

ORDINANCE NO. 2193

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS REPEALING CHAPTER 17 OF THE CODE OF THE CITY OF MESQUITE AND ADOPTING A NEW CHAPTER 17 IN LIEU THEREOF PRESCRIBING THE RULES AND REGULATIONS UNDER WHICH TAXICAB FRANCHISES AND PERMITS MAY BE GRANTED AND UNDER WHICH TAXICABS MAY BE OPERATED WITHIN THE CITY; PROVIDING FOR THE LICENSING OF OPERATORS AND FOR THE SUSPENSION AND REVOCATION THEREOF; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That Chapter 17 of the Code of the City of Mesquite is hereby repealed.

SECTION 2. That a new Chapter 17 is hereby adopted to read as follows:

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ARTICLE I. GENERAL PROVISIONS

SECTION 1.1. STATEMENT OF POLICY. It is the policy of the city of Mesquite to provide for and to promote adequate and efficient taxicab service in the city. To this end, this chapter provides for the regulation of taxicab rates and services, to be carried out in a manner that protects the public health and safety, promotes the public convenience and necessity, and respects the concept of free enterprise.

SECTION 1.2. GENERAL AUTHORITY AND DUTY OF DIRECTOR. The director shall implement and enforce this chapter and may by written order establish such rules or regulations, not inconsistent with this chapter, as he determines are necessary to discharge his duty under, or to effect the policy of this chapter.

SECTION 1.3. ESTABLISHMENT OF RULES AND REGULATIONS.

(a) Before adopting, amending, or abolishing a rule or regulation, the director shall hold a public hearing on the proposal.

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(b) The director shall fix the time and place of the hearing and in addition to notice required under Article 6252-17, Vernon's Texas Civil Statutes, shall notify each holder and such other persons as the director determines are interested in the subject matter of the hearing.

(c) After the public hearing the director shall notify the holders and other interested persons of his action and shall post an order adopting, amending, or abolishing a rule or regulation on the official bulletin board in the city hall for a period of not fewer than 10 days. The order becomes effective immediately upon expiration of the posting period.

SECTION 1.4. EXCLUSIONS. This chapter does not apply to:

(1) The transportation of a person by taxicab licensed by another governmental entity from a point outside the city to a destination inside the city, if the taxicab leaves the city without receiving a passenger inside the city;

(2) A taxicab service operated under state or federal authority unless the service is subject to the city's regulatory authority; or

(3) A motor vehicle used to transport persons for hire that is regulated by other city ordinance.

SECTION 1.5. DEFINITIONS. The definition of a term in this section applies to each grammatical variation of the term. In this chapter, unless the context requires a different definition:

(1) ANNUAL PERMIT means permission granted by the city to a person to operate a taxicab service inside the city for a period of one year, renewable under the provisions of this chapter.

(2) DEPARTMENT means the department designated by the city manager to enforce and administer this chapter.

(3) DIRECTOR means the director of the department designated by the city manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.

(4) DRIVER means an individual who drives or operates a taxicab.

(5) FRANCHISE means an agreement between the city and another person, executed in the manner prescribed by the city Charter, under which the other person is granted the privilege of operating a taxicab service inside the city for a specific period of time and in accordance with the specific terms and conditions of the agreement.

(6) HOLDER means a person who is granted an annual permit or franchise under this chapter. If the context in which the term is used applies to operations under a temporary permit or reciprocal agreement the term "holder" includes a person who is granted a temporary permit or reciprocal agreement.

(7) LEGAL RESIDENT means a citizen of the United States or a person residing in the United States in accordance with federal immigration laws.

(8) OPERATE means to drive or to be in control of a taxicab.

(9) OPERATING AUTHORITY means a franchise, annual permit, temporary permit, or reciprocal agreement granted under this chapter.

(10) OPERATOR means the driver of a taxicab, the owner of a taxicab, or the holder of a taxicab operating authority.

(11) OWNER means the person to whom state license plates for a vehicle were issued.

(12) PERSON means an individual; corporation; government or governmental subdivision; or agency, trust, partnership, or two or more persons having a joint or common economic interest.

(13) RECIPROCAL AGREEMENT means an agreement between the city and one or more political subdivisions to provide reciprocal operation of taxicabs.

(14) TAXICAB means a chauffeured motor vehicle with a rated passenger capacity of eight or less, used to transport persons for hire that typically operates on irregular routes, irregular schedules, and a call and demand basis, but not including limousines or special service vehicles as defined in Chapter ____ of this code.

(15) TAXICAB DRIVER'S LICENSE means a license issued to an individual by the director authorizing that person to operate a taxicab in the city.

(16) TAXICAB SERVICE means a passenger transportation service operated for hire that uses taxicabs in the operation of the service and includes (but is not limited to) a facility from which the service is operated, taxicabs used in the operation, and a person who owns, controls, or operates the service.

(17) TAXICAB STAND means a public place reserved exclusively for use by taxicabs.

(18) TAXIMETER means a device that mechanically or elec-

tronically computes a fare based upon the distance traveled, the time the taxicab is engaged, and any other basis for charges which are specified in the operating authority or rate ordinance pertaining to the holder.

(19) TEMPORARY PERMIT means permission granted by the city to a person to operate a taxicab service inside the city for a specified period of time less than one year.

ARTICLE II. OPERATING AUTHORITY

SECTION 2.1. OPERATING AUTHORITY REQUIRED.

(a) A person may not operate a taxicab service inside the city without operating authority granted under this chapter, nor may a person transport a passenger for hire inside the city by taxicab unless the person driving the taxicab or another who employs or contracts with the driver has been granted operating authority under this chapter.

(b) A person shall not engage or hire a taxicab which he knows does not have operating authority from the city.

SECTION 2.2. TRANSFERABILITY OF OPERATING AUTHORITY.

(a) A franchise or annual permit may not be transferred to another unless the holder files a written application for the transfer in the manner and containing the information prescribed by the director, and the transfer application is approved by the city council.

(b) A temporary permit or reciprocal agreement is not transferable.

SECTION 2.3. FRANCHISE OR ANNUAL PERMIT GRANTED BY CITY COUNCIL; SERVICE REQUIREMENTS.

