
CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council

DATE: May 21, 2010

FROM: John McDonough, City Manager

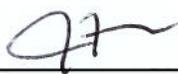
AGENDA ITEM: Consideration of a totally rewritten Chapter 26, Article VII on
Taxicabs

MEETING DATE: For Submission onto the June 1, 2010, City Council Work Session
Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Rewritten Article VII

APPROVAL BY CITY MANAGER:  APPROVED

_____ NOT APPROVED

PLACED ON AGENDA FOR: 6/1/10

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: 

REMARKS:



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission onto the June 1, 2010 City Council Work Session

Agenda Item: Consideration of a totally rewritten Chapter 26, Article VII on Taxicabs

City Attorney's Recommendation:

The City Attorney recommends that the existing Article VII on Taxicabs be stricken and that the attached rewritten Article VII be adopted.

Background:

The existing Article VII on Taxicabs was originally the Fulton County taxicab ordinance. Although an attempt was made to adapt it to the City's circumstances, the editing which took place was incomplete and the "county tax commissioner" is referenced throughout as the enforcer of the article's provisions.

Moreover, the existing ordinance is confusing in its format and fails to provide meaningful direction to taxicab owners and operators. These problems were brought to our attention by the Revenue Supervisor, who is charged with implementing the provisions.

The rewritten ordinance does not impose new requirements, but does clarify and explain the requirements for owners, operators, and vehicles.

Discussion:

It is always preferable, and indeed should be the goal, for an ordinance to read clearly and provide meaningful direction and instruction. The existing taxicab article fails in this regard, not to mention that throughout reference is made to the "county tax commissioner".

Alternatives:

Given the problems with the existing ordinance, there really is no alternative.

Concurrent Review:

John McDonough, City Manager

Proposed Revised Ordinance:

Chapter 26

Article VII. Taxicabs

Section 26-251. Operation of taxicab to be in compliance with article.

No person, firm, corporation, or other legal entity shall operate a taxicab in the City of Sandy Springs ("City") except in accordance with the terms and provisions of this Article.

Section 26-252. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Operator" means the individual driver operating a taxicab on behalf of an owner.
- (b) "Owner" means any person, association, partnership, corporation, or other legal entity conducting a business providing taxicab services for hire by the public.
- (c) "Taxicab" means any passenger-carrying vehicle used in the business of transporting passengers for hire which does not have fixed termini, including, but not limited to, any unmarked automobiles used in the business of transporting passengers for hire by contract or requested special services that do not have fixed termini.
- (d) "Taximeter" means a device that automatically calculates, at a predetermined rate, and indicates the charge for hire of a vehicle. Taxicabs operating with non-electronic taximeters shall be furnished with a sign, approved by the City of Sandy Springs Code Enforcement Division, immediately adjacent to the taximeter which explains the way the fare shall be calculated if the taximeter reaches its highest fare before the passenger's destination is reached. This sign shall be pointed out to the passenger by the driver at the beginning of the trip.

Section 26-253. Operations deemed to be doing business in the City.

A taxicab shall be deemed to be doing business in the City when its original terminus, that is to say, the place from which it operates and is subject to calls, shall be located in the City.

Section 26-254. Annual business occupation tax, license and permit fees.

- (a) In addition to the business occupation tax certificate, a license fee is hereby levied per annum for each taxicab maintained or operated, and a permit fee is hereby levied per annum for each operator's permit. The license and permit fees shall be established from time to time by Resolution of the Mayor and City Council. There shall be no prorating of any annual fee.
- (b) The business occupation tax shall be in accordance with the current business occupation tax ordinance. The following criteria must be met to maintain a business for which a business occupation tax certificate shall issue:
 - (1) Establishment and maintenance of a permanent office in a commercially zoned area of the City.

- (2) Submission of a copy of current lease or proof of ownership of office space.
- (3) Establishment and maintenance of a publicly listed business telephone number.
- (4) Maintenance of the name and home address of each operator affiliated with the company.
- (5) Maintenance of off-street parking lot capable of accommodating all company vehicles.
- (6) Maintenance of a file for each vehicle containing proof of all current documentation, including, but not being limited to, copies of the vehicle's registration, proof of insurance, and taxicab license.
- (7) Possession of a valid 6-month auto insurance policy from a company licensed to do business in Georgia.

Section 26-255. Required business occupation tax certificate, licenses and permits for operation.

- (a) *Requirements of owner.* No owner shall conduct the business of operating taxicabs in the City until the owner has first applied for and obtained a business occupation tax certificate and a license for each taxicab, as well as the required certificate of inspection for each taxicab as provided in Section 7 of this Article. The applications for the business occupation tax certificate and license(s) shall be made to the City of Sandy Springs Revenue Division upon forms provided for that purpose. The licenses for each vehicle shall be issued by the City of Sandy Springs Revenue Division. Permits for operators shall be issued by the City of Sandy Springs Police Department.
- (b) *Description of business.* The application of an owner to obtain a business occupation tax certificate shall contain, among other things, a detailed description of the vehicle(s) to be used in the business, the name of the operator(s) thereof, and the address and telephone number of the office or call station from which the business is operated.
- (c) *Requirements of operator.* Every operator shall apply for a permit to operate a taxi cab with the City of Sandy Springs Police Department. The operator shall provide proof of a valid driver's license from the State Department of Driver Services and a copy of the operator's Driving History Report (MVR) from the State Department of Driver Services. No operator shall operate a taxi cab for hire in the corporate limits of the City unless such person has in his possession a valid operator's permit.

Section 26-256. Required insurance coverage.

No owner shall be issued a taxicab license(s) or continue operating unless the owner shall file with the business tax division a policy of indemnity insurance with an indemnity insurance company authorized to do business in Georgia, which policy shall have minimum liability limits equal to or in excess of the following sums for each taxicab operated:

- (i) For bodily injury to each person, \$50,000.00;
- (ii) For bodily injury to all persons sustained in any one accident, \$50,000.00; and
- (iii) For property damage and liability for baggage of passengers, \$25,000.00.

The policy shall be conditioned to protect individuals against injury or damage to property proximately caused by the negligence of the holder of an operator's permit. Additional operators or new operators hired after issuance of the occupation tax certificate are required

to be included as an insured operator by a rider to the policy prior to the issuance of an operator's permit.

Section 26-257. Standards for taxi cab vehicles.

The following standards are applicable for a license to be issued to an owner of the business for the operation of each taxicab:

- (a) *Ages of Vehicles.* The owner is responsible for ensuring that each taxicab used in active business by an operator is no more than six years old. By December of each year, automobiles of a model year seven years prior to that year must be replaced.
- (b) *Annual renewal.* All fees for taxicab operator permits and taxicab licenses are due no later than June 30 of each year.
- (c) *Certificate of Inspection.* A certificate of inspection completed on forms provided by the City of Sandy Springs Revenue Division and issued by an ASE Certified mechanic shall be located inside the taxicab at all times certifying that the taxicab and equipment therein are safe and in compliance with applicable law. This certificate must be renewed every 90 days, and the operator of a taxicab shall be required to keep his taxicab in safe condition conforming to all laws under penalty of having his permit to operate a taxicab suspended or revoked.
- (d) *Taximeter Inspection.* Each operator of a taxicab shall have proof of taximeter inspection and calibration contained in the taxicab for issuance and renewal of taxi decal.

The City of Sandy Springs Police Department may conduct random inspections to ensure the safe condition of a taxicab for the welfare of the public.

Section 26-258. Additional vehicles.

The owner of a taxi business shall register with the City of Sandy Springs Revenue Division each additional vehicle put in use as a taxicab, and same shall be subject to inspection and registration as herein provided.

Section 26-259. Operators; qualifications.

- (a) It shall be the duty of every owner of a taxicab business to file with the City of Sandy Springs Revenue Division the names and addresses, age, and physical description of all persons employed as operators. All operators shall hold licenses from the State Department of Driver Services as drivers of vehicles for hire and operator permits issued by the City Police Department. No person shall be employed or shall drive a taxicab who has, within the past 5 years, been convicted of, pled guilty to, or entered a plea of nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, to the offense of driving under the influence of drugs and/or alcohol, to any open container violations, to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, battery, or the violation of a spirituous, vinous, or malt beverage statute, or if the operator has been convicted of an offense of causing death by vehicle. No operator can be issued a taxi operator's permit if the operator has received three (3) or more moving violations in the preceding 12-month period.

- (b) All fees for permits issued to an operator of a taxi cab are due no later than June 30 of each year.

Section 26-260. Taxi stands; parking.

Operators of taxicabs shall not park taxicabs in any congested area. The parking of taxicabs shall be subject at all times to regulation by the police department and direction of a police officer when desirable for the relief of an emergency traffic condition.

Section 26-261. Information to be displayed.

- (a) The operator of each taxicab shall have posted in his taxicab, in a conspicuous place, on the inside thereof, a map or street guide of the City, the name and photograph of the operator of the taxicab, and a schedule of fares. Each taxicab shall also bear on the outside thereof a numbered decal to be issued to the owner by the City of Sandy Springs Revenue Division at the time of issuance of the taxicab license.
- (b) The owner is responsible for ensuring that each taxicab used in active business bears on the outside, in addition to the numbered decal, the name of the owner and business telephone number, which must be permanently affixed to the taxicab, and a dome light on the roof which must be at least six inches in height, permanently affixed to the roof, and bear the term "taxi" or the company name.

Section 26-262. Owners responsible for violations by operators.

To the extent provided by law, the business owner is responsible for violations of this Article by the taxicab operators of the business owner, whether such operators are direct employees or independent contractors.

Section 26-263. Notice of denial of license.

In the event that an application is denied, the City of Sandy Springs Revenue Division shall provide the applicant with written notice stating the reason for denial of the taxicab license.

Section 26-264. Suspension or revocation of an owner license.

- (a) No license issued to an owner may be transferred.
- (b) Each license granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of the City now in force or hereafter adopted.

- (c) Whenever the City of Sandy Springs Revenue Division determines there is cause to suspend or revoke a license of an owner issued hereunder, the City of Sandy Springs Revenue Division shall give the owner 10-days written notice of intention to recommend suspension or revocation of the license to the City Manager. A license issued under this Article may be suspended or revoked upon one or more of the following grounds:
- (i) The original application contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
 - (ii) Failure to pay all fees, taxes, or other charges imposed by the provisions of this Article;
 - (iii) Failure to maintain all of the general qualifications applicable to an owner as holder of a license under this Article;
 - (iv) Allowing the required insurance coverage to lapse or allowing an operator to operate in the City in violation of the provisions of this Article;
 - (v) Allowing an operator to drive a taxicab for the owner when the owner has been made aware by the City that the operator is not qualified under provisions hereunder to operate a taxicab in the City;
 - (vi) For violation of any part of this Article applicable to the owner.
- (d) The City Manager or his designee shall conduct a hearing to hear evidence relevant to the alleged violation.
- (i) At the hearing, the City proceeds first and presents all evidence and argument in support of the recommendation to suspend or revoke the license issued hereunder.
 - (ii) After the City's presentation, the owner may present evidence and argument as to why the license issued to the owner should not be suspended or revoked.
 - (iii) The City Manager or his designee shall have the right to ask questions of any party at any time.
 - (iv) After hearing all of the evidence and arguments of the parties, the City Manager or his designee shall render a decision which shall be final unless the owner files a petition for writ of certiorari to the Superior Court of Fulton County within 30 days of the date of the decision.

Section 26-265. Revocation of a taxi operator permit.

A taxi operator may have his permit to drive a taxi in the City revoked by the Chief of Police if the operator has been convicted of having at least three moving violations in any twelve consecutive month period or has had a suspension or revocation entered on the operator's driver's license record with the State of Georgia.

Section 26-266. Penalty for violation.

Violation of any of the sections of this Article or any part thereof shall be punishable as a misdemeanor, and the court shall be authorized upon entry of a plea of guilty, a finding of guilty, or entry of a nolo contendere plea to impose a sentence of incarceration in the City jail of up to six (6) months and impose a fine of up to \$1,000.00, or a combination of both incarceration and fine, for each violation of the provisions of this Article.

Section 26-267. Effective date.

This Article shall become effective upon adoption. Registration and payment of license and permit fees shall be conducted in accordance with the terms of this Article on an annual basis.

Section 26-278 –26-290 Reserved.