



Council Meeting: September 11, 2012

SUBJECT: Introduction of an Ordinance to Amend Certain Sections of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code Pertaining to Taxicabs

BACKGROUND

On May 15, 2012, Council took action on RTC 12-122, *Taxicabs: Franchises, Regulation and Enforcement (Study Issue)*, and directed staff to draft an ordinance to amend Sunnyvale Municipal Code (SMC) Chapter 5.36. The intent of these changes is to enhance regulatory authority, strengthen enforcement capabilities, and assist franchise holders.

EXISTING POLICY

City Charter, Article XVI Franchises.

Sunnyvale Municipal Code, Chapter 5.36 Taxicabs.

California Public Utilities Code, Section 5371-5379.5.

DISCUSSION

Attachment A, *Draft Ordinance to Amend Certain Sections of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code Pertaining to Taxicabs*, reflects the Council action from May 15, 2012 on RTC 12-222 to make the following changes to SMC Chapter 5.36 *Taxicabs*:

1. Require all drivers desiring to renew their driver permit for the following year to submit their application a minimum of 30 days prior to the expiration of the current permit. Failing to do so will result in the assessment of a late fee.
2. Provide that no person shall be issued a permit if that person has been convicted of any act of violence, dishonesty, or fraud with the intent to substantially injure another or substantially benefit the applicant or another.
3. Require franchise holders ensure their drivers comply with the provisions of SMC Chapter 5.36.
4. Add a provision limiting a franchise holder from reapplying for a franchise to operate in the City for a period of two years after a denial.

5. Add a provision limiting a driver from reapplying for the necessary permit to operate in the City for a period of two years after a denial.
6. Expand the Director of Public Safety's current authority to include revocation/suspension/denial of a driver's permit based on multiple complaints of SMC violations which were investigated by DPS. Currently, the Director can revoke/suspend/deny a driver's permit if the driver was convicted of a felony or misdemeanor; no longer has a valid California driver's license; has four or more moving violations in a 12-month period; or if the Director determines the driver is a danger to public safety.
7. Require drivers to maintain daily trip manifests which record all trips made each day. The manifests shall include time and place of origin, as well as destination of each trip. Daily manifests would be used to verify the driver if a complaint is received by DPS.
8. Require drivers to provide their name, company, permit number, vehicle or cab number, meter reading, date, and time on all receipt of fares.
9. Establish and assess late payment/non-compliance fees.

On May 31, 2012, DPS met with franchise holders to further discuss the proposed changes. Several suggestions were made by the owners to change administrative procedures, including:

- More frequent driver testing dates.
- More responsive customer service.
- More flexibility on vehicle inspection scheduling.
- Increased outreach to residents and businesses on which taxicab franchises are able to legally pick up fares in Sunnyvale.
- Increased enforcement efforts geared toward rogue/illegal taxicab companies operating in Sunnyvale without a valid franchise.

DPS has implemented administrative changes to address each of these issues. Drivers are currently tested on each Wednesday morning. Drivers must schedule prior to the test date. No "drop-ins" are allowed because of staffing availability. DPS continues to implement changes that enhance its level of customer service. Licensing and Permitting staff continues to work with the Traffic Unit to facilitate vehicle inspection scheduling. Outreach letters have been sent to all businesses in Sunnyvale with at least 10 employees. These letters specifically state the current taxicab franchises in Sunnyvale and provide instruction for reporting illegal taxicab pickups to DPS. Sworn and professional staff has increased efforts to observe taxicabs operating in the City. There are no specialized patrols, but all personnel are aware of the required inspection stickers, permits, and the franchises that can legally operate (pick-up fares) in Sunnyvale.

Several owners also expressed concern that franchise holders be required to ensure their drivers comply with SMC 5.36. Their concern was this requirement could not be enforced by the franchise holders if their drivers are independent contractors. It was suggested the issue be addressed in the contracting agreement between the franchise holder and the driver.

Two owners felt the two-year waiting period to reapply after a franchise or driver permit was denied was too long. This issue was discussed at length and consensus was reached that two years was reasonable.