(a) Before a franchise or annual permit is granted, the application for the franchise or annual permit must be approved by the city council. The granting of a franchise or annual permit is in the discretion of the city council, but will not be granted unless:

(1) The proposed taxicab service is required by the public convenience and necessity; and

(2) The applicant is fit, willing, and able to operate the taxicab service in accordance with the requirements of this chapter, rules and regulations of the director, provisions of the franchise or annual permit, and other applicable law.

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(b) The holder of a franchise must provide taxicab service to the entire City with a minimum of five (5) taxicabs within the city at all times. A franchise may not be granted for a period longer than five (5) years.

(c) The holder of an annual permit must provide taxicab service as specified in the permit with a minimum of five (5) taxicabs.

SECTION 2.4. APPLICATION FOR FRANCHISE OR ANNUAL PERMIT.

To obtain a franchise or annual permit, a person shall make application to the city council in the manner prescribed by this section. The applicant must be the person who will own, control, or operate the proposed taxicab service. An applicant shall file with the city secretary and the director a written, verified application statement containing the following:

(1) The form of business of the applicant; if the business is a corporation or association, a copy of the documents establishing the business and the name, address, and citizenship of each person with a direct interest in the business;

(2) Name, address, and verified signature of the applicant;

(3) An actual or pro forma income statement and balance sheet showing the assets, liabilities, and equity of the business;

(4) Description of any past business experience of the applicant, particularly in providing passenger transportation services; identification and description of any revocation or suspension of a franchise or permit held by the applicant or business before the date of filing the application.

(5) Number of vehicles and description of the vehicles the applicant proposes to use in the operation of the taxicab service; description of the operations of the proposed taxicab service and location of the fixed facilities to be used in the operation;

(6) Description of the proposed insignia and color scheme for the applicant's taxicabs and description of the distinctive item of apparel or item placed on the apparel to be worn by the applicant's taxicab drivers;

(7) Documentary evidence from an insurance company, authorized to do business in the state of Texas indicating a willingness to provide liability insurance required by this chapter;

(8) Documentary evidence of payment of ad valorem taxes on the property to be used in connection with the operation of the proposed taxicab service;

(9) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and

(10) Such additional information as the director or city council considers necessary to assist or promote the implementation or enforcement of this chapter or the protection of the public safety.

SECTION 2.5. FRANCHISE OR ANNUAL PERMIT - INVESTIGATION OF APPLICATION AND APPROVAL

(a) Upon receipt of an application for a franchise or annual permit the director shall conduct an investigation and make findings of fact concerning public convenience and necessity and other relevant factors, including, but not limited to:

(1) The number of taxicabs presently in operation in the city;

(2) The public transportation needs of the city and the adequacy of existing transportation services, including existing holders, to meet those needs;

(3) Whether existing holders can render the proposed additional taxicab service more efficiently or effectively than the applicant;

(4) The effect of the proposed additional taxicab service on traffic conditions, taxicab drivers' working conditions and wages, and existing holders and public mass transportation services; and

(5) The character, experience, and fiscal responsibilities of the applicant.

(b) The applicant for a franchise or annual permit has the burden of proving that the public convenience and necessity require the proposed taxicab service and that the applicant is qualified and financially able to provide the service proposed in the application.

(c) Within a reasonable time following the date of application, the director shall report in writing his findings of fact and recommendation to the city manager for transmittal to the city council. The city council shall then hold a public hearing to consider whether a franchise or annual permit should be granted.

SECTION 2.6. TEMPORARY PERMIT; APPLICATION; PURPOSES

(a) To obtain a temporary permit, a person shall make application to the director. Upon receipt of an application for a temporary permit, the director shall give reasonable notice to all

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holders of his consideration of the application.

(b) After the director makes a recommendation concerning the application, the city council may issue a temporary permit for the purposes of:

(1) Providing supplemental services during periods of extraordinary demand; or

(2) To assess the feasibility of new technology or services in furtherance of the duties assigned under Section 2-44.1(d) of this code.

(c) A temporary permit is not renewable.

SECTION 2.7. RECIPROCAL AGREEMENT

Upon approval of the city council, the city manager may enter into a reciprocal agreement with one or more political subdivisions to provide reciprocal operation and mutual regulation of taxicab services between the city and other political subdivisions. The director shall give all holders reasonable notice of when a reciprocal agreement is to be considered by the city council.

SECTION 2.8. GRANT OF FRANCHISE AND PERMIT

(a) Upon approval of an application for a franchise by the city council, the franchise will be granted in the manner prescribed by the City Charter, containing such terms or conditions as are included by the city council. Unless the ordinance granted the franchise expressly indicates otherwise, the provisions of this chapter that apply to a franchise or franchise holder are deemed to be a part of each franchise as if the provisions were expressly included in the ordinance granting the franchise.

(b) Upon approval of an application for an annual or temporary permit by the city council, the director shall promptly issue the permit and incorporate in the permit the duration of the permit and such other terms or conditions as the city council determines are necessary.

SECTION 2.9. RENEWAL OF ANNUAL PERMIT

(a) An annual permit is automatically renewed unless the director notifies the holder before the renewal date, of his intention to recommend denial of the permit renewal based on his determination that:

(1) The holder is not in compliance with the permit and applicable provisions of this code, department regulations, and other law; or

(2) The holder is not fit, willing, nor able to continue to operate the taxicab service in accordance with the permit and applicable provisions of this code, department regulations, and other law; or

(3) Public convenience and necessity do not require the continued operation of the taxicab service.

(b) A holder desiring a change in the terms or conditions of the permit must file with the director, not fewer than 60 days before the permit expires, a written request stating reasons for the requested changes.

(c) Minor changes may be made in a permit by the director without city council approval.

(d) If the director determines that a denial of a permit renewal or material change in the terms or conditions of the permit is required by the public convenience and necessity, or if a holder requests a material change in the terms or conditions of the permit, the director shall submit for consideration by the city council a written report containing his recommendations for denial or his recommendations on the proposed or requested change together with supporting findings of fact. Upon action being taken by the city council, the director shall issue a denial of permit renewal or renew the permit, as directed by the city council. In the case of renewal he shall incorporate such changes as authorized by the city council.

(e) If the permit expires at no fault of the holder before a ruling on the approval or denial of the renewal, the holder may continue to operate the taxicab service pending a final decision. The holder shall cease operation of the taxicab service immediately upon denial of the request for renewal by the city council.

