

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: March 9, 2015
	Agenda Item No. 58 Roll Call No. <u>15-0417</u> Communication No. <u>15-112</u> Submitted by: Pamela S. Cooksey, P.E., City Engineer

AGENDA HEADING:

Amending Chapter 126 of the Municipal Code to update the Vehicles for Hire Ordinance to be inclusive of all vehicle for hire types.

SYNOPSIS:

Recommend approval of the second reading of the ordinance regarding the proposed ordinance changes with revisions from February 23, 2015 Council Meeting. Roll Call includes option for waiver of third reading.

FISCAL IMPACT:

Amount: Reduction in amount of money collected for taxi/limo driver’s license fees, estimated at \$20,000 per year.

Funding Source: Recommended 2015-2016 Operating Budget, Page 80 Engineering Department Traffic & Transportation – Ordinance and Investigation, EG062082.

ADDITIONAL INFORMATION:

On February 23, 2015, by Roll Call No. 15-0335, the City Council considered said amended ordinance, gave first vote for passage, and directed the City Manager and City Attorney to continue to work with all interested parties and incorporate any agreed-upon changes during the second consideration of the ordinance for review and recommendation regarding the following:

- How Uber handles payment of sales tax;
- How Uber’s insurance would comply with current ordinance proposal;
- What is Uber’s history of insurance claims (payment/denials);
- If the ordinance change should apply to limousines; and
- Delineate various types of fines and amounts.

Following the February 23, 2015 City Council meeting, City staff has been in contact with Taxi representatives, existing Limo Company owners, and Uber personnel regarding these Council requests.

Payment of Sales Tax

According to the State’s “Iowa Sales and Use Tax Guide,” the "sale or furnishing of transportation services" is exempt from state sales tax. Transportation services such as armored car services,

limousine services, and certain car and airplane rentals are taxable in accordance with State of Iowa Code Chapter 26. Sale or furnishing of transportation services such as taxi, airline, bus, and railroad are exempt. Iowa Department of Revenue staff advised that the definition of limousine service is a pre-arranged transportation service provided in a large luxurious automobile. The Iowa Department of Revenue staff noted, their Policy Section will have to make a final determination about whether Uber is considered a taxi, and exempt from sales tax, or a limousine that is a taxable service; however, it would appear Uber provides similar service in similar vehicles as a taxi and not in a large luxurious automobile in a pre-arranged service. A request for review and determination by the Iowa Department of Revenue Policy Section regarding UBER and sales tax payments has been made.

Insurance Compliance with Proposed Amended Ordinance

This proposed amended ordinance requires \$1,000,000 per occurrence to cover the vehicles and their drivers at all times when the vehicle is engaged commercial activity, i.e. en route to pick up a passenger, while transporting a passenger, and dropping them off. However, when cruising for a trip with an internet application on (referred to as: "App Open status"), the proposed insurance requirements are different. The insurance requirements shall be the higher of any amount required by the State of Iowa for such status or \$50,000 individual/accident, aggregate of \$100,000 per accident and \$25,000 for property.

Uber provides \$1,000,000 primary liability coverage when commercial activity begins; that is, from the moment a driver accepts a trip request to pick up a passenger and continues until the driver drops off the passenger. During the period before or after a trip while a driver is logged into the Uber app (App Open Status), but does not have a passenger in the vehicle nor is on the way to pick up a passenger, Uber provides liability insurance at \$50k/\$100k/\$25k (individual/accident/property) in case the driver's own policy denies or excludes a claim made during that period.

Uber's History of Insurance Claims

Uber is still gathering information on previous insurance related claims since they began operating in Iowa. They plan to share this information prior to the second reading of the proposed amended ordinance at the March 9, 2015 Council meeting.

Ordinance Change Applying to Limousines

Staff met with current limousine company owners, and they stated that they are fine with not having a separate ordinance for limousines and keeping everyone in the same bucket. The limousine company owners felt everyone should be under the same ordinance and that special provisions for taxicabs, such as the exclusive use of taxicab stands and acceptance of street hails should be options for all and not specifically reserved only for taxis.

Delineate Various Types of Fines and Amounts

City Legal staff has been gathering information on fines and minimum amounts. Those suggested changes are included in this revised draft ordinance. Separate communication on this item will be provided to Council.

This revised proposed ordinance being presented to the City Council for review and consideration for the second reading addresses the above questions and creates a more uniform ordinance that would

apply to all Vehicles for Hire. Highlights of this revised proposed code include:

- A Vehicle for Hire Company certificate issued by City Council is required to operate in the City of Des Moines
- Vehicle for Hire Company Certificate issued annually
- Company must obtain both criminal and DOT background checks on any driver
- City no longer issues a Taxi/Limo Driver's License
- Company must provide some level of liability insurance for operation of the vehicles at all times
- City Code no longer establishes rates
- Vehicles identified by decal on outside of vehicle or bottom right of passenger window
- Company provides Driver Identification Card for each vehicle
- Class D Chauffeur's License Required
- Company must background-check any driver before they are given access to the Vehicle for Hire Company' dispatch service or digital platform
- Third party accredited by the National Association of Professional Background Screeners shall be used
- Full criminal and driving record check
- Provision for sex offender database check for match or conviction, automatic disqualification from acting as a driver
- Driving while Intoxicated
 - (a) Clarification on driving while intoxicated, 10 years or less from conviction date cannot be a driver
- An annual audit may be performed by City to verify that checks have been completed according to City code requirements
- City no longer limits number of vehicles operating each month. Fees based upon number of vehicles operating each month on average. If applicable, credits given towards new fees for companies that have already paid their 2015 operating fees.
- Fines added for different violations of this code

PREVIOUS COUNCIL ACTION(S):

Date: February 23, 2015

Roll Call Number: [15-0335](#)

Action: [Amending](#) Chapter 126 of the Municipal Code regarding Vehicle Transportation Services. ([Council Communication No. 15-081](#)) Moved by Hensley that this ordinance be considered and given first vote for passage; refer to the City Manager and City Attorney to continue to work with all interested parties and incorporate any agreed-upon changes during the second consideration of the ordinance at the next Council meeting, and for review and recommendation regarding the following: 1. How Uber handles payment of sales tax. 2. How Uber's insurance would comply with the current ordinance proposal. 3. What is Uber's history of insurance claims (payment/denials)? 4. Should the ordinance change apply to limousines? 5. Delineate various types of fines and amounts. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Third and final reading from City Council and revision of the Fee Schedule.

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