Several owners expressed concern regarding requirements to maintain daily trip manifests and include specific information on all receipt of fares. It was explained these manifest, along with the additional information to be listed on the receipt for fare would assist DPS when investigating complaints of rogue and/or illegal taxicab operation. The franchise holders contended this would take too much time and argued that a record was already maintained via dispatch records. However, this does not address those fares which are "hailed." Based on the number of rogue/illegal taxicab operations, the franchise holders agreed to the additional provision.

However, they asked two administrative procedures be added relating to the manifests. First, drivers would only have to keep the immediate past two weeks of manifests in the vehicle. Second, the manifests would be maintained and stored by the franchise in its chosen format (electronic, written, etc.). DPS agreed to both requests.

FISCAL IMPACT

The fiscal impact of the proposed changes in this RTC cannot currently be quantified. It is estimated that imposing late fees and administratively applying non-compliance fees will increase City revenues; however, the magnitude is expected to be minimal. The other changes are not expected to have a fiscal impact.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall; at the Sunnyvale Senior Center, Community Center, and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk, and on the City's Web site. Further, the RTC and associated resolution were sent to each franchise holder in advance of the public hearing.

ALTERNATIVES

1. Introduce the attached draft Ordinance to Amend Certain Sections of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code Pertaining to Taxicabs.
2. Introduce the attached draft Ordinance to Amend Certain Sections of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code Pertaining to Taxicabs with modifications.
3. Do not introduce the attached draft Ordinance and direct staff to conduct further study.

RECOMMENDATION

Staff recommends Alternative #1: Introduce the attached draft Ordinance to Amend Certain Sections of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code Pertaining to Taxicabs.

Reviewed by:

Frank J. Grgurina, Director of Public Safety
Prepared by: Ann Durkes, Manager – Strategic Services

Reviewed by:

Michael Martello, Interim City Attorney

Approved by:

Gary M. Luebbers
City Manager

Attachment A: Draft Ordinance to Amend Certain Sections of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code Pertaining to Taxicabs.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CERTAIN SECTIONS OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO TAXICABS

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 5.36.040 AMENDED. Section 5.36.040 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

5.36.040. Application and franchise fees.

The city council shall, by resolution, establish application fees, which shall be nonrefundable, for such franchise, and shall further establish franchise fees and terms for payment of such franchise fees, by resolution. [The city council may also establish late fees for failure to timely submit renewal applications.](#)

SECTION 2. SECTION 5.36.110 AMENDED. Section 5.36.110 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

5.36.110. Franchise—Denial.

The city council may deny a franchise to any applicant if it appears to its satisfaction that the applicant has been convicted of a felony or violation of any narcotic law or of any penal law involving moral turpitude; that the applicant's proposed color scheme or other insignia will tend to confuse the identification of the vehicles proposed to be operated by such applicant with those of another owner operating in the city; that the applicant has failed to provide the necessary information required in Section 5.36.050; that the applicant has been in violation of any of the terms of this chapter, or of any other laws or regulations relating to the conduct of a taxicab business; that the applicant has had a taxicab license revoked or suspended in the city of Sunnyvale or any other jurisdiction within five years prior to the date of the application; [that the applicant has previously applied for a taxicab franchise in the city of Sunnyvale and been denied within two years prior to the date of the current application;](#) or that any other reasonable cause exists which, within the council's sound discretion, would render the proposed operations undesirable to the city of Sunnyvale, or inadequate.

SECTION 3. SECTION 5.36.150 AMENDED. Section 5.36.150 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

5.36.150. Owner's responsibilities for maintenance [and compliance with laws.](#)

(a) It shall be the responsibility of the owner to assure that every taxicab operated under its franchise is in safe working order and meets the requirements of the Vehicle Code of the state of California. The interior and exterior of each taxicab shall be clean and well maintained at all times when in operation. The interior of each taxicab shall be cleaned daily. The exterior of each taxicab shall be washed not less than once a week and painted once each year; provided, however, that the painting thereof may be less frequent so long as the appearance thereof, including the color scheme, owner's trademark, monogram or insignia or other markings conform to the generally prevailing standard in the trade in the county of Santa Clara.

(b) All accidents, regardless of the jurisdiction of occurrence, arising from or in connection with the operation of taxicabs which result in death or injury to any person, or in damage to any vehicle, or to any property in an amount exceeding the sum of one hundred dollars, shall be reported to the public safety department within ten days from the time of occurrence.