SECTION 2.10. AMENDMENT, SUSPENSION, AND REVOCATION OF OPERATING AUTHORITY

(a) AMENDMENT. A franchise is amendable under the conditions and in the manner prescribed by the City Charter and the ordinance granting the franchise. An annual permit is amendable at any time by the city council, and a temporary permit is amendable at any time by the director. The director may make a minor change by amendment of an annual permit at any time without the approval of the city council.

(b) REVOCATION OF FRANCHISE. A franchise is revocable on the grounds and in the manner prescribed by the City Charter.

(c) SUSPENSION AND REVOCATION OF PERMIT. The following regulations apply to the suspension or revocation of a temporary or

annual permit.

(1) The city council may suspend or revoke a permit if it determines that the holder has:

(A) Failed to comply with a correction order issued to the holder by the director, within the time specified in the order;

(B) Intentionally or knowingly impeded the department or other law enforcement agency in the performance of its duty or execution of its authority;

(C) Failed to comply with this chapter;

(D) Been finally convicted for violation of another city, state, or federal law which violation reflects unfavorably on the fitness of the holder to perform a public transportation service;

(E) Substantially breached the terms of the permit;

(F) Failed to pay city ad valorem taxes on any property of the holder used directly or indirectly in connection with the taxicab service; or

(G) Failed to pay a permit fee at the time it was due.

(2) A suspension of a permit does not affect the expiration date of the permit.

(3) After revocation of a permit, a holder is not eligible for a permit or franchise for a period of two years.

(d) REINSTATEMENT: After suspension of a permit, a holder may file with the city council a written request for reinstatement of the permit. The director shall inspect the operation of the suspended holder to determine if the deficiency causing the suspension has been corrected by the holder. After inspection, the director shall submit his recommendation together with supporting facts to the city council. The city council may, as it determines is appropriate, reinstate the permit or deny reinstatement.

SECTION 2.11. FRANCHISE AND PERMIT FEES

(a) A holder of a franchise shall pay the city a franchise fee in the amount and manner prescribed by the city Charter and the franchise.

(b) A holder of an annual permit shall pay the city a permit fee of \$180.00 a year for each taxicab authorized by the permit or an amount stated in the permit. The fee for a temporary permit is that which is stated in the permit. A permit fee is payable in the

manner and at the time prescribed by the permit.

SECTION 2.12. NUMBER OF TAXICABS AUTHORIZED

The director may make studies and surveys concerning the public convenience and necessity and may, from time to time, prescribe the number of taxicabs authorized for, and operated by a holder in order to adequately provide taxicab service in the city.

SECTION 2.13. SPECIAL PROVISIONS OF OPERATING AUTHORITY

This chapter governs the operation of taxicabs and taxicab service under each form of operating authority. This chapter, however, is not a limitation on the power of the city council to incorporate in a grant of operating authority special provisions relating to the operation of the taxicab service under the grant. To the extent that a special provision conflicts with this chapter, the special provision controls.

ARTICLE III. TAXICAB DRIVER'S LICENSE

SECTION 3.1. TAXICAB DRIVER'S LICENSE REQUIRED

(a) A person may not drive a taxicab inside the city unless he has a valid taxicab driver's license issued to him under this article, except when authorized in a reciprocal agreement.

(b) A holder may not employ or contract with a driver or otherwise allow a person to drive for hire a taxicab owned, controlled, or operated by the holder unless the person has a valid taxicab driver's license issued to him under this article, except when authorized in a reciprocal agreement.

SECTION 3.2. QUALIFICATION FOR TAXICAB DRIVER'S LICENSE

(a) To qualify for a taxicab driver's license, an applicant must:

- (1) Be at least 19 years of age;
- (2) Hold a valid chauffeur's license issued by the State of Texas;
- (3) Not be afflicted with a physical or mental disease or disability that is likely to prevent him or her from exercising ordinary and reasonable control over a motor vehicle or that is likely to otherwise endanger the public health or safety;
- (4) Not have been convicted of more than four (4) moving traffic violations arising out of separate transactions, or involved in more than two (2) automobile accidents in which it could be

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reasonably determined that he or she was at fault, within any 12-month period during the preceeding 36 months;

(5) Not have been convicted for a crime involving murder, theft, burglary, robbery, prostitution, promotion of prostitution, public lewdness, a sexual offense, or a drug related offense, unless five (5) years has elapsed since the date of a conviction, or the date of release from confinement imposed for the conviction, whichever is the later date;

(6) Not have been convicted of, or discharged by probation or deferred adjudication for, driving while intoxicated:

(A) Within the preceeding twelve (12) months; or

(B) More than one time within the preceeding seven (7) years;

(7) Not be addicted to the use of alcohol or narcotics;

(8) Be subject to no outstanding warrants of arrest;

(9) Be sanitary and well-groomed in dress and person;

(10) Be recommended by a holder; and

(11) Have successfully completed within the preceeding 12 months a defensive driving course approved by the National Safety Council and be able to present proof of completion.

(b) As additional qualifications, the director shall require each new applicant to:

(1) Pass an examination given by the department that tests the applicant's knowledge of:

(A) Traffic laws,

(B) A driver's duties under this chapter,

(C) Department regulations, and

(D) The geography of the city; and

(2) Successfully complete a training course approved by the director which provides three hours of classroom instruction in each of the following areas:

(A) Taxicab rules and regulations;

(B) Geography of the city; and

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(C) Use of a map.

(c) When the director has reason to believe that a taxicab driver is in need of training in any area described in Subsection (b)(2), the director may require the driver to successfully complete a training course approved by the director.

(d) Whenever a new applicant or a taxicab driver attends a training course under Subsections (b)(2) or (c), the holder employing or contracting with the applicant or the driver shall pay to the city the cost of the training course.

SECTION 3.3. APPLICATION

To obtain a taxicab driver's license or renewal of a taxicab driver's license a person must file a completed written application with the department on a form provided for the purpose. The director shall require each application to state such information as necessary to determine whether an applicant is qualified.

SECTION 3.4. INVESTIGATION OF APPLICATION

(a) For the purpose of determining qualification under Section 3.2(a)(5), the director may require an applicant to submit to a physical examination at applicant's expense conducted by a licensed physician and to furnish to the director a statement from the physician which certifies that the physician has examined the applicant and that in the physician's professional opinion the applicant is qualified under Section 3.2(a)(5).

(b) Upon request of the director, the police department shall investigate each applicant and furnish the director a report concerning applicant's qualification under Section 3.2(a)(7). The municipal court shall furnish the director a copy of the applicant's motor vehicle driving record and a list of any warrants of arrest for the applicant which might be outstanding.

