fayetteville. If a properly inspected, licensed taxicab with decal is taken out of service and replaced with another taxicab, the replacement taxicab must be inspected by the Fleet Superintendent at the established rate as set out above. However, the replacement taxicab shall then receive a decal without the owner having to pay the \$100.00 administrative fee.

(Code 1965, §20-33.2; Ord. No. 1910, 4-3-73; Ord. No. 1916, 4-17-73; Code 1991, §117.41; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04; Ord. 4929, 9-19-06)

### 117.42 Designation Of Vehicle As Taxicab By Insignia Or The Like

No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon shall, in the opinion of the Chief of Police, or his duly-appointed representative, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this article, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia is used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. The vehicle operator shall also be required to display the decal affirming the safe condition of the vehicle. In addition, every taxicab shall have affixed to its roof an illuminated sign bearing either the word "taxicab" or "taxi."

(Code 1965, §20-33.3; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.42; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

### 117.43 Acceptance, Discharge Of Passengers

(A) Duties of Drivers.

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TITLE XI BUSINESS REGULATIONS

- (1) *Restriction on number of passengers.* No drivers shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as defined by the vehicle manufacturer. Every taxicab, as required by state law, shall carry a child safety seat and the driver shall know how to properly install and safely use such device. A child under six years of age, properly restrained by a child safety seat shall not be counted as an extra passenger when accompanied by an adult.
  - (2) *Refusal to carry orderly passengers prohibited.* No driver shall refuse or neglect to convey any orderly person or persons, or any person or persons accompanied by a seeing eye dog, or a seeing eye dog upon request, unless unable or forbidden by the provisions of this article to do so; provided, it shall not be unlawful for a driver to refuse or neglect to convey any passenger who has previously refused or failed to pay a legal fare as provided in this article.
  - (3) *Prohibitions of drivers.* It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel or motel, or to attempt to divert patronage from one hotel or motel to another. Neither shall such driver engage in selling intoxicating liquors or use his vehicle for any illegal purpose.
  - (4) *Passengers without fare prohibited.* No driver shall permit any person to be carried in a taxicab as a passenger without payment of the legal fare mentioned in this article while a fare-paying passenger is also being carried in the cab.
- (B) *"Shared Ride" vs. "Exclusive Ride."* All persons engaged in the taxicab business in the city, operating under the provisions of this article, shall render an overall service to the public desiring to use taxicabs. Such service may be a "shared ride" taxicab system where the consent of passengers is not needed to pick up or discharge additional passengers, nor to choose the route taken by the vehicle; or, such service may be an "exclusive ride" taxicab system providing door-to-door service in which the party hiring the vehicle has exclusive use of the vehicle and may direct the vehicle's route and destination. Under the shared ride system, a maximum of three pickups at different locations shall be permitted; after which all parties must reach their destination before additional pickups can be made.

*Response to calls.* Holders of Certificates of Public Convenience and Necessity shall answer all calls received by them during the hours of operation specified on the holder's application for services inside the corporate limits of the city as soon as they can do so; and, if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason for the delay. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has available cabs shall be deemed in violation of this article, except on those occasions when the Chief of Police, or his duly-appointed representative, declares the streets of the City to be unsafe due to inclement weather. Any vehicle operated under the provisions of this article shall be equipped with snow tires or chains when required by weather conditions.

(Code 1965, §§20-33.7, 20-33.8; Ord. No. 1910, 4-3-73; Ord. No. 2302, 1-4-77; Ord. No. 2601, 2-19-80; Ord. No. 2716, 4-21-81; Code 1991, §117.43; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

#### **117.44 Signed Receipt To Passenger Upon Request**

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a signed receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the taxicab company, the number of the taxicab, amount of charges, and date and time of transaction.

(Code 1965, §20-33.5; Ord. No. 1910, 4-3-73; Code 1991, §117.44; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

#### **117.45 Refusal Of Passenger To Pay Fare**

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

(Code 1965, §20-33.6; Ord. No. 1910, 4-3-73; Code 1991, §117.45; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

#### **117.46 Daily Manifest To Be Kept**

Every company shall maintain a daily manifest upon which are recorded all trips made each day, showing the time and place of origin and destination of each trip and amount of fare. The forms for each manifest shall be of a character approved by the chief of police.

(Code 1965, §20-33.9; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.46; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)



FAYETTEVILLE CODE OF ORDINANCES  
TITLE XI BUSINESS REGULATIONS

**117.47 Advertising**

- (A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area.
- (B) It shall be unlawful for any person to display on any taxicab, bus, van, or motor vehicle for hire any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading, or deceptive.

(Code 1965, §20-33.10; Ord. No. 1910, 4-3-73; Ord. No. 2750, 8-18-81; Code 1991, §117.47; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.48 Enforcement**

The police department possesses the authority under existing law to issue citations as appropriate.

