

ORDINANCE NO. 2017-15

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING THE CODE OF ORDINANCES OF THE CITY AMENDING ARTICLE II, TAXICABS, OF CHAPTER 48, VEHICLES FOR HIRE, TO ADD DEFINITIONS TO SECTION 48-26, DEFINITIONS; AMENDING SECTION 48-31, CRUISING PROHIBITED, TO ALLOW CITY COUNCIL TO DESIGNATE PARKING AREAS WITHIN THE CITY FOR TAXICABS DURING PEAK TIMES; AMENDING SECTION 48-32, MAXIMUM SEATING, TO INCREASE THE MAXIMUM NUMBER OF PERSONS TO TEN (10); DELETING SECTIONS 48-33 THROUGH 48-33; ADDING A NEW SECTION 4-33, VIOLATIONS, TO SPECIFY SPECIFIC ACTIONS WHICH VIOLATE THIS ORDINANCE; AMENDING SECTION 48-39, PROPERTY LEFT IN VEHICLE, TO DELETE SPECIFIC PENALTY PROVISION; DELETING SECTION 48-40, PENALTIES; AMENDING SECTION 48-56, REQUIRED, OF DIVISION 2, BUSINESS PERMIT, TO EXCLUDE TAXICABS LICENSED IN OTHER JURISDICTIONS DELIVERING PASSENGERS IN THE CITY; AMENDING SECTION 48-57, APPLICATION, TO REQUIRE CERTAIN INFORMATION TO BE INCLUDED IN BUSINESS PERMIT APPLICATION; AMENDING SECTION 48-65, INSPECTION, TO DELETE CERTAIN INSPECTION REQUIREMENTS; AMENDING SECTION 48-66, REVOCATION, TO ALLOW CHIEF OF POLICE TO REVOKE BUSINESS PERMIT; AMENDING SECTION 48-67, IDENTIFICATION OF VEHICLES, TO ALLOW CITY SECRETARY TO ISSUE TAXI PERMIT NUMBERS; AMENDING SECTION 48-83, APPLICATION OF DIVISION 3, DRIVER'S LICENSES, CHANGING THE MEDICAL REPORTING REQUIREMENTS; AMENDING SECTION 48-87, APPEAL, TO ALLOW CITY MANAGER TO HEAR APPEAL; AMENDING SECTION 48-88, IDENTIFICATION CARDS, TO ALTER THE REQUIREMENTS OF IDENTIFICATION CARDS; AMENDING SECTIONS 48-89, TRANSFER PROHIBITED, 48-90, DURATION, AND 48-91, FEE, TO ADD THE WORDS "CITY CHAUFFER'S LICENSE"; AMENDING SECTION 48-107, MINIMUM AMOUNTS OF COVERAGE, OF DIVISION 4, INSURANCE, ALTERING THE MINIMUM INSURANCE REQUIREMENTS; AMENDING SECTION 48-110, INCREASING AMOUNT UPON RETURN OF EXECUTION UNSATISFIED, TO CLARIFY REGULATIONS THEREIN; PROVIDING A PENALTY NOT IN ACCORDANCE WITH SECTION 1-14 OF THE CITY'S CODE OF ORDINANCES FOR ANY VIOLATION HEREOF WITH EACH DAY CONSTITUTING A SEPARATE OFFENSE; PROVIDING FOR SEVERABILITY AND PROVIDING OTHER FINDINGS RELATED HERETO.

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WHEREAS, the City Council of the City of Tomball, Texas finds it to be in the best interest of the health, safety and welfare of the citizens to provide certain amendments to the City's regulations of taxicabs; and

WHEREAS, the City Council of the City of Tomball desires to amend the City's taxicab regulations as set forth herein; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. Section 48-26, Definitions, of Division 1, Generally, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding the language underscored below, Section 48-26 to read as follows:

“Section. 48-26. - 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:

Conduct a taxicab business shall mean the use of one or more taxicabs within the corporate limits of the city, by the owner thereof, for the purpose of carrying passengers for hire, either by driving the same himself or having the same driven by some other person, provided that this definition shall not apply to any licensed chauffeur hired as a driver by any person holding a permit to conduct a taxicab business in the city.

Cruise or cruising shall mean the movement of unoccupied taxicabs over the public streets of the City in search of prospective passengers for hire. An unoccupied taxicab is permitted to do answer a telephone call for taxicab service from an intended passenger which will not be deemed to constitute cruising.

Driver shall mean a person who drives or operates a taxicab.