(c) The director may conduct such other investigation as he considers necessary to determine whether an applicant for a taxicab driver's license is qualified.

SECTION 3.5. ISSUANCE AND DENIAL

(a) If the director determines that an applicant is qualified, he shall issue a license to the applicant.

(b) The director may deny the application for a taxicab driver's license if the applicant:

(1) Is not qualified under Section 3.2.

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(2) Refuses to submit to or does not pass a medical or written examination authorized under Section 3.4;

(3) Makes a false statement of a material fact in his application for a taxicab driver's license.

(c) If the director determines that a license should be denied the applicant, the director shall notify the applicant in writing that his application is denied and include in the notice the reason for denial and a statement informing the applicant of his right of appeal.

SECTION 3.6. EXPIRATION AND VOIDANCE UPON SUSPENSION OR REVOCATION OF STATE CHAUFFEUR'S LICENSE

Except in the case of probationary and provisional licenses, a taxicab driver's license expires on the date that the licensee's state chauffeur's license expires. If a licensee's state chauffeur's license is suspended or revoked by the state, his taxicab driver's license automatically becomes void. A licensee shall notify the director and the holder for whom he drives within three days of a suspension or revocation of his chauffeur's license by the state and shall immediately surrender his taxicab driver's license to the director.

SECTION 3.7. PROVISIONAL LICENSE

(a) The director may issue a provisional taxicab driver's license if he determines:

(1) That the number of taxicab drivers is inadequate to meet the city's need for taxicab service, in which case he may issue the number necessary to meet the need; or

(2) That it is necessary pending completion of investigation of an applicant for a taxicab driver's license.

(b) A provisional taxicab driver's license expires on the date shown on the license, not to exceed 45 days from the date of issuance, or upon the applicant's being denied a taxicab driver's license, whichever occurs first.

(c) The director shall not issue a provisional license to a person who has been previously denied a taxicab driver's license.

(d) The director may issue a provisional license to a person holding a state operator's license in accordance with Article 6697b, Section 5(b), Vernon's Texas Civil Statutes.

SECTION 3.8. PROBATIONARY LICENSE

(a) If an applicant is not qualified for a taxicab driver's license under Section 3.2 but is qualified under state law or if the applicant holds an occupational chauffeur's license, the director may issue a probationary taxicab driver's license for a period not to exceed one year.

(b) The director may prescribe appropriate terms and conditions for a probationary taxicab driver's license as he determines are necessary.

SECTION 3.9. DUPLICATE LICENSE

If a taxicab driver's license is lost or destroyed, the director shall issue the licensee a duplicate license upon payment to the city of a duplicate license fee of \$5.00.

SECTION 3.10. DISPLAY OF LICENSE

A taxicab driver shall at all times conspicuously display his taxicab driver's license on the clothing of his upper body, except that when the taxicab driver is inside the taxicab, the taxicab driver's license may be displayed in a manner and location approved by the director. A taxicab driver shall allow the director or a peace officer to examine his taxicab driver's license upon request.

SECTION 3.11. SUSPENSION BY DESIGNATED REPRESENTATIVE

(a) If a representative designated by the director to enforce this chapter determines that a licensee has failed to comply with this chapter (except Section 3.2) or a regulation established under this chapter, the representative may suspend the taxicab driver's license for a period of time not to exceed three days by personally serving the licensee with a written notice of the suspension. The written notice must include the reason for suspension, the date the suspension begins, the duration of the suspension, and a statement informing the licensee of his right of appeal.

(b) A suspension under this section may be appealed to the director or his assistant if the licensee requests an appeal at the time the representative serves notice of suspension. When appeal is requested, the suspension may not take effect until a hearing is provided by the director or his assistant.

(c) The director may order an expedited hearing under this section, to be held as soon as possible after the licensee requests an appeal. The director may affirm, reverse, or modify the order of the representative. The decision of the director is final.

SECTION 3.12. SUSPENSION AND REVOCATION

(a) If the director determines that a licensee has failed to comply with this chapter (except Section 3.2) or a regulation established under this chapter, the director may suspend the taxicab driver's license for a definite period of time not to exceed 60 days.

(b) If at any time the director determines that a licensee is not qualified under Section 3.2, the director shall suspend the taxicab driver's license until such time as the director determines that the licensee is qualified.

(c) A licensee whose taxicab driver's license is suspended shall not drive a taxicab for hire inside the city during the period of suspension.

(d) The director shall notify the licensee in writing of a suspension under this section and include in the notice the reason for the suspension, the date the director orders the suspension to begin, the duration of suspension or if it is under Subsection (b), and a statement informing the licensee of his right of appeal. The period of suspension begins on the date specified by the director or, in the case of an appeal, on the date ordered by the appeal hearing officer.

(e) The director may revoke a taxicab driver's license if the director determines that the licensee:

(1) Operated a taxicab inside the city during a period in which his taxicab driver's license was suspended;

(2) Made a false statement of a material fact in his application for a taxicab driver's license; or

(3) Engaged in conduct that constitutes a ground for suspension under Subsection (a), and received either a suspension in excess of three days or a conviction for violation of this chapter, two times within the 12-month period preceding the occurrence of the conduct or three times within the 24-month period preceding the occurrence of the conduct.

(f) A person whose taxicab driver's license is revoked shall not:

(1) Apply for another taxicab driver's license before the expiration of 12 months from the date the director revokes the license or, in the case of an appeal, the date the appeal hearing officer affirms the revocation; or

(2) Drive a taxicab for hire inside the City.

(g) The director shall notify the licensee in writing of a revocation and include in the notice the reason for the revocation, the date the director orders the revocation, and a statement informing the licensee of his right of appeal.

(h) After receipt of notice of suspension or revocation, the licensee shall, on the date specified in the notice, discontinue driving a taxicab for hire inside the city and shall surrender his taxicab driver's license to the director. However, if the licensee appeals the suspension or revocation under this section, the licensee may continue to drive a taxicab for hire pending the appeal and shall comply with the decision of the appeal hearing officer.

SECTION 3.13 APPEAL FROM DENIAL, SUSPENSION, OR REVOCATION

(a) A person may appeal a denial of a taxicab driver's license application, suspension of a taxicab driver's license under Section 3.12, or the revocation of a taxicab driver's license, if he requests an appeal in writing, delivered to the city manager not more than 10 business days after notice of the director's action is received.

(b) The city manager or his designated representative shall act as the appeal hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal hearing under this section and the hearing officer shall make his ruling on the basis of a preponderance of the evidence presented at the hearing.

(c) The hearing officer may affirm, modify, or reverse all or part of the action of the director being appealed. The decision of the hearing officer is final.

SECTION 3.14. FALSIFYING OF A LICENSE

A person commits an offense if he:

- (1) Forges, alters, or counterfeits a taxicab driver's license, badge, sticker, or emblem required by law; or
- (2) Possesses a forged, altered, or counterfeited taxicab driver's license, badge, sticker, or emblem required by law.

SECTION 3.15. CURRENT MAILING ADDRESS OF LICENSEE

An individual issued a taxicab driver's license shall maintain a current mailing address on file with the director. The licensee shall notify the director of any change in this mailing address within five business days of the change.

ARTICLE IV.

MISCELLANEOUS HOLDER AND DRIVER REGULATIONS

SECTION 4.1. HOLDER'S AND DRIVER'S DUTY TO COMPLY

(a) **HOLDER.** In the operation of a taxicab service a holder shall comply with the terms and conditions of the holder's operating authority and, except to the extent expressly provided otherwise by the operating authority, shall comply with this chapter, regulations established under this chapter, and other law applicable to the operation of a taxicab service.

(b) **DRIVER.** While on duty, a driver shall comply with this chapter, regulations established under this chapter, other law applicable to the operation of a motor vehicle in this state, and orders issued by the holder employing or contracting with the driver in connection with the holder's discharging of its duty under its operating authority and this chapter.

SECTION 4.2. HOLDER'S DUTY TO ENFORCE COMPLIANCE BY DRIVERS

(a) A holder shall establish policy and take action to discourage, prevent, or correct violations of this chapter by drivers who are employed by or contracting with the holder.

(b) A holder shall not permit a driver who is employed by or contracting with the holder to drive a taxicab if the holder knows or has reasonable cause to suspect that the driver has failed to comply with this chapter, the rules and regulations established by the director or other applicable law.

SECTION 4.3. DRIVER AS INDEPENDENT CONTRACTOR

(a) A holder may contract with a driver on an independent-contractor basis, but only if the contract:

(1) Provides that the holder shall indemnify the city and hold the city harmless for a claim or cause of action against the city arising from conduct of the driver;

(2) Provides that the driver is insured under the holder's fleet insurance policy; and

(3) Imposes a condition that the driver must comply with this chapter and provides that failure to comply may be considered by the holder as a material breach of the contract.

(b) The form of the contract between a holder and driver must be approved by the director. The director may disapprove a contract

form if he determines that the contract is inconsistent with this chapter, regulations established under this chapter, or other applicable law. A holder may not use a contract that has been disapproved by the director.

SECTION 4.4. INSURANCE

(a) A holder shall maintain in force during the authorized period of its operating authority the amount and character of insurance coverage for all motor vehicles used in the taxicab service which is not less than that specified by the Texas Railroad Commission for vehicles of comparable size. Operating authority will not be granted nor renewed, unless the applicant or holder furnishes the director with such proof of insurance as the director considers necessary to determine whether the applicant or holder is adequately insured under this section.

(b) Except for self-insurance, insurance required under this section must:

(1) Be carried with an insurance company authorized to do business in this state; and

(2) Include a cancellation rider under which the insurance company is required to notify the director in writing not fewer than 30 days before cancelling or making a material change to the insurance policy.

(c) A holder may be self-insured in the manner prescribed by the Texas Safety-Responsibility Act if the director determines that the holder can furnish protection of the same character and amount as if the insurance were carried by an insurance company. In considering authorization of self-insurance, the director shall consider the financial fitness and the past record of management responsibility of the holder and may establish maximum coverage limits for which the holder may self-insure. If at any time the director determines that a self-insured holder is unable to provide adequate self-insurance, the director by written notice shall order the holder to acquire insurance from an insurance company, and the holder shall comply with the order not more than 30 days after the notice is served.

SECTION 4.5. APPAREL TO BE WORN BY DRIVERS

(a) A holder shall specify and require an item of apparel or an item placed on the apparel to be worn by drivers employed by or contracting with the holder, which item must be of such distinctive and uniform design as to readily identify the holder's taxicab service and must bear the name of the holder's taxicab service. The item specified by each holder must be approved by the director to insure that drivers of one holder may be easily distinguished

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from drivers of another and to insure the neat appearance of drivers.

(b) While on duty, a driver shall wear the item specified by the holder who employs or contracts with the driver and shall comply with such other identification regulations prescribed by the holder's operating authority.

SECTION 4.6 DRIVER'S DAILY MANIFEST

(a) Each holder shall provide its drivers with forms, approved by the director, for maintaining a daily manifest. The form must include appropriate spaces for recording:

(1) Taxicab number, driver's name, date, hours of operation, meter number, total miles, paid miles, units, trips, and extras;

(2) Time, place, origin, and destination of each trip;

(3) Number of passengers and amount of fare and other charges; and

(4) Other information required by the director to aid in the discharge of his duties.

(b) Each driver shall complete a manifest on a separate form for each tour of duty. The driver shall provide the information required by the form and shall record the information with regard to trips at the end of each trip. The driver shall return completed manifest forms to the holder once a week unless the director requires that the manifest forms be turned in more frequently.

SECTION 4.7. HOLDER'S RECORDS AND REPORTS

(a) Each holder shall maintain at a single location business records of its taxicab service. The method used in maintaining the records must be approved by the director, and the director may require maintenance of certain records which he determines are necessary for monitoring the activities, operation, service, and safety record of a holder. A holder shall make its records available for inspection by the director at reasonable times upon request.

(b) Each holder shall submit to the director such annual and monthly reports concerning its taxicab service as the director determines necessary to evaluate the holder's operations. A franchise holder shall submit a monthly report of gross receipts in a form approved by the director.

SECTION 4.8. MONTHLY SUMMARY OF METER READINGS

(a) A holder, owner, or driver shall obtain forms from the director for maintaining a monthly summary of meter readings for each taxicab operating under a holder's authority. The form must include appropriate spaces for recording:

- (1) Taxicab number;
- (2) Driver's name;
- (3) Date;
- (4) Meter number;
- (5) Total miles;
- (6) Paid miles;
- (7) Units;
- (8) Trips
- (9) Extras; and
- (10) Other information required by the director.

(b) A holder, owner or driver of a taxicab shall provide all information required by the form. A separate form must be completed for each taxicab. A holder, owner, or driver shall return completed forms to the director once a month, or as otherwise required by the director.

ARTICLE V. SERVICE REGULATIONS

SECTION 5.1. CITY-WIDE TAXICAB SERVICE REQUIRED

Except as otherwise provided by the holder's operating authority, a holder shall:

(1) Provide taxicab service to the general public to and from any point inside the city that is accessible by public street. (This provision does not require a holder to subject a taxicab to mob violence or destruction.);

(2) Answer each call received for service inside the city as soon as practicable, and if the service cannot be rendered within a reasonable time, the holder shall inform the caller of the reason for the delay and the approximate time required to answer the call; and

(3) Maintain a single station for the purpose of receiving calls and dispatching taxicabs that is operational 24 hours each day.

SECTION 5.2. REPRESENTATION OF AVAILABILITY OF TAXICAB

A driver may not represent that his taxicab is engaged when it is in fact vacant or vacant when it is in fact engaged.

SECTION 5.3. REFUSAL TO CONVEY PASSENGERS

(a) While operating a taxicab a driver shall not refuse to convey a person who requests service unless

- (1) The person is disorderly;
- (2) The driver is engaged in answering a previous request for service;
- (3) The driver has reason to believe that the person is engaged in unlawful conduct; or
- (4) The driver is in fear of his personal safety.

(b) While operating a taxicab, a driver shall not refuse service requested by a radio dispatch when the location for pick up is within a reasonable distance from the location of the taxicab.

SECTION 5.4. PASSENGER LIMITATIONS

(a) While operating a taxicab a driver on duty may carry only a person who is a paying passenger, unless the passenger is an employee of the taxicab service that employs or contracts with the driver, a governmental inspector acting in an official capacity, or unless it is authorized by the holder's operating authority.

(b) A driver may not carry at the same time more passengers than the designed seating capacity of the taxicab.

(c) The director may establish rules governing passenger limitations, as illustrated by, but not limited to, cab-sharing, cab-pooling, and numbers of passengers with different destinations.

SECTION 5.5. CARRY PASSENGERS BY DIRECT ROUTE

A driver shall carry a passenger to his destination by the most direct and expeditious route available unless otherwise directed by the passenger.

SECTION 5.6. SOLICITATION OF PASSENGERS

A driver may not solicit passengers:

- (1) From a location other than the driver's compartment or the immediate vicinity of his taxicab;
- (2) In a way that annoys or obstructs the movement of a person; or
- (3) By paying an employee of another business to solicit passengers for or give preferential treatment in directing passengers to the driver's taxicab.

SECTION 5.7. REGULATIONS FOR USE OF TAXICAB STANDS

(a) While using a taxicab stand, a driver shall not:

- (1) Go beyond 25 feet of his taxicab except to assist a passenger as reasonably necessary after being engaged;
- (2) Interfere with the orderly progression of taxicabs from the rear to the front of the taxicab stand;
- (3) Perform or allow to be performed repairs or maintenance on a taxicab while parked on the taxicab stand;
- (4) Assign or sell his position in a taxicab stand to another; or
- (5) Interfere with a taxicab entering a taxicab stand on which there is a vacant space.

(b) A person shall not park a taxicab on a taxicab stand unless the taxicab is for hire.

(c) A taxicab left unattended in violation of Subsection (a) (1) of this section is illegally parked and may be removed from the taxicab stand and impounded as provided in Chapter 17 of this Code.

SECTION 5.8. CONDUCT OF DRIVERS

A driver shall:

- (1) Conduct himself in a reasonable, prudent, and courteous manner;
- (2) Maintain a sanitary and well-groomed appearance;
- (3) Not respond to a radio dispatch call assigned to another driver;
- (4) Not consume alcoholic beverage, drugs, or other substance which could adversely affect his ability to drive a motor vehicle;

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(5) Not monitor the radio frequency of a taxicab company other than his own nor respond to a call for service dispatched by another company;

(6) Not possess a radio equipped to receive the frequency of a taxicab company, other than his own;

(7) Not interfere with the director in the performance of his duties; and

(8) Comply with lawful orders of the director issued in the performance of his duties.

SECTION 5.9. RETURN OF PASSENGER'S PROPERTY

(a) Upon finding property in a taxicab left by a passenger, the driver shall immediately return the property to the owner. However, if the driver is unable to locate the owner or if the driver does not know the identity or whereabouts of the owner, the driver shall, within a reasonable time, deliver the property to the holder who employs or contracts with the driver.

(b) Upon return of property to the owner or delivery of property to the holder, the driver shall prepare a written report stating the description of the property, the identity of the owner if known, the date the property was left in the taxicab, the circumstances relating to the loss, and the taxicab number. The holder shall keep the report on file for at least one year and shall hold the property for not less than three months.

SECTION 5.10. ESTABLISHMENT OF TAXICAB STANDS

(a) Subject to the approval of the director, the traffic engineer may establish taxicab stands of such character, number, and location as he determines are required by the public convenience and necessity.

(b) A holder desiring the establishment of a taxicab stand must file a written request with the director and the traffic engineer.

SECTION 5.11. SERVICE REGULATIONS FOR BUSINESS ESTABLISHMENTS REQUESTING TAXICABS FOR CUSTOMERS

An employee of a business establishment, other than a taxicab service, who acts as an agent in obtaining taxicab service for prospective taxicab passengers shall not:

(1) Solicit nor accept payment from a driver in return for giving preferential treatment in directing passengers to a driver's taxicab; or

(2) Interfere with the orderly progression of taxicabs from the rear to the front of a taxicab stand.

ARTICLE VI. FARES

SECTION 6.1. RATES OF FARE

(a) A holder may charge only rates of fare which have been approved by the city council. A holder may propose a change in its rates of fare by filing the proposal with the city secretary and the director for consideration by the city council.

(b) The city council shall hold a hearing to consider the proposed change in rates of fare. After the hearing the city council may approve, disapprove, or modify the proposed change.

(c) The city secretary shall maintain on file a current schedule of the rates of fare charged by each holder.

(d) A driver shall not charge a fare for operating a taxicab in the city that is inconsistent with the rates on file with the city secretary for the holder under whose operating authority the taxicab is operated.

SECTION 6.2. DISPLAY OF RATE CARD

(a) A holder shall provide the driver for each taxicab operating under its authority, a printed card or sticker containing the approved rates of fare of the holder. The form and content of the card or sticker are subject to regulation by the director.

(b) While operating a taxicab for hire, a driver shall prominently display the rate card or sticker inside the taxicab in a manner approved by the director so that it can be easily read by passengers sitting in the taxicab.

SECTION 6.3. COMPUTATION OF FARES

Unless a holder's approved rates of fare or operating authority provide otherwise, a holder shall equip each taxicab with a taximeter, and a driver shall charge only a fee as computed by the taximeter. However, a holder may authorize a driver to make a flat rate charge for a trip to a destination which is not covered in the holder's approved rates of fare, if the taximeter is kept in operation while the taxicab has a passenger within the scope of the area designated in the approved rates of fare.

SECTION 6.4. DESIGN AND TESTING OF TAXIMETERS; FEES

(a) A taximeter must accurately register in legible figures total miles, paid miles, number of fare units, number of trips,

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extras, and total fare for a trip. Figures denoting the fare must be illuminated when the meter is activated.

(b) A taximeter must be equipped to indicate whether the taxicab is engaged or vacant and with a tamper-proof system connecting the taximeter to an amber light atop the taxicab that, when lighted is visible from all directions. The system must be designed so that during the time the taximeter is registering a fare, the amber light is automatically illuminated.

(c) If the taximeter employs a flag, the flag must project at least four inches above the dashboard when in the non-earning position.

(d) The taximeter or its drive system must be sealed at all points at which components, if manipulated, could effect the function or accuracy of the taximeter.

(e) The design of a taximeter is subject to approval by the director to assure that it complies with this section.

(f) A holder shall cause each taximeter in taxicabs operating under its authority to be maintained in good operating condition and to be tested and sealed at least once each year by the director in accordance with state and city weights and measures laws. The director may establish a schedule of regular testing days and times for purposes of this section.

(g) The owner of a taxicab shall be responsible for presenting the taxicab to the director for taximeter testing according to the schedule established by the director. The director may order the owner or the holder to make the taxicab available for taximeter testing at any time.

(h) The director shall charge the following taximeter testing fees:

(1) \$35 per taximeter when a taximeter is tested on a day other than a scheduled taximeter testing day;

(2) \$10 per taximeter when a taximeter is tested on a scheduled taximeter testing day and the taxicab is operating under the authority of a non-holder; and

(3) No charge when a taximeter is tested on a scheduled taximeter testing day and the taxicab is operating under the authority of a holder.

(i) The owner of the taxicab shall be responsible for paying the taximeter testing fee.

(j) A person commits an offense if he operates a taxicab that is:

- (1) Not equipped with a taximeter; or
- (2) Equipped with a taximeter that has not been tested and sealed by the director within the past 12 months.

(k) The following persons shall be responsible and subject to the penalty for a violation of Subsection (j):

- (1) The driver of the taxicab.
- (2) The owner of the taxicab.
- (3) The holder under whose authority the taxicab is being operated.

(1) Proof of taxicab ownership for purposes of this section may be made by a copy of the registration of the vehicle with the State of Texas showing the name of the person to whom the state license plates for the vehicle were issued. The person in whose name the vehicle is registered shall be prima facie the owner of the vehicle. If the vehicle is not currently registered, the person in whose name the vehicle was last registered shall be prima facie the owner of the vehicle.

SECTION 6.5. FARE COLLECTION PROCEDURES.

(a) Before changing the taximeter to indicate that the taxicab is vacant, a driver shall call the attention of the passenger to the amount of fare registered on the taximeter.

(b) Upon request by a person paying a fare, a driver shall give the person a legible receipt showing:

- (1) The name of the holder under whose authority the taxicab is operated;
- (2) The taxicab number;
- (3) An itemized list of charges;
- (4) The total amount of fare paid;
- (5) The date of payment; and
- (6) The driver's signature.

(c) A holder shall provide each driver operating a taxicab under its authority with printed receipt forms adequate for provid-

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ing the information required in Subsection (b).

ARTICLE VII. VEHICLES AND EQUIPMENT

SECTION 7.1. FALSE REPRESENTATION AS TAXICAB

(a) A person may not represent that a vehicle is a taxicab if the vehicle is not in fact a taxicab authorized by operating authority granted under this chapter.

(b) A person may not drive a vehicle in the city that is not a taxicab if the vehicle is marked, painted, or equipped in a way that is likely to result in mistaking the vehicle for a taxicab.

SECTION 7.2. VEHICLE REQUIREMENTS AND INSPECTIONS

(a) The director may by regulation establish requirements for size, age, condition, and accessories of taxicabs used by a taxicab holder, owner, or driver.

(b) The director shall inspect each taxicab, for compliance with this chapter and regulations of the director, before it is placed in service and at other times determined necessary by the director.

(c) A holder, owner, or driver shall make a taxicab available for inspection when ordered by the director.

(d) If a holder, owner, or driver fails to make a taxicab available for inspection or if the director determines that a taxicab is not in compliance with this chapter or regulations of the director, the director may order the taxicab removed from service until it is made available for inspection and brought into compliance.

(e) If the director determines that inspection of the mechanical condition or safety equipment of a taxicab by an expert mechanic or technician is necessary, the holder, owner, or driver shall pay the cost of the inspection.

(f) When a taxicab is removed from service and placed back in service within 15 days by the same owner, the owner shall pay to the director \$25 for reinspection.

(g) Before any taxicab will be approved for service, the director shall be provided with a copy of the registration for the vehicle with the State of Texas, or a bill of sale if the vehicle is new and has not yet been registered, showing the name of the individual or holder owning the vehicle. The owner shown on the registration or bill of sale provided to the director shall notify the director of any change in ownership of the taxicab within ten business days.

SECTION 7.3. REQUIRED EQUIPMENT

(a) Unless otherwise specified in the operating authority under which a taxicab is operated or by regulation of the director, and in addition to other equipment required by this chapter, a holder, owner, or driver shall provide and maintain the following equipment for each taxicab:

- (1) Seat belts for each passenger, the number of which is determined by the designed seating capacity of the taxicab;
- (2) Heater and air conditioner;
- (3) Fire extinguisher of at least one quart capacity;
- (4) Equipment to indicate when a taxicab is operating for hire and when it is not for hire;
- (5) Top light;
- (6) Two-way radio on the holder's dispatch frequency;
- (7) Map of the city; and;
- (8) Decal complying with Section 7.6 of this article.

(b) A taxicab in operation on the date this ordinance is adopted which is not equipped with safety belts or the required number of safety belts, is not required to comply with Subsection (a) (1).

SECTION 7.4. VEHICLE COLOR SCHEME AND DISTINCTIVE MARKINGS

(a) A holder shall develop the design of a color scheme and distinctive markings for taxicabs operating under its authority, and shall submit the design to the director for approval to insure that the design is readily distinguishable from the design used by other holders.

(b) After a design is approved by the director, the holder shall submit to the director a color photograph of a completely equipped taxicab using the approved design.

(c) The holder shall use only the approved design, as depicted in the submitted photograph, for taxicabs operated under its authority unless written approval of a change is obtained from the director.

SECTION 7.5. REQUIRED VEHICLE IDENTIFICATION

A holder shall cause each taxicab operating under its authority

to be provided with the following uniform vehicle identification:

- (1) The name of the holder's company printed in letters not less than three inches high with one-half inch stroke; and
- (2) The number assigned to each vehicle by the director in numbers not less than three inches high with one-half inch stroke and so that it is visible from both sides and rear of the taxicab.

SECTION 7.6. TAXICAB DECALS

(a) The holder, owner, or driver of a taxicab shall obtain a decal, indicating the taxicab's authority to operate, from the director each month, or other period to be determined by the director. A decal must be attached to the front windshield of the taxicab in a manner and location approved by the director.

(b) A person commits an offense if he:

- (1) Operates a taxicab with an expired decal or with no decal affixed to it;
- (2) Attaches a decal to a vehicle not authorized to operate as a taxicab;
- (3) Forges, alters, or counterfeits a taxicab decal required by this section; or
- (4) Possesses a forged, altered, or counterfeited taxicab decal required by this section.

(c) A taxicab decal assigned to one person is not transferable to another without consent of the director.

SECTION 7.7. OFF DUTY STATUS OF TAXICABS

(a) Each taxicab is presumed to be on duty and ready to serve the general public for hire. If a driver is off-duty and does not intend to provide taxicab service, he shall comply with the following requirements:

(1) The driver shall place a sign, to be provided by the holder, in the taxicab indicating the words "OFF DUTY" printed in letters not less than three inches in height with a stroke of not less than 3/8 inch. The letters shall be on a backing of sufficient thickness to not easily bend.

(2) When a driver is off-duty, he shall display the sign in an upright position in the front window on the right side of the taxicab so as to be easily seen and read from outside of the taxicab.

SECTION 7.8. REMOVAL OF EQUIPMENT

Whenever a vehicle is removed from service as a taxicab, the holder, owner, or driver shall remove from the vehicle all taxicab signs, markings, and equipment that would distinguish the vehicle as a taxicab, including, but not limited to, radios, toplights, meters, and decals.

ARTICLE VIII. ENFORCEMENT

SECTION 8.1. AUTHORITY TO INSPECT

The director may inspect a taxicab service operating under this chapter to determine whether the service complies with this chapter, regulations established under this chapter, or other applicable law.

SECTION 8.2. ENFORCEMENT BY POLICE DEPARTMENT

Officers of the police department shall assist in the enforcement of this chapter. A police officer upon observing a violation of this chapter or the regulations established by the director, shall take necessary enforcement action to insure effective regulations of taxicab service.

SECTION 8.3. CORRECTION ORDER

(a) If the director determines that a holder violates this code, terms of its operating authority, a regulation established by the director, or other law, the director may notify the holder in writing of the violation and by written order direct the holder to correct the violation within a reasonable period of time. In setting the time for correction the director shall consider the degree of danger to the public health or safety and the nature of the violation. If the violation involves equipment that is unsafe or functioning improperly, the director shall order the holder to immediately cease use of the equipment.

(b) If the director determines that a violation constitutes an imminent and serious threat to the public health or safety, the director shall order the holder to correct the violation immediately, and, if the holder fails to comply, the director shall promptly take or cause to be taken such action as he considers necessary to enforce the order immediately.

(c) The director shall include in a notice issued under this section an identification of the violation, the date of issuance of the notice and the time period within which the violation must be corrected a warning that failure to comply with the order may result in suspension or revocation of operating authority or imposition of a fine or both, and a statement indicating that the order may be appealed to the city manager.

SECTION 8.4. SERVICE OF NOTICE

(a) A holder shall designate and maintain a representative to receive service of notice required under this chapter to be given a holder and to serve notice required under this chapter to be given a driver employed by a holder.

(b) Notice required under this chapter to be given:

(1) A holder must be personally served by the director on the holder or the holder's designated representative; or

(2) A driver licensed by the city under Article III, must be personally served or sent by certified United States Mail, five day return receipt requested, to the address, last known to the director, of the person to be notified, or to the designated representative for drivers.

(c) Notice required under this chapter to be given a person other than a driver licensed under Article III or a holder may be served in the manner prescribed by Subsection (b)(2).

(d) Service executed in accordance with this section constitutes notice to the person to whom the notice is addressed. The date of service for notice that is mailed is the date received.

(e) This section does not apply to notice served under Section 1.3(b) or Section 3.11(a).

SECTION 8.5. APPEAL

(a) A holder may appeal a correction order issued under Section 45-8.3 or any other action of the director if an appeal is requested in writing not more than 10 days after notice of the order or action is received.

(b) The city manager or his designated representative shall act as the appeal hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of evidence presented at the hearing.

(c) The hearing officer may affirm, modify, or reverse all or a part of the order of the director. The decision of the hearing officer is final.

SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent

that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal, or unconstitutional and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 4. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of 1973, of the City of Mesquite, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Hundred (\$200.00) Dollars for each offense.

SECTION 5. Whereas, the fact that the present ordinances of the City of Mesquite are not adequate to permit proper development and in order to protect the public interest, comfort, and general welfare of the City of Mesquite, creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 1st day of July, A.D., 1985.



Mrs. Brunhilde Nystrom
Mayor

ATTEST:

APPROVED AS TO FORM:



Lynn Prugel
City Secretary

Elland Archer
City Attorney