



Roll Call Number

Agenda Item Number

39

Date November 7, 2016

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing Article V. Vehicle Transportation Services of Chapter 126, Vehicles for Hire, relating to vehicle transportation services",

(Council Communication No. 16-637)

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

Douglas P. Philip
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing Article V. Vehicle Transportation Services of Chapter 126, Vehicles for Hire, relating to vehicle transportation services.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by repealing Article V. Vehicle Transportation Services of Chapter 126, Vehicles for Hire, relating to vehicle transportation services, as follows:

ARTICLE V. VEHICLE TRANSPORTATION SERVICES (Repealed by Ord. No. 15,---)

~~Sec. 126-226. Statement of policy and purpose.~~

- ~~(a) — It is the policy and purpose of the City of Des Moines to promote adequate and satisfactory vehicle for hire services that will promote a positive image to residents and visitors within its corporate limits. To achieve this goal, this article provides for the regulation of companies providing transportation services that will reasonably protect the public interest, welfare, health and safety, and will promote the availability of transportation services to the public while protecting the principles of free enterprise.~~
- ~~(b) — The rights granted under this article are, at all times, subservient to the right of the City to fully exercise its rights of control over the streets, alleys and public ways of the City of Des Moines.~~

~~Section 126-227. Definitions.~~

~~The following words, terms and phrases when used in this article have the following meanings, except where the context clearly indicates a different meaning:~~

~~*Airport* means the Des Moines International Airport.~~

~~*Airport authority* means the Des Moines Airport Authority created in chapter 22 of this Code.~~

~~*Ambulance* means a vehicle which is equipped with life support systems and used to transport sick and injured persons who require emergency medical care to medical facilities.~~

~~*Chief of Police* means the City of Des Moines Chief of Police or that person's designee.~~

~~*Church bus* means a vehicle used primarily for the transportation of the members, guests or staff of a church.~~

City means the City of Des Moines, Iowa, a municipal corporation.

Council means the City Council of the City of Des Moines, Iowa.

Courtesy vehicle means a vehicle used by hotel and motel facilities, apartment complexes, businesses, merchants, companies, private organizations or groups exclusively for the convenience of their guests, occupants, customers, employees or members and is not for hire.

Digital platform means an online or smart phone enabled application that allows passengers to request vehicle transportation services.

Driver means every person who drives or operates a vehicle while providing vehicle transportation services pursuant to a VHC certificate.

Good cause means an adequate or substantial reason put forth in good faith that is not unreasonable or arbitrary.

Hearse means a vehicle customarily and primarily used to transport the deceased for burial.

He/Him/His/His includes the masculine, feminine and neuter gender.

Holder means a person who is granted a VHC certificate issued by the Council.

Mortuary limousine means a vehicle customarily and primarily used to transport a funeral party.

Motor vehicle means a self propelled vehicle not operated upon rails that is used to transport people upon the streets and highways.

Owner means every person, firm, partnership, association or corporation having ownership or control of any vehicle for hire company.

Paratransit service means specialized transportation services only for wheelchair bound persons provided by a paratransit taxicab.

Paratransit taxicab means a taxicab equipped and operated exclusively for the provision of paratransit services.

Person means any individual, firm, corporation, company, association, partnership or any combination thereof, or two or more persons having joint or common economic interest. The word person includes the singular and the plural.

School bus means a vehicle used primarily for the transportation of a school's students and staff.

Taxicab or cab means a motor vehicle regularly engaged in vehicle transportation services and not operated on a fixed route and operating with a taximeter and with dispatch available 24 hours a day.

Taximeter means an instrument or device attached to a taxicab, which measures mechanically, electrically, or electronically the distance driven and the waiting time upon which the fare is based and converts them to monetary charges.

Traffic Engineer means the city traffic engineer or an authorized representative.

Transportation service vehicle or TSV means a vehicle used to provide transportation service associated with a VHC certificate.

Vehicle for Hire Company or VHC means a business entity that offers vehicle transportation services including, but not limited to, business entities providing limousine or taxi cab services with or without the use of a digital platform, and business entities using a digital platform to provide vehicle transportation services.

Vehicle transportation services means use of a motor vehicle for providing a ride to passengers for consideration arranged by any means.

VHC certificate means a certificate issued by the Council, authorizing the operation of a vehicle for hire company for trips originating within the city limits of Des Moines, IA.

Wheelchair-Bound Person means any person with physical or mental disabilities related to mobility issues, of such severity, that it temporarily or permanently eliminates their ability to

legally drive a motor vehicle under the laws of the State of Iowa. This level of limited mobility would be noted by the requirement for an assistive device (wheelchair, walker or gurney, for example) to provide limited mobility. A cane, in and of itself, does not meet the degree of severity or limited mobility necessary to qualify as wheelchair bound. If the disability is of a temporary nature, once that person is able to meet the physical and/or mental requirements of the State of Iowa to become licensed to legally drive, that person would no longer be considered wheelchair bound.

~~Sec. 126-228. Exclusions from this article.~~

~~(a) The provisions under this article shall not apply to the following categories of vehicles and services:~~

- ~~(1) Buses as defined in Article II of this chapter;~~
- ~~(2) Hearses and mortuary limousines when used as funeral vehicles;~~
- ~~(3) Ambulances and other emergency vehicles, except "for hire" para transit vehicles;~~
- ~~(4) School and church buses when used for school or church purposes;~~
- ~~(5) Vehicles rented or leased to the public without a driver;~~
- ~~(6) Vehicles operated by the Des Moines Area Regional Transit Authority, a/k/a DART, or other commercial vehicles designed to transport 16 or more persons, including the driver, duly licensed by the state;~~
- ~~(7) Vehicles operated on a share the expense plan, such as car pools;~~
- ~~(8) Courtesy vehicles.~~
- ~~(b) The provisions of this article will not be construed to limit any rights or powers that the airport authority may have to regulate the operation of transportation service vehicles on airport premises.~~

~~Sec. 126-229. Administration and appeals.~~

- ~~(a) Notice of adverse action. If the Traffic Engineer proposes to take any action adverse to an applicant or Holder, except when a VHC certificate is denied pursuant to Sec. 126-234 of this article, the Traffic Engineer shall establish a time, date and place for a hearing and shall notify such person (hereinafter "respondent") of the pending action at the respondent's address contained on his most recent application. Notice shall be sent by United States Mail, certified, return receipt requested. Circumstances resulting in the certified notice not being accepted, delivered or returned to sender, address unknown or as undeliverable shall not restrain the Traffic Engineer from setting the date of the hearing or from taking appropriate adverse action if the Traffic Engineer can show that the notice was mailed in accordance with the requirements of this section and mailed to the respondents most current address on file with the Traffic Engineer. Mailed certified notice shall be considered service of notice of pending adverse action. Mailed certified notice shall be postmarked no later than seven (7) days preceding the date of the hearing and shall:~~
- ~~(1) Set forth in detail the proposed action and the reasons therefor;~~
 - ~~(2) Designate any section of this chapter, any statute, ordinance or other authority that requires or supports the proposed action;~~
 - ~~(3) Set forth the date, time and place of the hearing;~~
 - ~~(4) Advise the respondent that he may be present at such hearing to provide reasons~~

- ~~why the proposed action should not be taken; and~~
- (5) ~~Advise the respondent that if he fails to appear at the hearing, action may be taken in his absence. Copies of such notice shall also be sent to the complaining party, if applicable.~~
- (b) ~~Hearing.~~ A hearing shall be held before the Traffic Engineer on the date and time and at the place contained in the notice described above.
- (1) ~~If the respondent appears, he shall be afforded an opportunity to be heard. Following the hearing, the Traffic Engineer may take or refrain from taking the proposed action or may modify the same by placing reasonable conditions on the respondent, or otherwise, according to the provisions of this chapter.~~
- (2) ~~If the respondent fails to appear, notice of the decision made or action taken shall be given to all parties, and unless appealed to the Council as hereinafter provided, such decision shall be final and binding ten (10) working days from and after the date of the decision.~~
- (3) ~~Notice of the action taken or decision made shall be given by Certified Mail, return receipt requested to the respondent, mailed to the most recent address provided by the respondent.~~
- (4) ~~The respondent shall be advised of his right to appeal the action or decision to the Council.~~
- (c) ~~Appeals to the Council.~~ Any person aggrieved by a decision of the Traffic Engineer may file an appeal to the Council by filing a written notice of appeal with the Traffic Engineer within ten (10) working days of the date of the decision complained of. Such notice shall specify the grounds for the appeal. A hearing on the appeal shall be heard by the Council not later than thirty (30) days from the date of filing the notice of appeal. If an appeal is filed, the Traffic Engineer shall notify the complaining party, if any.
- (d) ~~Enforcement stayed.~~ If an appeal of the Traffic Engineer's decision is made to the Council, enforcement of such decision shall be stayed until the Council has rendered its decision, unless the Traffic Engineer certifies to the Council that a stay would cause imminent danger to life or property.

Sec. 126-230. VHC certificate required.

- (a) ~~A person shall not operate a vehicle for hire company within the City without a current and valid VHC certificate.~~
- (b) ~~VHC certificates shall not be sold, assigned or otherwise transferred without approval of the City Council.~~

Sec. 126-231. Requirements for VHC certificate holders.

Holders of VHC certificates shall meet the following requirements:

- (a) ~~The Holder must require all drivers authorized to operate a transportation service vehicle and provide vehicle transportation services to be at least eighteen (18) years of age.~~
- (b) ~~The Holder must require all drivers authorized to provide vehicle transportation services to possess a valid Iowa Class D Chauffeurs' Driver's License; proof of vehicle registration for the vehicle which supplies the vehicle transportation services in accordance with the~~

laws of the State of Iowa and proof of motor vehicle insurance policy for said vehicle for transporting persons for consideration containing the minimum coverage required of all drivers by law.

~~(c) The Holder shall maintain liability insurance for operation of the vehicles used in providing vehicle transportation services and provide proof of the following coverages as provided herein:~~

~~(1) Provide to the Traffic Engineer an insurance policy or policies, or certificate of insurance, issued by an insurance company having an A.M. Best rating of no less than B+. The policy(ies) shall include commercial general liability insurance coverage and automobile liability insurance coverage, or the equivalent thereof, for the VHC business and independent contractors of the VHC, to include TSVs and their drivers. The commercial general liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence and aggregate combined single limit. The automobile liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit. The insurance required must cover claims regardless of whether a driver maintains insurance adequate to cover any portion of a claim and the certificate of insurance or policy must clearly indicate such coverage. The insurance provided must cover the TSVs and their drivers at all times the TSV is en route to pick up a passenger, cruising for a tip with an internet application on (hereinafter: "App Open status"), while transporting a passenger, or while otherwise engaged in any commercial activity under the VHC certificate; provided, however, that when the vehicle is in the App Open status, 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 if there is no other insurance coverage.~~

~~(2) The certificate of insurance referred to in this section shall provide that the insurance policy or policies have been endorsed to provide 30 days advance written notice of cancellation, 45 days advance written notice of non-renewal, and ten days advance written notice of cancellation due to nonpayment of premium, and that these written notices shall be provided by e-mail, facsimile, delivery or regular mail to the Traffic Engineer.~~

~~(3) The cancellation or other termination of any required insurance policy shall automatically revoke and terminate the VHC certificate and all licenses or certificates issued for the VHC business, independent contractors and the TSVs covered by such insurance policy(ies), unless another policy(ies), complying with this section, shall be provided and in effect at the time of such cancellation or termination. The Traffic Engineer shall immediately issue written notification of the revocation of said certificate to the VHC certificate holder and note that all licenses for the VHC business, independent contractors and the TSVs covered by such insurance is cancelled or terminated immediately. The Traffic Engineer shall file a copy of such notice with the Council.~~

~~(d) Before the driver is allowed to operate a TSV, and biennially thereafter, the Holder shall have a third party that is accredited by the National Association of Professional Background Screeners or a successor accreditation entity conduct the following~~

examinations:

- ~~(1) A local and national criminal background check for the preceding 10 years;~~
- ~~(2) The national sex offender database background check; national abuse registers; national elderly abuse and dependent person abuse registers; and~~
- ~~(3) A full driving record check for the preceding 5 years.~~
- ~~(e) A match of an individual on the national registers under subsection (d)(2) or a conviction that appears on a criminal background check as provided in this subsection (e) including all its subparts shall automatically disqualify an individual from acting as a driver for a Vehicle for Hire Company. An individual under consideration by a Holder as a driver is subject to the following requirements:~~
 - ~~(1) Shall not have been convicted of an offense involving moral turpitude or sexual abuse within the preceding ten years;~~
 - ~~(2) Shall not have been convicted of an offense which is a felony as defined by Iowa Code section 702.11 as amended, or of any offense of hit and run driving; manslaughter or negligent homicide resulting from the operation of a motor vehicle; or an offense involving theft, assault, drugs, public exposure, harassment or fraud; unless ten (10) years have elapsed since the date of conviction;~~
 - ~~(3) Shall not have been convicted of any other felony, serious or aggravated misdemeanor offense unless five (5) years have elapsed since the date of conviction;~~
 - ~~(4) Shall not have been convicted of any moving traffic violation that resulted in automatic suspension or revocation of an operators or chauffeurs license under I.C. ch. 321, 321A or 321J unless five (5) years have elapsed since the date of conviction;~~
 - ~~(5) The driver's operators or chauffeurs license must not have been suspended or revoked for any single moving traffic violation or combination of moving traffic violations within the preceding five years;~~
 - ~~(6) Shall not have been convicted of three or more moving traffic violations, or involved in more than one traffic accident in which applicant was at fault, unless one (1) year has elapsed since the date of conviction;~~
 - ~~(7) Shall not be subject to any outstanding warrants for arrest;~~
 - ~~(8) Shall not have been convicted of aggravated reckless driving, driving while intoxicated or being in actual physical control of a vehicle while intoxicated, attempting to evade the police, or the use of a motor vehicle to commit a crime, unless ten (10) years have elapsed since the date of conviction;~~
 - ~~(f) The Holder shall prohibit the use of or being under the influence of drugs or alcohol by a driver while providing vehicle transportation services and upon receiving a meritorious complaint of such drug or alcohol use by a driver, the VHC shall:~~
 - ~~(1) Immediately revoke the driver's privilege to operate a transportation service vehicle. The revocation shall last the duration of the investigation, and~~
 - ~~(2) Conduct an investigation. If the complaint is found to be true, the VHC shall permanently revoke the driver's privilege to operate a transportation service vehicle. If the complaint is found to be untrue, the driver's privilege to operate a transportation service vehicle may be immediately reinstated.~~
 - ~~(g) Posting of rates; Rate violation; receipts on request.~~
 - ~~(1) Rates and charges shall be posted at all times in a manner and place clearly visible~~

to the person requesting the service prior to the TSV service being booked or performed. Such rates and charges shall be posted for the potential customer's information in whatever medium utilized for contracting for such services, including but not limited to use of a rate card, taximeter, digital platform or the internet.

(2) It shall be unlawful for the Holder or driver of any TSV, in the City to fix, charge, collect, and/or offer to fix, charge, or collect a rate more than that specified at the time the service is requested.

(3) If requested by a passenger or customer as applicable, the Holder shall give a receipt upon payment of the correct fare or charge via paper, email or an electronic transmission.

(h) All requests for service from a TSV, except taxicabs, must be placed and accepted in advance of the vehicle transportation services rendered.

(i) TSVs, except taxicabs, are strictly prohibited from accepting street hails.

(j) TSVs except taxicabs are prohibited from using taxicab stands as designated in section 114-613 of this code.

(k) *Most direct route required.* Drivers shall transport passengers to their destinations by the most direct, expeditious and safe route, unless otherwise requested by the passenger.

(l) *Responsibility.*

(1) Transportation Service Vehicles authorized pursuant to this article shall be operated in compliance with this ordinance and the Holder's written policies and regulations acknowledged by the driver.

(2) Prior to offering vehicle transportation services the Holder shall require each TSV driver to pass a driver training program to ensure each driver safely operates their TSV.

(3) Any violation of local, state or federal law by any driver while operating under the authority of a VHC certificate issued pursuant to this article may be deemed a violation by the Holder if so determined by the Traffic Engineer following a hearing as provided in Section 126-229 of this article.

(m) *No Discrimination; Accessibility.*

(1) The Holder shall require that TSV drivers do not discriminate against passengers or potential passengers on the basis of age, race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry or disability.

(2) The Holder shall require TSV drivers to comply with all applicable laws relating to accommodation of service animals.

(3) The Holder shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(4) The Holder shall provide a potential TSV passenger an opportunity to indicate whether they require a wheelchair accessible TSV. If a wheelchair accessible TSV cannot be provided that passenger shall be directed to a licensed provider of such service.

(5) The Holder shall require TSV drivers to not discriminate against or show favoritism for any geographic area of the city or any neighborhood of the city, but will serve all patrons seeking transportation from whichever point in the city the request may originate. To ensure compliance with this provision, the Holder shall maintain a registry of call origination and provide to the Traffic Engineer with their annual

report, or upon request;

~~(n) Minimum number of vehicles required.~~

~~— Holders shall have at a minimum five (5) vehicles operable and available for service at all times unless the Holder who has a certificate of public convenience and necessity has fewer vehicles than herein required as of the effective date of this article.~~

Sec. 126-232. Certificate application.

- ~~(a) Application. An application for a VHC certificate shall be in accordance with the requirements of this article and be furnished by the Traffic Engineer. It shall be signed and verified by the applicant, or an officer of the applicant, and filed with the Traffic Engineer and shall include documentary proof of meeting the requirements in Section 126-231 of this article. The tendered application expires if the applicant has not completed the process and received a certificate within one hundred twenty (120) days from the application date, unless additional time is justified by the Traffic Engineer.~~
- ~~(b) Application Fee. Each application shall be accompanied by a nonrefundable processing fee in an amount set in the schedule of fees adopted by the Council by resolution.~~
- ~~(c) Application requirements. In addition to the requirements under subsection (a) of this section, the application shall require the following:~~
 - ~~(1) The name, address and age of the applicant. The business name and address. If the applicant is a corporation, its name, the address of its principal place of business, and the name and address of its registered agent. If the applicant is a partnership, its name, the names of general and limited partners and the address of its principal place of business. If the applicant is an association, its name, the names and addresses of all transportation service vehicle owners in the association, the address of its principal place of business, and the name of a member authorized by the association to receive and accept all correspondence and notices from the city pertaining to the association, its members and its drivers.~~
 - ~~(2) Primary contact person and telephone number;~~
 - ~~(3) If a corporation, proof of registration with Secretary of State to conduct business within the State.~~
 - ~~(4) Proof of insurance coverage by a certificate of insurance meeting the requirements of subsection 126-231(c) of this article;~~
 - ~~(5) Copy of the applicant's State Sales Tax Certificate or acknowledged receipt from the State of Iowa, for application for same (copy to be furnished to the City upon receipt) if applicable;~~
 - ~~(6) Description of type and extent of service to be rendered;~~
 - ~~(7) With said application, applicant shall attach a copy of applicant's third party background examinations accredited by the National Association of Professional Background Screeners or a successor accreditation entity.~~
 - ~~(8) Applicant's website if applicable or other documentation containing information on its method of fare calculation, the rates and fees charged, and customer service telephone number and email address.~~
- ~~(d) Misrepresentation or fraud in securing certificate. No person shall give any false or fictitious information on any application for a VHC certificate provided for in this chapter or practice any fraud or misrepresentation in any manner to secure a VHC certificate.~~

- (e) ~~Recaplication after denial. Whenever any application for a certificate shall have been denied by the city council, no new application covering the same applicant or any principal member, partner, or shareholder of the same or similar applicant, if not an individual, shall be filed with the traffic engineer or considered by the city council until one year shall have elapsed from the date of filing the previous application.~~

~~Sec. 126-233. Investigation of Applicant.~~

~~The police department shall review each applicant's arrest and traffic records and report the results of the investigation to the city council. Where the applicant is a corporation, the corporate officers' records shall be investigated; where a partnership, each partner's records shall be investigated; where an association, each association member's records shall be investigated.~~

~~Sec. 126-234. Certificate issuance.~~

~~The Traffic Engineer shall review the application within a reasonable time after its completion and submittal. If the Traffic Engineer finds that the application is complete and that applicant has met the requirements set forth in Sections 126-231 and 126-232 herein, the Traffic Engineer shall forward the application onto the Council. The Council shall determine at a public hearing whether the applicant meets all requirements of this article for issuance of the VHC certificate and whether the police department's investigation is favorable or not and shall grant or deny the certificate accordingly.~~

~~Sec. 126-235. Certificate fees.~~

- (a) ~~An annual certificate fee shall be assessed for each vehicle for hire company. The certificate fee shall be assessed annually for the period from January 1 through December 31st of each year. The initial annual fee shall be based upon the number of TSV drivers authorized to provide vehicle transportation services in the first month of operation. The renewal annual certificate fee shall be based upon the average number of TSV drivers providing vehicle transportation services per month during the prior certificate year as reported in the TSV company's annual report. The respective fee shall be assessed at an amount set in the schedule of fees adopted by the Council by resolution.~~
- (b) ~~The Holder shall maintain an accurate record of the number of TSV drivers per month to ensure reporting of the number of TSV drivers is accurate.~~

~~Sec. 126-236. Certificate renewal.~~

~~On or before December 31st of each year, the Holder may renew his certificate by the payment of the fees herein required and submittal of an application for renewal in the same manner as required for original issuance, however, such renewal will not be considered by Council unless the Traffic Engineer denies the renewal after affording a hearing and an appeal is requested as provided under section 126-229 of this article. The VHC certificate shall be considered fully expired at midnight January 31st of the year after issuance.~~

~~Sec. 126-237. Certificate suspension or revocation.~~

- (a) ~~The Traffic Engineer may at any time, pursuant to the hearing proceedings under section 126-229 of this article, revoke or suspend the certificate granted under this article, if he or she makes any of the following determinations of violations by any drivers, operators, managers, partners, officers, or employees of the Holder; or an independent contractor or agent operating under the authority of Holder if the Holder has knowledge of, reasonably should have had knowledge of, or failed to prevent or supported the violations committed by the driver, independent contractor or agent:~~
 - (1) ~~If vehicles operated under the authority of the Holder are not operated in accordance with the provisions of this article;~~
 - (2) ~~If vehicles are operated within the corporate limits of the City at a rate or fare greater than that specified by the VHC at the time TSV services were requested;~~
 - (3) ~~If a Holder fails to maintain insurance, or if a TSV is operated but is not insured as required by this article;~~
 - (4) ~~If the certificate was procured by fraudulent conduct or false statement of a material fact, or a fact concerning the applicant was not disclosed at the time of application and such fact would have constituted just cause for refusal to issue the certificate;~~
 - (5) ~~If those persons, drivers, owners, operators, managers, partners, officers, employees, independent contractors, and/or agents engaging in the operation of a business that provides vehicle transportation services pursuant to the Holder's authority have violated any provisions of this chapter, or have committed any other acts which reflect unfavorably on the fitness of the Holder to offer public services;~~
 - (6) ~~If those persons, drivers, owners, operators, managers, partners, officers, employees, independent contractors and/or agents engaging in the operation of a business that provides vehicle transportation services pursuant to Holder's authority have failed to maintain adequate and properly operating equipment as required by this article;~~
 - (7) ~~If Holder is in violation of any City of Des Moines Municipal Code requirements for fire, building, or zoning ordinances for buildings or facilities owned within the City of Des Moines and used in conjunction with the VHC certificate, or if Holder is leasing property within the City of Des Moines for use in conjunction with the VHC certificate, such location is in violation with municipal fire, building, or zoning ordinances.~~
 - (8) ~~For good cause, as shown by the City Traffic Engineer.~~
- (b) ~~After revocation of a certificate, a Holder shall not be eligible to make application for a certificate for a period of one (1) year from the start date of the revocation, and subsequent applications must be made in accordance with Section 126-232 of this article.~~

Sec. 126-238. Record keeping requirements of certificate/license holders.

- (a) ~~Records required. Each Holder shall maintain all records of vehicle transportation services within the City for the previous 365-day period, subject to review by the Chief of Police or the Traffic Engineer as provided herein. Each Holder shall submit to the Traffic Engineer a report by January 30 of each year summarizing the activity of the previous year. The report shall contain general information on the number and types of complaints received including information on discrimination complaints, number of tips, origin of calls for~~

~~vehicle transportation service; number of TSV's by month, list of drivers and contact information which may be submitted as stated in subsection (b) of this section, verification of driver's background check, and any other information as required by the Traffic Engineer (and as noted in Sec. 126-231(m)(5)).~~

- ~~(b) *Coded Identification.* The requirement under this section of providing a list of drivers and contact information may be fulfilled by providing a full list of drivers by identifying them only by the last four digits of their driver's license number. The traffic engineer may then select from this coded list those drivers he/she wishes to see the full name and contact information which names and information will be promptly supplied by the Holder.~~

- ~~(c) *Open records law.* If the Holder desires the records it produces under this article to remain confidential, the Holder must make that request in writing to the traffic engineer who shall then provide Holder notice by telephone or e-mail of a public records request for such records. Holder shall then have five (5) business days after notice to file a petition in the Iowa District Court for Polk County to enjoin production of the requested records as permitted by Iowa Code section 22.8.~~

~~Sec. 126-239. Record Inspection Authority.~~

~~If a meritorious complaint against a VHC, Holder or Driver is received by the Chief of Police or the Traffic Engineer, or for any other good cause, the Chief of Police or the Traffic Engineer has the authority to inspect the records of the VHC or Holder as necessary to investigate the cause and/or to resolve the complaint.~~

~~Sec. 126-240. Driver compliance with traffic rules and regulations.~~

~~Any driver providing vehicle transportation services shall drive in compliance with city and state traffic rules and regulations, and shall not engage in any unlawful act while providing vehicle transportation services.~~

~~Sec. 126-241. Vehicle inspections; maintenance; equipment.~~

- ~~(a) Every vehicle operating under this article shall be inspected by the Holder, or a third party at Holder's request, quarterly to ensure the continued maintenance of safe operating conditions. Upon such inspection, if it is found that the vehicle does not meet safe operating requirements, the Holder shall cause the vehicle to be removed from service until such time as the repaired vehicle will comply with safe operating standards. Records of these vehicle inspections shall be maintained, during the current VHC license period, for a period of no less than twelve (12) months by the VHC holder and will provide these records to the traffic engineer as part of the annual report process.~~

- ~~(b) In addition to all other applicable legal requirements, it shall be unlawful for any person to operate or cause to be operated any transportation service vehicle unless such vehicle:~~

- ~~(1) Has a manufacturer's rated seating capacity of fifteen (15) or less persons, including the transportation service vehicle driver;~~
- ~~(2) Has at least two doors and meets applicable Federal Motor Vehicle Safety Standards for vehicles of its size, type and proposed use;~~
- ~~(3) Is a coupe, sedan, or light duty vehicle, including a van, minivan, sport utility~~

vehicle, pickup truck, hatchback or convertible; and

- (e) ~~The Holder and the driver shall be jointly and severally liable if the Holder permits the driver to use a vehicle that does not meet the requirements for a transportation service vehicle. Operation of any vehicle in violation of the requirements of this section shall subject the Holder to sanction, as determined by the Traffic Engineer, up to and including suspension or revocation of the VHC certificate after hearing as prescribed in Section 126-229 of this article.~~

Sec. 126-242. Transportation service vehicle designation and driver identification.

- (a) ~~Vehicle identification.~~ The holder shall establish and require each TSV to display a consistent and distinctive identifying design consisting of a logo, insignia, or emblem at all times while the TSV is en route to pick up a passenger or vehicle transportation services are being provided. The markings shall:
- (1) Be painted or affixed by decal in letters or figures at least two inches in height visible from the outside of both the driver and passenger sides of the vehicle, or from the front windshield on the passenger side. Such decals may be designed to be removed from the vehicle when not providing vehicle transportation services. Taxicabs may be further identified with a top light.
 - (2) Not conflict with or imitate any other companies' logo, insignia, or emblem or any official or emergency vehicle color scheme, in a manner that will mislead or deceive or defraud the public.
- (b) ~~Driver identification.~~ Holders shall require TSV drivers to clearly display on the dashboard inside the vehicle and visible to all passengers driver identification cards with the name and photograph of the driver, as well as the make, model and license plate number, or unit number unique to the TSV. The traffic engineer shall provide the specifications for the driver identification cards and shall approve the locations where they are displayed. The driver identification cards for each vehicle shall be provided for every driver by each VHC certificate holder at its sole cost and expense. A TSV driver may provide this information through an online platform that is reviewable to passengers from the time a ride is accepted through the duration of the trip.

Sec. 126-243. Operation at Airport.

Holders and drivers operating vehicle transportation services at the airport shall do so in accord with rules, regulations, and policies adopted by the airport authority.

Sec. 126-244. Criminal or civil penalties.

- (a) ~~Except as provided under subsection (b) of this section, any person who fails to perform an act required by the provisions of this article, or who commits an act prohibited by the provisions of this article, shall be guilty of a misdemeanor punishable by fine of \$500.00 for each offense or if the act is a repeat offense a \$625.00 fine for each repeat offense, or imprisonment as provided by section 1-15 of this Code; or shall be guilty of a municipal infraction punishable by a civil penalty of \$750.00 for each offense or if the act is a repeat offense a \$1,000.00 civil penalty and may be subject to other remedies as allowed by law~~

~~pursuant to section 1-15(d) of this Code.~~

- (b) ~~Any person who fails to perform an act required by the following provisions of this article, or who commits an act prohibited by the provisions of this article, shall be guilty of a misdemeanor punishable by a fine, or imprisonment as provided by section 1-15 of this Code:~~
- (1) ~~126-231 subsection (g)(1), (g)(2) and (g)(3), regarding posting of rates, rate violation and receipts on request respectively;~~
 - (2) ~~126-231 subsection (k), requiring most direct route;~~
 - (3) ~~126-242 subsections (a) and (b), regarding vehicle identification and driver identification respectively;~~
 - (4) ~~126-246, regarding solicitation of passengers by driver;~~
 - (5) ~~126-247 subsections (a), (b) and (c), all regarding prohibited solicitation;~~
 - (6) ~~126-248 subsections (a) and (b), regarding receipt and discharge of passengers;~~
 - (7) ~~126-249, regarding solicitation of other common carrier passengers;~~
 - (8) ~~126-250, regarding additional passengers;~~
 - (9) ~~126-251 subsections (a), (b), (c), and (d), all regarding passenger loads;~~
 - (10) ~~126-253 including all subsections (a) through (r), regarding driver prohibitions;~~
 - (11) ~~126-258, regarding standing of taxicabs only in taxicab stands.~~
- (c) ~~Upon issuance of any citation or charge under this article, the issuing agency shall deliver a copy of the citation to the city prosecutor and the Traffic Engineer.~~

~~Sec. 126-245. Prepayment of fares and refusal to pay.~~

- (a) ~~Every driver of a TSV shall have the right to demand payment of the estimated legal fare in advance and may refuse employment unless so prepaid.~~
- (b) ~~Any person who contracts with a vehicle for hire company and uses a TSV for the purpose of riding therein, or transporting any goods, wares or merchandise, and who refuses to pay the fare shall be guilty of a misdemeanor.~~

~~Sec. 126-246. Solicitation of passengers by driver.~~

~~No driver shall solicit passengers for a TSV except when sitting in the driver's compartment or while standing immediately adjacent to the curb side of the vehicle. The driver of any TSV shall remain in the driver's compartment or immediately adjacent to his or her vehicle at all times when the vehicle is upon the public street. Nothing herein contained shall be deemed to prohibit any driver from alighting onto the street or sidewalk for the purpose of assisting passengers into or out of the vehicle or from complying with the directions of the person engaging the TSV regarding the loading or unloading of any baggage, goods, wares or merchandise.~~

~~Sec. 126-247. Prohibited solicitation.~~

- (a) ~~No driver shall solicit patronage in any unreasonably loud voice or by sign or in any manner disturb the peace, quiet or good order of any person or obstruct the movement of any persons, or follow any person for the purpose of soliciting patronage.~~
- (b) ~~No driver shall solicit business for any hotel, or to attempt to divert patronage from one hotel to another.~~

- (e) ~~No driver shall solicit or convey any person to or from any area where movement within the area has been restricted by police order due to a fire or other emergency.~~

~~Sec. 126-248. Receipt and discharge of passengers.~~

- (a) ~~No driver shall receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk as nearly as possible or in the absence of a sidewalk, to the extreme right-hand side of the road, except upon one-way streets, where passengers may be discharged at either the right or left-hand sidewalk or side of the roadway in the absence of a sidewalk.~~
- (b) ~~No driver shall load or unload passengers or luggage at an intersection or crosswalk or at any other location where it will interfere with the orderly flow of traffic.~~

~~Sec. 126-249. Solicitation of other common carrier passengers.~~

~~No driver, owner or operator shall solicit passengers within the terminal of any other common carrier, nor at any intermediate points along any established route of any other common carrier. This rule is not intended to prohibit or interfere with response to any call for a TSV, made by telephone, or by signal from a pedestrian, or from soliciting patronage of a debarking passenger of any common carrier.~~

~~Sec. 126-250. Additional passengers.~~

~~No driver shall permit any other person to occupy or ride in his or her TSV, unless the person or persons first employing the TSV shall consent to an additional passenger or passengers.~~

~~Sec. 126-251. Passenger loads.~~

- (a) ~~A driver may not transport more passengers than the manufacturer's passenger rating for the vehicle and for which operating seat belts are provided, with not more than one passenger to be seated in the front seat with the driver, except as provided in subsection (b) of this section.~~
- (b) ~~If at least one passenger is a child no older than 12 years of age, then not more than two such passengers may be seated in the front seat with the driver.~~
- (c) ~~A driver on duty may not transport any person other than a paying passenger.~~
- (d) ~~A driver may allow or refuse to allow a passenger to ride in the front seat when there is an unoccupied seat in the rear of the vehicle.~~

~~Sec. 126-252. Refusal to carry orderly passengers.~~

~~No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this article to do so.~~

~~Sec. 126-253. Driver prohibitions.~~

- (a) ~~A driver shall not engage in selling intoxicating liquors or solicit business for any house of~~

- prostitution or use or permit another person to use his or her vehicle for any unlawful purpose or any purpose other than that provided by this article.
- (b) ~~While on duty, a driver shall not engage in any unlawful act.~~
 - (c) ~~While on duty or within 8 hours prior to being on duty, a driver shall not partake of any alcoholic beverage, intoxicating liquor, narcotic, sedative, barbiturate, marijuana, or any other drug or substance which may impair his or her driving ability; or otherwise be impaired and, while on duty, a driver shall not have any such beverage or substance in his or her possession.~~
 - (d) ~~A driver shall not have a firearm, explosive device or illegal weapon in his or her possession while on duty.~~
 - (e) ~~A driver shall not operate a TSV which is in an unsafe operating condition.~~
 - (f) ~~A driver shall not operate a TSV while his or her ability or alertness is so impaired, or is likely to become impaired, because of fatigue, illness or any other cause which would make it unsafe for him or her to operate the vehicle.~~
 - (g) ~~A driver shall not remain on duty for more than 16 continuous hours in any 24-hour period.~~
 - (h) ~~A driver shall not overcharge any passenger.~~
 - (i) ~~A driver shall not dismiss nor discharge any passenger at a point other than the requested destination without good cause. If a passenger is discharged for good cause, it shall be done, if at all possible, at a safe, well lighted place, convenient to public transportation.~~
 - (j) ~~A driver shall not induce nor attempt to induce any person to be transported by willful misrepresentation.~~
 - (k) ~~A driver shall not solicit a gratuity; however, a driver may accept a gratuity if it is given voluntarily, without solicitation.~~
 - (l) ~~A driver shall not refuse to place a passenger's luggage or packages in and out of the vehicle when requested to do so.~~
 - (m) ~~A driver shall not refuse to assist a passenger in and out of the vehicle when requested to do so, provided however, that the driver shall not be required to lift or carry any passenger.~~
 - (n) ~~Smoking in a TSV is prohibited in accordance with the "Smokefree Air Act," I.C. Chapter 142D.~~
 - (o) ~~A driver shall not operate a radio or other device at a volume which might be objectionable to a passenger, and the driver shall change stations, reduce the volume or turn off the device upon a reasonable request of the passenger.~~
 - (p) ~~A driver of one vehicle for hire company shall not respond to a radio call for any vehicle of another vehicle for hire company.~~
 - (q) ~~A driver shall not be unkempt in personal appearance and cleanliness.~~
 - (r) ~~A driver shall not talk in an unreasonably loud voice, or shout or use profanity.~~

~~Sec. 126-254. Taximeters:~~

~~Each taxicab operated under the authority of this article shall be equipped with a taximeter fastened in front of the passengers, visible to them at all times of the day and night, and, after sundown, the face of the taximeter shall be illuminated.~~

~~Sec. 126-255. Location of taxicab stands:~~

~~Taxicab stands shall be located as designated in section 114-613 of this Code.~~

~~Sec. 126-256. Prohibited locations of taxicab stands.~~

~~No taxicab stand shall be located within 15 feet of either side of the entrance of any theater, auditorium, hotel or other public building where large assemblages of people are held, nor where the standing of taxicabs thereon would obstruct or hinder ingress and egress to the property abutting upon the street where the stand is located.~~

~~Sec. 126-257. Only holder's taxicabs permitted on stands.~~

~~Only taxicabs owned or operated by a holder shall occupy a taxicab stand. Where security is provided by a holder, only those taxicabs which have paid pursuant to written agreement shall use such stands.~~

~~Sec. 126-258. Standing elsewhere for purpose of soliciting.~~

~~No taxicab shall stand at any place upon the streets of the city for the purpose of soliciting business, except upon the taxicab stands established or provided for that purpose.~~

~~Sec. 126-259. Indemnification in use of taxicab stands.~~

~~In accepting a certificate under this article, the person receiving it shall be deemed to have agreed to hold and shall hold the city harmless from and indemnified against any and all damages arising from or growing out of the operation or use of taxicabs owned or controlled by that person at the taxicab stands provided for in this chapter.~~

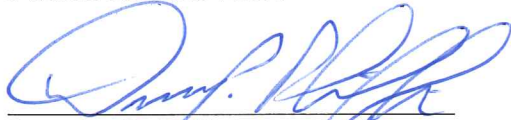
~~Sec. 126-260. Paratransit service.~~

- ~~(a) This article shall apply to the operation of a paratransit service only to the extent specified in this section.~~
- ~~(b) A VHC certificate under this article shall not be required for the operation of a paratransit service.~~
- ~~(c) Application for a license to operate a paratransit service shall be submitted to the traffic engineer, upon forms prepared or prescribed by the traffic engineer. The application shall contain:
 - ~~(1) The name and address of the applicant and the owner of the paratransit service.~~
 - ~~(2) The trade or other name, if any, under which the applicant does business and proposes to do business.~~
 - ~~(3) The training and experience of the applicant in the transportation of wheelchair-bound persons.~~
 - ~~(4) A description of each paratransit taxicab, including the make, model, year of manufacture, motor and chassis number; current state license number; the length of time the paratransit taxicab has been in use; and the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate the applicant's paratransit taxicab.~~
 - ~~(5) The location and description of the place from which it is intended to operate.~~~~

- ~~(6) — Other information as the traffic engineer, shall deem reasonably necessary.~~
- ~~(d) — An annual license shall be issued upon compliance with subsection (c) of this section, as well as sections 126-231(b); 126-231(e) of this article with regard to insurance, and payment of fees as set in sections 126-235 and 126-232(b) of this article.~~
- ~~(e) — No paratransit service license issued pursuant to this article may be sold, assigned or transferred without the prior approval of the city council and a finding of conformance with all of the applicable standards prescribed in this article.~~
- ~~(f) — The city council may suspend or revoke any or all paratransit service licenses issued under this division for failure of a licensee to maintain compliance with the standards of this article, but only after warning and a reasonable time for compliance has been given. The traffic engineer shall give the paratransit service owner 15 days' written notice of the city council meeting at which the suspension or revocation action shall be presented.~~
- ~~(g) — Subsections 126-231(d); 126-231(e); 126-231(f) and section 126-240 of this article concerning drivers' requirements shall apply to the operation of a paratransit service.~~
- ~~(h) — Section 126-241 of this article concerning vehicle inspections; maintenance and equipment shall apply to the operation of a paratransit service.~~
- ~~(i) — Any operator of a paratransit service shall also comply with any and all applicable federal statutes and regulations and shall maintain evidence of such compliance for the review of the traffic engineer.~~
- ~~(j) — Section 126-242 of this article concerning vehicle designation and driver identification shall apply to the operation of a paratransit service.~~
- ~~(k) — A current schedule of all rates charged for services provided by the paratransit service shall be filed with the traffic engineer.~~
- ~~(l) — Section 126-238 of this division concerning reports and records shall apply to the operation of a paratransit service.~~
- ~~(m) — Subsection 126-232(d) and section 126-244 of this division concerning misrepresentation and fraud in securing licenses and criminal and civil penalties shall apply to the operation of a paratransit service.~~

Section 2. This ordinance shall be in full force and effect as of 12:00 midnight January 1, 2017.

FORM APPROVED:



Douglas P. Philip
Assistant City Attorney