(c) It is also the responsibility of the owner to ensure that the driver of every taxicab operated under its franchise complies with the provisions of this chapter.

SECTION 4. SECTION 5.36.170 AMENDED. Section 5.36.170 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

5.36.170. Receipt.

If requested, every driver of a taxicab shall give a receipt upon payment of the correct fare. The receipt shall include the driver's name, company, permit number, vehicle or cab number, meter reading, date, time, and fare.

SECTION 5. SECTION 5.36.325 ADDED. Section 5.36.325 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby added to read as follows:

5.36.325. Daily trip manifest.

Every taxicab driver shall maintain, on a form approved by the director of public safety, a daily manifest of all trips made by the taxicab while under his or her control. The manifest shall include the date, time, place of origin, and destination of each trip. The manifest shall be kept on file for a minimum of two years and shall be provided to the department of public safety on request.

SECTION 6. SECTION 5.36.340 AMENDED. Section 5.36.340 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

5.36.340. Driver's permit required.

It shall be unlawful for any person to operate or drive a taxicab which originates trips within the city without having first obtained a driver's permit from the director of public safety. To secure such permission, a prospective taxicab driver shall file a written application with the director of public safety, which

application shall be accompanied by a nonrefundable processing fee in an amount to be established by resolution of the city council. A permit card shall be issued by the director of public safety, which permit card shall not be transferable. Regardless of date of issuance, permits are issued for the current calendar year and expire December 31 of the same year. The permittee shall post the permit card in the taxicab in view of the passengers therein, during all working hours. Applications for renewal of a driver's permit must be received by the director of public safety no later than thirty days before the date of expiration, or the driver will be assessed a late fee in an amount established by resolution of the city council.

SECTION 7. SECTION 5.36.360 AMENDED. Section 5.36.360 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

5.36.360. Investigation of applicant.

Upon receipt of an application for a driver's permit the director of public safety shall conduct an investigation of the applicant and, on the basis of such investigation, shall either approve or deny the application. No permit shall be issued to any of the following persons:

- (a) Any person under the age of eighteen years;
- (b) Any person convicted of any felony or misdemeanor offense which reasonably and directly indicates a potential risk to the public, including, but not limited to, any act of violence, dishonesty, or fraud with the intent to substantially injure another or substantially benefit the applicant or another person. With regard to misdemeanors, this restriction shall apply only to misdemeanor convictions occurring within five years of the date of application;
- (c) Any person convicted of hit-and-run driving, of reckless driving, or of driving a vehicle while under the influence of intoxicating liquor and/or any drug within two years of the application, or upon conviction of any two or more of these offenses within five years of the date of application;
- (d) Any person not possessing a valid state of California driver's license of the class required by state law for the operation of taxicab;
- (e) The application contains fraudulent or misleading statements or omissions of facts;
- (f) The applicant is not qualified or able to safely operate a taxicab in accordance with the laws of the state of California and the requirements of this chapter;
- (g) The applicant was not able to demonstrate either proficient knowledge of the traffic laws of the state of California and the city of Sunnyvale, or of the streets of the city, or the ability to read, understand and communicate in English.
- (h) The applicant has previously applied for a taxicab driver's permit in the city of Sunnyvale and been denied within two years prior to the date of current application.

The restrictions in this section shall apply both to persons possessing driver's permits and to persons seeking renewal of such permits.

SECTION 8. SECTION 5.36.380 AMENDED. Section 5.36.380 of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

5.36.380. Revocation or suspension of driver's permit.

Any person issued a driver's permit who subsequently is convicted of any felony or misdemeanor offense or who ceases to possess a valid state of California driver's license of the class required by state law for the operation of taxicabs shall immediately so inform his or her employer and the director of public safety.

The director of public safety may revoke or suspend any driver's permit for repeated violations of this chapter, for commission of any act or acts which would be grounds for a denial of a driver's permit, if the driver's state of California Department of Motor Vehicles record includes four or more moving violations within the preceding twelve-month period, or if the director of public safety determines that the driver is a danger to the public safety.

SECTION 9. EXEMPTION FROM CEQA. 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 10. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions 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 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 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 on _____, 2012, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2012, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____
SEAL

Mayor

APPROVED AS TO FORM AND LEGALITY:

Michael D. Martello, Interim City Attorney