

ORDINANCE NO. 2893-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ADDING SECTIONS 5.36.365 AND 5.36.405 TO AND AMENDING CERTAIN SECTIONS OF CHAPTER 5.36 (TAXICABS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO TAXICAB FRANCHISES

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

SECTION 1. SECTION 5.12.010 AMENDED. Section 5.12.010 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is amended to read as follows:

5.36.010. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(1) – (4) [Text unchanged.]

SECTION 2. SECTION 5.36.140 AMENDED. Section 5.36.140 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is amended to read as follows:

5.36.140. Franchise revocation.

(a) The director of public safety, or his or her designee, may revoke the franchise granted under this chapter, if any of the following determinations are made:

(1) – (3) [Text unchanged.]

(4) If taxicabs are operated at a rate of fare other than that specified in the franchisee's rate schedule then in effect and on file with the director of public safety;

(5) - (6) [Text unchanged.]

SECTION 3. SECTION 5.36.235 DELETED. Section 5.36.235 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is deleted.

SECTION 4. SECTION 5.36.280 AMENDED. Section 5.36.280 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is amended to read as follows:

5.36.280. Fare schedule.

Each franchisee shall adopt a uniform and reasonable schedule of charges for use of taxicabs operated under its franchise, based upon the distance traveled or waiting time, or both, as may be indicated by such taximeter, which schedule of fares shall be filed with the director of public safety, or his or her designated representative, prior to being employed in the franchisee's operations.

SECTION 5. SECTION 5.36.290 AMENDED. Section 5.36.290 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is amended to read as follows:

5.36.290. Posting schedule.

All owners and operators shall keep posted in a conspicuous place, and in a permanent and secure manner in the passenger compartment of each taxicab, the schedule of fare rates chargeable for the use of the taxicab, and no owner or operator shall change the schedule of rates so posted unless a new schedule of rates has been filed with the director of public safety, or his or her designee.

SECTION 6. SECTION 5.36.300 AMENDED. Section 5.36.300 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is amended to read as follows:

5.36.300. Insurance required.

It shall be unlawful for an owner or driver to operate a taxicab unless there is in full force and effect a policy of insurance in form as the city attorney deems proper, executed by an insurance company authorized to conduct business in the State of California and with an A.M. Best rating of at least A:VII, whereby the owner and driver of each of the taxicabs operated under the franchise are insured against liability for damage to property and for injury to or death of any person as a result of the ownership, operation or other use thereof. The minimum liability limits upon each such vehicle shall not be less than one million dollars combined single limit for bodily injury to or death of any persons and for damages to or destruction of property in any one accident. Such policy of insurance shall contain an endorsement providing that the policy shall not be canceled or materially modified until notice in writing has been given to the city, addressed to the director of public safety, city of Sunnyvale, California, at least thirty days immediately prior to the time such cancellation becomes effective. Further, such policy of insurance shall name the city, its officers, agents and employees as additional insured. Any deviations from these requirements must be approved in writing by the city's risk manager. Additionally, a vehicle owner and driver shall indemnify, defend and hold harmless the city, its officers, agents and employees from claims arising from or alleged to arise from the negligence of the vehicle owner or driver.

SECTION 7. SECTION 5.36.365 ADDED. Section 5.36.365 is added to Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code to read as follows:

5.36.365. Testing of taxicab drivers for controlled substances and alcohol.

(a) Each holder of a taxicab franchise or taxicab driver's permit shall maintain a mandatory controlled substance and alcohol testing certification program conforming to Part 40 of Title 49 of the Code of Federal Regulations and California Government Code section 53075.5 for all drivers of vehicles operated under the franchise. The program shall contain requirements for rehabilitation, return-to-duty, follow up testing and other requirements conforming substantially to Part 382 of Title 49 of the Code of Federal Regulations. No taxicab franchise or taxicab driver's permit shall be issued or renewed unless proof of this mandatory program is submitted to the department of public safety.

(b) No taxicab franchise shall be issued or renewed unless the holder at the time of issuance or renewal files with the department of public safety a certification that each driver of vehicles operated under the franchise has tested negatively for controlled substances under a mandatory controlled substance testing certification program conforming to Part 40 of Title 49 of the Code of Federal Regulations and California Government Code section 53075.5.

(c) No taxicab driver's permit shall be issued or renewed unless the applicant and the franchise holder for which the driver is authorized to operate a vehicle both certify that the driver has tested negatively for controlled substances under a mandatory controlled substance and alcohol testing certification program conforming to Part 40 of Title 49 of the Code of Federal Regulations and California Government Code section 53075.5.

SECTION 8. SECTION 5.36.405 ADDED. Section 5.36.405 is added to Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code to read as follows:

5.36.405. Investigation of complaints of unauthorized taxicab operation.

(a) The director of public safety shall create standard operating procedures pursuant to Government Code section 53075.7 to investigate complaints of unauthorized taxicab operation. These operating procedures may be revised from time to time by the director.

(b) In addition to any other remedies available under this chapter, the city may institute administrative proceedings to determine if the unauthorized operation of a taxicab has occurred. The director of public safety, or his or her designee, shall be the hearing officer. A notice shall be sent to the violating party at least ten (10) calendar days prior to the hearing date. Failure of the violating party to attend the hearing shall constitute a failure to exhaust administrative remedies. After the conclusion of the hearing, the hearing officer shall issue a written decision within five (5) calendar days of the hearing date. The hearing officer's decision shall be final.

(1) After a hearing and upon finding that any person, firm or corporation does not have the proper authority to operate a taxicab under this chapter or has violated the advertising requirements under Government Code section 53075.9, the city may impose a fine of not more than five thousand dollars (\$5,000). The fine shall cover the reasonable expenses of the investigation.

(2) The city may also seek to terminate the telephone service of the violator as an additional remedy. If the termination of telephone service is sought, the notice and hearing procedures under Government Code section 53075.8 shall be followed.

SECTION 9. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 10. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the

requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 11. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 12. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held March 3, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation:_____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney