

ORDINANCE NO. 2009-6-6

AN ORDINANCE AMENDING CHAPTER 4.24 OF THE BATESVILLE MUNICIPAL CODE GOVERNING TAXICAB FRANCHISES, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES

WHEREAS, Chapter 4.24, of the Batesville Municipal Code Governing Taxi Cab Franchises have become outdated and in need of being brought up to date to meet current state law and the needs of the citizens of the City of Batesville, Arkansas.

WHEREAS, it is the desire of the City Council of the City of Batesville, Arkansas, to amend Chapter 4.24 of the Batesville Municipal Code governing Taxi Cab Franchises to reflect the current laws of the State of Arkansas and the needs of the citizens of the City of Batesville, Arkansas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BATESVILLE, ARKANSAS THAT CHAPTER 4.24 et seq OF THE CITY OF BATESVILLE MUNICIPAL CODE BE AMENDED AS FOLLOWS:

4.24.01 OPERATING A TAXICAB SERVICE IS A PRIVILEGE

Operating a taxicab service is declared to be a privilege and no person shall operate a taxicab service in the City of Batesville without securing a franchise from the City of Batesville. (Ord. No. 94-11-3)

4.24.02 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Applicant: The person or entity applying for a taxicab franchise.

Certificate: A Certificate of Public Convenience and Necessity issued by the City authorizing the holder thereof to conduct a taxicab business.

City: City shall mean the City of Batesville, Arkansas.

Driver's permit: The permission granted by the City to a specific person to drive a taxicab upon the streets of the City.

Exclusive Franchise: Operating authority granted to only one (1) person and to the exclusion of all others.

Franchise: Operating authority granted by the City

- Holder:** A person to whom a Certificate of Public Convenience and Necessity has been issued.
- Limousine:** A limousine is defined as a large, luxurious vehicle driven by a chauffeur who is separated from the passengers by a partition, used to transport passengers to special events, and not on call for immediate transportation of passengers as a normal taxicab service.
- Manifest:** A daily record prepared by a taxicab driver and/or taxicab company of all trips made by company vehicles showing date, time and place of origin, destination, number of passengers and the amount of fare of each trip.
- Passenger:** The person who hires the services of a taxicab and includes both the singular and plural.
- Person:** Includes an individual, a corporation, or other legal entity, a partnership and any unincorporated association.
- Rate card:** A card issued by the City for conspicuous display in each taxicab, which contains the rates of fare then in force.
- Taxicab:** A motor vehicle regularly used for carrying passengers for hire, having a seating capacity of no more than seven (7) passengers and not operated on a fixed route. This definition expressly excludes limousines.
- Taxicab service:** A business offering the hire of one (1) or more taxicabs to the general public. (Ord. No. 94-11-3)
- Waiting time:** The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.

4.24.03 RATES

- (A) All taxicabs shall utilize a meter for calculation of rates and such apparatus shall be clearly visible to the passenger of the vehicle.

(B) The City has the authority to establish the maximum allowable rates for all taxicabs, consistent with the provisions of Arkansas Code Annotated § 14-57-303. The maximum allowable rate shall be established by City Ordinance on the date of the enactment of this Ordinance and thereafter at any such time as determined by the City.

(C) Each licensed taxicab company shall, upon the enactment of this Ordinance and the Ordinance establishing the maximum allowable rate, submit to City the fare schedule the taxicab company will utilize for the remainder of the year of the enactment of said Ordinances and on or before January 1 of each year thereafter. Each taxicab company shall post this fare schedule prominently within each taxicab in full view of the passenger. The posted fare schedule shall include the maximum allowable rate established by the City.

**4.24.04 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
REQUIRED;
ISSUANCE PROCEDURE**

(A) No person shall operate or permit a taxicab owned, leased or controlled by him/her to be operated as a vehicle for hire upon the streets of the City without having first obtained a Certificate of Public Convenience and Necessity from the City.

(B) An application for a certificate shall be filed with the Code Enforcement Department upon forms provided by the City and said application shall be verified under oath and shall furnish the following information:

(1) The name, address and telephone number of the applicant, including the name, physical address, mailing address and telephone number of all officers and stockholders of the company, if incorporated, and the name of the person to whom complaints should be directed;

(2) The physical address from which the business is to be conducted if different from the information provided in (1), above.

(3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers;

(4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;

(5) The number of vehicles to be available for operation or controlled by the applicant and the location of proposed depots and terminals. The applicant shall furnish a minimum and maximum number of vehicles to be permitted;

(6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;

(7) The hours between which the applicant proposes to provide taxicab service to the general public, and the days, if any, on which the applicant does not propose to provide taxicab service to the general public, and;

(8) The rate schedule which the applicant proposes to use to charge passengers.

(9) The annual fee for the franchise and Certificate of Public Convenience and Necessity is \$250.00.

(C) *Findings of the City.*

(1) If the City finds that further taxicab service in the City is required for public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation services and to conform to the provisions of this subchapter, then the City shall issue a certificate stating the name of the applicant, the physical and mailing address of the applicant and the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

(2) The City shall deny any application in which the proposed hours of service or the proposed rate schedule are found to be unreasonable to meet the public need.

(3) In making the above findings, the City shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.

4.24.05 LIABILITY INSURANCE

No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force \$25,000.00 for personal injury to, or death of, any one person in any one accident, and liability limits of \$50,000.00 for personal injury to, or death of, two or more persons in any one accident, and \$25,000.00 for injury to or destruction of property or others in any one accident. The insurance shall be maintained with an insurance company authorized to do business in the State of Arkansas. A certificate evidencing such insurance shall be filed with the Code Enforcement Office.

4.24.06 HEARING ON APPLICATION (ACA § 14-57-307)

(A) Upon the filing of an application, the City shall cause to be given ten days prior, to each and every taxicab operator in the City a due and reasonable notice, in writing to the mailing address of record. Notice of the hearing shall set forth the time and place of the hearing. The hearing shall be conducted by the City for all persons interested in, or affected by, the application.

(B) All persons interested in, or affected by, the application, including all carriers at the time rendering any type of for-hire service in the City, shall have the right, either in person or by their designated agent or representative, to be present at all such hearings and to introduce evidence and to be heard either in support of, or in opposition to, the application.

4.24.07 LICENSING REQUIREMENTS

(A) *Decal required.*

No certificate shall be issued or continued in operation unless the holder thereof has secured from the City an annual permit decal for each vehicle granting the right to engage in the taxicab business. Permit decals shall be placed on the rear window of the permitted vehicle, and be clearly visible at all times. The licensing shall be for the calendar year, with holders required to file annual renewal applications and pay fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his/her operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

(B) *Surety Bond (ACA §14-57-306)*

(1) No permit shall be granted under Arkansas Code Annotated § 14-57-304 until and unless the applicant shall file with the City Council or their designees a surety bond of a corporate surety authorized to do business in the State of Arkansas, in such amount as the City shall determine, conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the permit issued to applicant is cancelled, withdrawn, or has expired.

(2) If the applicant fails to comply with the provisions of the bond, the City shall forfeit such amount of the bond, as it shall deem necessary to adequately compensate the City for loss of the applicant's service.

(3) The amount of the bond is \$200.00.

(C) *Dispatching*

Every certificate holder shall maintain a dispatch system in operation during the hours of operation set forth in the application for the Certificate of Public Convenience and Necessity, capable of providing reasonably prompt service in response to requests received by telephone. Two-way radios are the preferred system. Citizens Band (CB) radios shall not be used. Direct cell phone communication between a fare and the driver of a taxicab for the purpose of hiring the services of the taxicab is allowed.

(D) *Scanners prohibited.*

The use of scanners or other similar devices to monitor the calls of other taxicab operator's is hereby prohibited.

4.24.08 TRANSFER OF CERTIFICATE

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City.

4.24.09 SUSPENSION, REVOCATION OF CERTIFICATE

(A) A certificate issued under the provisions of this article may be suspended by the Code Enforcement Office if the holder thereof has (1) violated any of the provisions of this article, (2) discontinued operations for more than 20 days, (3) violated any Ordinances of the City, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(B) The Code Enforcement Office shall inform the City Council of all such suspensions, and may also recommend the revocation of a certificate. Upon such recommendation, the City Council shall set a time and place for a revocation hearing. The holder shall be given 15 days written notice at the mailing address of record of the proposed action to be taken and shall be given an opportunity to be heard.

4.24.10 TAXICAB DRIVER'S PERMIT REQUIRED; ISSUANCE PROCEDURE

(A) No person shall operate a taxicab for hire upon the streets of the City and no person who owns or controls a taxicab shall permit it to be operated on the streets of the City at any time for hire, unless the driver of said taxicab shall have first obtained a taxicab driver's permit issued under the provisions of this subchapter.

(B) *Application required.*

(1) An application for a taxicab driver's permit shall be filed with the Code Enforcement Office on forms provided by the City and such application shall be verified under oath and shall contain the following information:

(a) The names and addresses of four residents of Independence County, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty and general good character of the applicant.

(b) A concise history of his/her previous employment.

(c) Satisfactory proof that the applicant is twenty one (21) years of age or over, as required by ACA § 14-57-404.

(C) Before any application is considered by Code Enforcement Office, the applicant shall be required to present a current Arkansas Driver's License, with the appropriate endorsement allowing the transport of passengers for hire.

(D) The Code Enforcement Office shall conduct, through the local sheriff's office, local police department or other appropriate law enforcement agency, a local background check of each applicant for a taxicab driver's permit, and a report of such background check and a copy of the traffic and police record of the applicant, if any, shall be attached to the application by the Code Enforcement Office. The applicant shall disclose if he or she has been convicted of any felony or misdemeanor DWI or DUI within the past six (6) years.

(E) The applicant must show proof that he or she does not carry any communicable diseases including but not limited to Tuberculosis and Hepatitis. This can be a letter from the applicant's family physician or from the Department of Health.

(F) It shall be the responsibility of the permittee to notify the Code Enforcement Office in writing within ten (10) days of any change in the status of the driver pertaining to the requirements of (D) and (E), above.

(G) The Code Enforcement Office shall, upon consideration of the application and the reports and certifications required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a hearing before the City Council to offer evidence why his/her application should be reconsidered.

(H) *Form and term of permit.*

(1) Upon approval of an application for a taxicab driver's permit, the Code Enforcement Office shall issue to the applicant a driver's permit which shall bear the name, address, age, signature and photograph of the applicant.

(2) Said permit shall be in effect for the remainder of the calendar year. A renewal permit for each calendar year thereafter shall be issued, unless the permit for the preceding year has been revoked. Each certificate holder shall maintain copies of the driver's permit application and other supporting information so long as the driver is employed by the certificate holder. Each certificate holder shall promptly inform the Code Enforcement Office upon the termination or resignation of a driver.

4.24.11 DISPLAY OF PERMIT

Every driver under this article shall post his/her driver's permit in such a place as to be in full view of all passengers while the driver is operating the taxicab, and the permit shall be illuminated when necessary for viewing.

4.24.12 SUSPENSION, REVOCATION OF PERMIT

The Code Enforcement Office is hereby given the authority to suspend any driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten days. The Code Enforcement Office is also given authority to revoke any driver's permit for failure to comply with the provisions of this article. However, a driver's permit may not

be suspended or revoked unless the driver has received written notice and has had an opportunity to present evidence in his behalf.

4.24.13 FAILURE TO COMPLY WITH APPLICABLE LAW

Every driver licensed under this article shall comply with all City, state, and federal laws. Failure to do so will justify the Code Enforcement Office in instituting proceedings for revocation of the driver's permit.

4.24.14 VEHICLES TO BE KEPT SAFE AND SANITARY

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Code Enforcement Office. The cost of this inspection is included in the annual fee for the franchise and Certificate of Public Convenience. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Code Enforcement Office. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Code Enforcement Office shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the City of Batesville. If a properly inspected, licensed taxicab with decal is taken out of service and replaced with another taxicab, the replacement taxicab must be inspected by the Code Enforcement Office and receive a decal with the owner paying \$100.00 administrative fee.

Each vehicle operating as a taxicab must be kept clean and sanitary. Complaints received from the public to the Code Enforcement Office will be investigated, and if deemed necessary, will be just cause for suspension or revocation of the driver's permit.

4.24.15 DESIGNATION OF VEHICLE AS TAXICAB BY INSIGNIA OR THE LIKE

No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon shall, in the opinion of the Code Enforcement Office, conflict with or imitate any color scheme, identifying design, monogram or insignia used in or on a vehicle or vehicles already operating under this article, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia is used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. The holder of the Certificate of Public Convenience and Necessity shall also be required to display the decal affirming the safe condition of the vehicle. In addition, every taxicab shall have affixed to its roof an illuminated sign bearing either the word "Taxicab" or "Taxi."

4.24.16 ACCEPTANCE, DISCHARGE OF PASSENGERS

(A) Duties of Drivers.

(1) *Restrictions on number of passengers.*

No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as defined by the vehicle manufacturer. Every taxicab, as required by Arkansas Law, shall carry a child safety seat and the driver shall know how to properly install and safely use such device. A child under six years of age, properly restrained by a child safety seat shall not be counted as an extra passenger when accompanied by an adult.

(2) *Refusal to carry orderly passengers prohibited.*

No driver shall refuse or neglect to convey any orderly person or persons, or any person or persons accompanied by a Seeing Eye dog. It shall not be unlawful for a driver to refuse or neglect to convey any passenger who has previously refused or failed to pay a legal fare as provided in this article.

(3) *Prohibitions of drivers.*

It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel or motel, or to attempt to divert patronage from one hotel or motel to another. Neither shall such driver engage in selling intoxicating liquors or use his vehicle for any illegal purpose.

(4) *Passengers without fare prohibited.*

No driver shall permit any person to be carried in a taxicab as a passenger without payment of the legal fare mentioned in this article while a fare paying passenger is also being carried in the cab.

(B) “Shared Ride” vs. “Exclusive Ride”

All persons engaged in the taxicab business in the City, operating under the provisions of this article, shall render an overall service to the public desiring to use taxicabs. Such service may be a “shared ride” taxicab system where the consent of passengers is not needed to pick up or discharge additional passengers, nor to choose the route taken by the vehicle; or, such service may be an “exclusive ride” taxicab system providing door-to-door service in which the party hiring the vehicle has exclusive use of the vehicle and may direct the vehicle’s route and destination. Under the shared ride system, a maximum of three pickups at different locations shall be permitted; after which all parties must reach their destination before additional pickups can be made.

(C) Response to calls.

Holders of Certificates of Public Convenience and Necessity shall answer all calls received by them during the hours of operation specified on the holder’s application for services inside the corporate limits of the City as soon as they can do so; and, if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason for the delay. Any holder who shall refuse to accept a call anywhere in the corporate limits of the City at any time when such holder has available cabs shall be

deemed in violation of this article, except on those occasions when the local police authorities declares the streets of the City to be unsafe due to inclement weather. Any vehicle operated under the provisions of this article shall be equipped with snow tires or chains when required by weather conditions.

14.24.17 SIGNED RECEIPT TO PASSENGER UPON REQUEST

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a signed receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the taxicab company, the assigned number of the taxicab, amount of charges, and date and time of transaction.

14.24.18 REFUSAL OF PASSENGER TO PAY FARE

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with Ordinance 2005-11-1, as amended from time to time.

14.24.19 DAILY MANIFEST TO BE KEPT

Every company shall maintain a daily manifest upon which are recorded all trips made each day, showing the time and place or origin and destination of each trip and amount of fare. The forms for each manifest shall be of a character approved by the Code Enforcement Office.

14.24.20 ADVERTISING

(A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on the rear of the vehicle, none of which such signs shall exceed twelve square feet in area.

14.24.21 METER ESTABLISHED

It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the City to drive or operate such taxicab, or to use or advertise in

connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s). The holders possessing the Certificates of Public Convenience and Necessity shall at the time of application and annual thereafter, provide to the Code Enforcement Office where an annual inspection has been made on the fare meter of each vehicle in service.

ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT
HEREWITH ARE HEREBY REPEALED, SPECIFICALLY, CHAPTER 4.24 AS
AMENDED BY ORDINANCE 94-11-3.

IF ANY PORTION OR PORTIONS OF THIS ORDINANCE ARE DEEMED
OR HELD TO BE INVALID, SUCH INVALIDITY SHALL NOT EFFECT THE
REMAINING PORTION OR PORTIONS OF THIS ORDINANCE.

IT IS SO ORDAINED.

IN WITNESS WHEREOF, we have set our hands this 11th, day of June, 2009.

APPROVED: _____


RICK ELUMBAUGH, MAYOR

ATTEST: _____


DENISE JOHNSTON, CLERK