(Code 1965, §20-33.11; Ord. No. 1910, 4-3-73; Code 1991, §117.48; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.49 Meter Rates Established**

- (A) It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s).
- (B) Taxi services provided to patrons utilizing City issued taxi coupons shall be based on a zone rate system with the initial meter charge, charge per mile and additional person charge incorporated into a flat rate per zone. The Zone Rate shall be used exclusively by all taxicabs excluding waiting time except as provided in subsection (D) below. The ceiling rates shall apply to all taxicabs operating in

the city. The initial zone rates are set out as follows:

Ceiling rate, no more than a rate of:

- (a) Travel within One Zone \$8.00
- (b) Travel incorporating Two Zones \$12.00
- (c) No charge for additional person shall be charged.
- (d) Waiting time ceiling rate, not to exceed \$10.00 per hour.

- (C) Taxi companies shall utilize the zone of the trip origination and zone of the trip destination for purposes of valuation for the trip.
- (D) A taxicab operator may make special contractual arrangements in advance with persons at fares either higher or lower than those set forth by this article, but such contract must be in writing and a copy thereof filed with the City Clerk.

(Ord. 4751, 9-06-05; Ord 4777, 10-04-05)

**117.50-117.59 Reserved**

**ARTICLE V  
LIMOUSINE SERVICE**

**117.60 Definition**

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

*Limousine service.* Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine. This definition expressly excludes taxicabs.

(Code 1965, §20-34; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.60; Ord. No 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.61 License Required; Fee**

It is hereby declared to be a privilege for any person to furnish limousine service, and no person shall engage in such undertaking without first paying to the city an annual license fee of \$100.00 for each limousine used on the streets of the city, for the privilege of engaging in such business, and obtaining a Certificate of Public Convenience and Necessity. The fee shall be paid on or before January 1st of each year.

(Code 1965, §20-35; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.61; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

CD117:11

Insert prohibition language

FAYETTEVILLE CODE OF ORDINANCES  
TITLE XI BUSINESS REGULATIONS

**117.62 Vehicles To Be Kept Safe And Sanitary**

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-36; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 2660, 9-18-80; Ord. No. 3037, 10-2-84; Ord. No. 3234, 12-16-86; Ord. No. 4003, §1, 10-1-96; Code 1991, §117.62; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.63 Liability Insurance**

*(A) replace with City Clerk*  
No person shall furnish limousine service unless and until such person has filed with the finance director a copy of a motor vehicle liability insurance policy issued by an insurance company authorized to do business in the state, providing limits of not less than \$25,000.00 for personal injury to, or death of, any one person in any one accident, liability limits of \$50,000.00 for personal injury to, or death of, two or more persons in any one accident, and \$25,000.00 for injury to or destruction of property of others in any one accident.

*add (B) Insurance Notification*  
(Code 1965, §20-38; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 3037, 10-2-84; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

**117.64 Licensing Requirements**

No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the limousine business. Permit decals shall be placed on the rear window of the permitted vehicle, and be clearly visible at all times. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

**117.65-117.74 Reserved**

**ARTICLE VI  
RENT-A-CAR SERVICE**

**117.75 Definition**

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

*Rent-a-car service.* The furnishing of rent-a-car service in the city whereby an automobile is rented for the exclusive use of a person for an indefinite period of time at a rate established by both the mileage traveled and length of time the automobile is so rented.

(Code 1965, §20-50; Ord. No. 1261, 4-10-61; Code 1991, §117.75)

**117.76 License Required; Tax**

It is hereby declared to be a privilege for any person to furnish rent-a-car service in the city, and no person shall engage in such undertaking without first paying to the city a license tax of \$200.00 per year. Such tax shall be paid on or before January 1st of each year.

(Code 1965, §20-51; Ord. No. 1261, 4-10-61; Ord. No. 2842, 8-3-82; Code 1991, §117.76)

**117.77 Insurance Or Cash Deposit Required**

(A) No person shall furnish rent-a-car service unless and until such person has furnished and filed with the City Accounting Department, an insurance policy written by an insurance company authorized to do business in the state, which policy shall bind the insurance company writing same to indemnify, up to the amount of \$20,000.00, any person suffering any personal injury or property damage from the negligent or otherwise faulty operation of such rent-a-car service.

(B) In lieu of furnishing the above insurance, a person operating a rent-a-car service may give to the city a statement or other satisfactory assurance that there has been deposited in any city bank the sum of \$20,000.00 in cash, which shall be available at all times for the payment of any damage lawfully assessed against any such person, from the operation of such rent-a-car service.

(Code 1965, §20-52; Ord. No. 1261, 4-10-61; Code 1991, §117.77)

**117.78-117.79 Reserved**

CD117:12

*117.65  
Suspension, Revocation and Cancellation  
of Certificate*



Kit Williams  
City Attorney

Jason B. Kelley  
Assistant City Attorney

**TO: Mayor Jordan  
City Council**

**CC: Sondra Smith, City Clerk**

**FROM: Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

**DATE: May 31, 2012**

**RE: Placing notification of change of business address in Taxicab Chapter of the Fayetteville Code**

I want to thank Chairman Brenda Boudreaux and Alderman Justin Tennant for attending the Ordinance Review Committee meeting on Wednesday, May 30<sup>th</sup> at 5:00 P.M. to review all the proposed changes to the **Taxicab and Limousine Services** Chapters of the Fayetteville Code. The proposed changes had been recommended by City Clerk Sondra Smith, the Police Department and my office. The reasons for each proposed change were discussed and analyzed by the Ordinance Review Committee. I believe the Ordinance Review Committee Chairman Brenda Boudreaux will give you a report at your meeting concerning those discussions.

The only revision of the proposed ordinance as presented to you at the Agenda session was a new suggestion by City Clerk Sondra Smith to require taxicab and pedicab owners to keep the City Clerk's Office up to date on any business address changes so that notification of these businesses when a new applicant for a Certificate of Public Necessity and Convenience would be easier. The Ordinance Review Committee felt this was a good requirement, and so I have drafted a new notification requirement section to be inserted where the \$100.00 surety bond requirement section was being repealed. If the City Council wants to make this change, only Section 4 of the ordinance will need to be amended.

After Mayor Jordan introduces this ordinance and reads its title but **BEFORE** I read the whole ordinance, please move to amend the ordinance to the one attached to this memo which has the new Section 4 notification of change of business address. If this amendment passes, I can then read the whole ordinance in its final form as recommended at the Ordinance Review Committee.



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND ARTICLE IV TAXICABS AND ARTICLE V LIMOUSINE SERVICE OF CHAPTER 117 OF THE FAYETTEVILLE CODE TO CLARIFY NOTICE REQUIREMENTS, CANCELLATION OF UNUSED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND OTHER PROVISIONS**

**WHEREAS**, notification of all holders of current and valid Certificates of Public Convenience and Necessity should be accomplished by the taxicab applicant (as required of pedicab applicants) rather than the City Clerk; and

**WHEREAS**, if a taxicab or limousine service's holder of a Certificate of Public Convenience and Necessity goes out of business or fails to operate for one year, the Certificate should be deemed abandoned and cancelled as it is for pedicabs; and

**WHEREAS**, other technical changes should be made to the **Taxicab** and **Limousine Service** Chapters.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.31 **Rates** of the Fayetteville Code by deleting "and Fayetteville City Clerk" from the last sentence in (B).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.32 (C) by repealing it in its entirety and enacting a new §117.32 (C) as shown below:

**“(C) Public Hearing for Certificate.** When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. The City Clerk shall thereupon notify the applicant who shall have the duty to notify all holders of current and valid Certificates of Public Convenience and Necessity for taxicabs and pedicabs and provide proof of such service to the City Council. Any interested person shall have the right either in person or by representatives of their own choosing to be

present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.33 **Liability Insurance** by denoting the current wording as (a) and by deleting “finance director” as the last two words of (a) and replacing them with “City Clerk,” so that the required insurance policy will be filed in the City Clerk’s Office; and by enacting (b) as shown below

“(b) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a taxicab service while the certificate is suspended under this section.”

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.34 **Licensing Requirements** by repealing (B) *Surety Bond required* and enacting (B) *Notification of change of address required* as shown below:

“(B) *Notification of change of address required.*

“Every holder of a Certificate of Public Convenience and Necessity for taxicabs and pedicabs shall ensure the City Clerk’s Office is promptly notified of any change of its business address. Failure to comply with this notification requirement is not only grounds for revocation or suspension, but also waives any expectation of notification by another applicant for a certificate pursuant to §117.32(C).”

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.36 by amending the title to “**Suspension, Revocation and Cancellation of Certificate**” and enacting a new subsection C as shown below:

“(C) If any holder of a Certificate goes out of business, fails to operate under the Certificate for one calendar year, fails to have any vehicle inspected to operate under the Certificate for one calendar year or fails to have any driver or operator properly permitted under the Certificate for one calendar year, the holder’s Certificate of Public Convenience and Necessity shall be deemed abandoned and shall be denoted as cancelled and invalid by the City Clerk.”

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.63 **Liability Insurance** of the **Limousine Service** Chapter by replacing “finance director”

with "City Clerk" in the current language and denoting this as subsection (A) and enacting a new (B) as shown below:

"(b) Insurance required under this section must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a limousine service while the certificate is suspended under this section."

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby enacts §117.65 **Suspension, Revocation and Cancellation of Certificate** as shown below:

"§117.65 **Suspension, Revocation and Cancellation of Certificate.**

"A limousine service's Certificate of Public Convenience and Necessity may be suspended, revoked or cancelled for the same reasons and by the same procedures set forth in §117.36."

**PASSED and APPROVED** this 5<sup>th</sup> day of June, 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**