Owner shall mean any person having the right to control a taxicab's operations and whom benefits from the collection of revenues derived from the

operation of taxicabs in the City of Tomball, but does not include a "driver" as herein defined. The word "owner" shall include any person with a substantial interest in the taxicab operations of the owner licensed under this Ordinance. A person has a substantial interest in the licensee's taxicab operation if:

1. the person has any ownership interest in the taxicab operation;
2. the person has any financial interest in the taxicab operation including, without limitation, a profit interest, loan, lease, or any other type of financial arrangement or scheme;
3. the person receives any benefit from the taxicab operation in an amount exceeding One Hundred Dollars (\$100.00) per year;
4. the person, in seeking an application for a taxicab owner license, is acting in whole or in part for the benefit of or in concert with a person already holding a taxicab owner license;
5. the person is related to the taxicab owner licensee within the second degree of consanguinity or affinity as defined by the Texas Government Code.

Taxicab shall mean any and all vehicles carrying passengers for hire, with a rated capacity of twelve (12) persons or less, including the driver, except motor buses or motor coaches operated by bus lines over designated routes in and through the city.”

Section 3. Section 48-31, Cruising Prohibited, of Division 1, Generally, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding the language underscored below, Section 48-31 to read as follows:

“Section 48-31. – Cruising prohibited.

It shall be unlawful for any driver of any taxicab to drive or cruise about on the streets of the city seeking passengers who have not theretofore ordered or called for a taxicab. The City Council may designate areas within the City that may be used for taxi parking at times during which high demand for taxi service is anticipated. Such designated areas shall be made available to all taxicab vehicles licensed under this ordinance without preference to the taxicab owner or taxicab driver.”

Section 4. Section 48-32, Maximum Seating, of Division 1, Generally, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding the language underscored below and deleting the language struckthrough below, Section 48-32 to read as follows:

“Section 48-32. – Maximum seating.

It shall be unlawful to carry more than ten (10) passengers in any taxicab, and in no event shall more than two passengers ride in the front seat with the driver.”

Section 5. Sections 48-33 through 48-38 of Division 1, Generally, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas are hereby deleted in their entirety.

Section 6. The Code of Ordinances is further amended by adding a new section 48-33, Offenses, of Division 1, Generally, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas, Section 48-33 to read as follows:

“Section 48-33. – Offenses.

- (a) It shall be unlawful for any person engaged in the taxicab business to overcrowd the taxicab.
- (b) It shall be unlawful for any officer or employee of the city to accept, or a taxicab service permittee or employee to offer, either directly or indirectly, any gifts, discounts or gratuities in association within the provision of taxicab services.
- (c) It shall be unlawful for a taxicab driver to receive or discharge passengers in the roadway of any street. It is a defense to this section that said driver drove to the right-hand sidewalk, the extreme right-hand side of the road as nearly as practical, or into a driveway or parking lot for such purposes.
- (d) It shall be unlawful for a taxicab driver employed to carry passengers to a definite point to fail to take the most direct route that will carry such passengers safely and expeditiously to their destination, except when specifically requested by the passenger.
- (e) It shall be unlawful for a taxicab driver to violate applicable laws relating to non-discrimination, accommodation of service animals, and accessibility. It shall be unlawful for a taxicab service operator or a taxicab

driver to impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(f) It shall be unlawful for a taxicab driver to knowingly transport any person in the commission of a crime in any manner.

(g) It shall be unlawful for any driver or passenger of any taxicab to drink alcoholic beverages of any kind while inside the taxicab or while on duty.

(h) It shall be unlawful for any taxicab driver to consume any alcoholic beverages within four (4) hours prior to operation of a taxicab.

(i) It shall be unlawful for a taxicab driver to engage in the sale of alcoholic beverages or to solicit business for any person selling alcoholic beverages.

(j) It shall be unlawful for a taxicab driver to solicit patronage in a loud or annoying tone of voice, or in any manner annoy any person or obstruct the movement of any person, or follow any person for the purpose of soliciting patronage.

(k) It shall be unlawful for a taxicab driver to shall solicit business for or from a hotel, motel, or rooming place or attempt to promote or divert patronage for or from one business to another.

Section 7. Section 48-39, Property Left In Vehicle, of Division 1, Generally, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by renumbering said section to Section 48-34, by adding the language underscored below and by deleting the language struckthrough below, Section 48-34 to read as follows:

“Section 48-34. – Property left in vehicle.

All drivers of taxicabs shall promptly deliver to the police department, or to authorized agencies of their companies, all property left in such vehicles by passengers.

Section 8. Section 48-40, Penalties, of Division 1, Generally, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby deleted in its entirety.

Section 9. Section 48-56, Required, of Division 2, Business Permit, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below, Section 48-56 to read as follows:

“Section 48-56. – Required.

It shall be unlawful for any person to drive or to operate, or to cause to be driven or operated, any taxicab upon or over any street in the city unless there has been obtained for such taxicab, existing in full force and effect, a permit duly issued by the city secretary.

This Section does not apply to taxicabs licensed in another jurisdiction that are only discharging passengers in the City. Taxicabs operating from cities other than the City of Tomball must be licensed under this Ordinance in order to pick up passengers within the City limits of Tomball.”

Section 10. Section 48-57, Application, of Division 2, Business Permit, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below, Section 48-57 to read as follows:

“Section 48-57. – Application.

Before any person shall conduct a taxicab business in the city, he shall file with the city secretary an application to the city council for a permit to conduct such business in this city. The application shall state the name and address of such applicant, whether the applicant is an individual, firm or corporation, and if a firm, the name and address of each member thereof and the number of vehicles proposed to be operated under such permit.

The applicant shall also provide the following information in the application:

1. The trade name, if any, under which the applicant proposes to operate;
2. The address of the place of business from which the applicant purposes to operate;
3. The make, type, model, capacity and condition of the taxicabs proposed to be operated; the design and color schemes of each taxicab and the lettering and marks to be used thereon;

4. The number of taxicabs for which a permit is desired, and proof that these taxicabs are registered to the applicant;
5. A copy of the applicant's valid Texas driver's license;
6. A copy of insurance policy showing the current insurance coverage as required by this Ordinance;
7. Proof of annual state inspection for each vehicle being permitted;
8. Fee per vehicle as set forth in the City's Master Fee Schedule; and
9. A statement that the taxicab is not a passenger bus operating under the regulations of the Texas Railroad Commission."

Section 11. Section 48-65, Inspection, of Division 2, Business Permit, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by deleting therefrom the language struckthrough below, Section 48-65 to read as follows:

"Section 48-65. – Inspection.

- (a) Every holder of a permit to conduct a taxicab business in the city shall provide proof of an annual state inspection of each vehicle used in his business.

Section 12. Section 48-66, Revocation, of Division 2, Business Permit, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below and deleting therefrom the language struckthrough below, Section 48-66 to read as follows:

"Section 48-66. – Revocation.

Any permit issued under the provisions of this division may be revoked by the chief of police for the violation by the licensee of any applicable provision of this Code, state law or city ordinance, rule or regulation."

Section 13. Section 48-67, Identification of Vehicles, of Division 2, Business Permit, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of

Tomball, Texas is hereby amended by adding thereto the language underscored below, Section 48-67 to read as follows:

“Section 48-67. – Identification of vehicles.

Every holder of a permit granted under the terms of this division for a taxicab shall have and keep displayed in colors contrasting with the color of the vehicle on each side of each and every vehicle used by him as a motor cab the words, "TAXI PERMIT NO. _____," filling the blank with figures, provided by the city secretary, denoting the serial number of his permit and the year the permit is issued. The letters and figures shall be not less than three inches in height.”

Section 14. Section 48-83, Application, of Division 3, Driver’s Licenses, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below and deleting therefrom the language struckthrough below, Section 48-83 to read as follows:

“Section 48-83, - Application.

Any person desiring a city chauffeur's license required by this division shall make a written application therefor to the chief of police, which application shall be made upon a form provided by the city and which shall contain the following information:

- (1) The full name, age and specific address of the applicant;
- (2) The full name of the person or owner for whom the applicant proposes to be employed;
- (3) The length of local residence of the applicant in the city and the state and if a citizen of the United States;
- (4) A full personal description of the applicant including his age, height, size, race, color of eyes, complexion and color of hair, body and facial marks, defects, his full fingerprints and his photograph with his hat off;
- (5) Whether the applicant has been convicted of a felony and full information concerning same; likewise if applicant has a police record with conviction of misdemeanor and full information concerning same;

- (6) Whether the applicant has been convicted of violations of the law in the operation of motor vehicles, and if so, full information concerning same;
- (7) Each driver of any vehicle used for taxicab purposes shall, at the driver's expense, furnish the city secretary with a medical report issued by a licensed physician showing such driver to be physically capable of operating a motor vehicle within the city for hire as a taxicab. Such report must be furnished upon application for a license to drive a taxicab within the city.
- (8) The number and date of issuance of the state license issued to the applicant.”

Section 15. Section 48-87, Appeal, of Division 3, Driver’s Licenses, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below and deleting therefrom the language struckthrough below, Section 48-87 to read as follows:

“Section 48-87. – Appeal.

If the chief of police has made his decision and declared same, either the applicant for license under this division, or any duly qualified citizen of the city, shall have the right to appeal to the city manager within ten days, which appeal shall be perfected by delivering, in writing, five copies of same to the city manager, stating that an appeal from the decision of the chief of police is desired and the facts regarding same. The city manager will then, within a period of not more than 15 days, after receiving such notice of appeal, grant a hearing thereon, and after the hearing of the appeal, shall within a period of five days sustain or reverse the decision of the chief of police. If no appeal is taken from the findings made by the chief of police, within the time provided above, the decision of the officer shall be final; otherwise, the decision of the city manager shall become final.”

Section 16. Section 48-88, Identification Cards, of Division 3, Driver’s Licenses, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below and deleting therefrom the language struckthrough below, Section 48-88 to read as follows:

“Section 48-88. – Identification cards.

- (a) Upon compliance with this division and the issuance of a license, the applicant shall be issued at the time of actual issuance of such license in

question, two identification cards, one of which shall be not less than four by eight inches in dimension, which shall contain the full view photograph of the applicant, along with his complete description, and residence.

(b) One of such cards shall be displayed in a conspicuous place in the taxicab, conspicuous to passengers, and the other shall be carried on the person of the licensee at all times he is engaged in driving a taxicab within the city.

(c) The photographs shall be furnished by and at the expense of the applicant.”

Section 17. Section 48-89, Transfer Prohibited, of Division 3, Driver’s Licenses, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below, Section 48-89 to read as follows:

“Section 48-89. – Transfer prohibited.

No city chauffeur's license issued under this division shall be transferable.”

Section 18. Section 48-90, Duration, of Division 3, Driver’s Licenses, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below, Section 48-90 to read as follows:

“Section 48-90. – Duration.

Every city chauffeur's license issued under this division shall be valid for a period of 12 months from its date of issuance.”

Section 19. Section 48-91, Fee, of Division 3, Driver’s Licenses, of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by adding thereto the language underscored below, Section 48-91 to read as follows:

“Section 48-91. – Fee.

No fee shall be charged for the issuance of a city chauffeur's license under this division.”

Section 20. Section 48.107, Minimum Amount of Coverage, of Division 4, Insurance of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting therefrom the language struckthrough below and adding thereto the language underscored below, Section 48-107 to read as follows:

“Section 48-107. – Minimum amount of coverage.

- (a) The minimum amount of recovery in a policy of insurance required by this division shall not be less than the following sums:
 - (1) For the injury or death of any one person in any one accident, \$500,000.00.
 - (2) For total liability in any one accident or personal injuries or death, \$1,000,000.00.
 - (3) For injury or destruction of property in any one accident, \$50,000.00.
 - (4) For PIP coverage in any one accident, \$5,000.00.

Section 21. Section 48-110, Increasing Amount upon Return of Execution Unsatisfied, of Division 4, Insurance of Article II, Taxicabs, of Chapter 48, Vehicles for Hire, of the Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting therefrom the language struckthrough below and adding thereto the language underscored below, Section 48-110 to read as follows:

“Section 48-110. – Increasing amount upon return of execution unsatisfied.

In the event of the return unsatisfied of any execution issued on any final judgment rendered against any taxicab owner in any suit for damages on account of injury to person or property occasioned by the operation of any taxicab, such owner, within ten (10) days after the return of such execution unsatisfied, provided the judgment is still unpaid, shall increase the amount of his insurance coverage to pay such judgment or otherwise furnish evidence satisfactory to the city manager that such owner can pay said judgment, and failing to do so shall forthwith cease the operation of taxicabs in the city until such additional insurance is deposited or such judgment is paid.”

Section 22. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and,

upon conviction, shall be fined in accordance with Section 1-14 of this Code of Ordinances. Each day of violation shall constitute a separate offense.

Section 23. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 24. This Ordinance shall take effect fourteen (14) days from and after its passage and the publication of the caption hereof, as provided by law and the City's Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 17TH DAY OF APRIL 2016.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>NAY</u>
COUNCILMAN DEGGES	<u>NAY</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 1ST DAY OF MAY 2016.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>NAY</u>
COUNCILMAN DEGGES	<u>NAY</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary