ITEM NO. 14

STAFF REPORT

CITY OF OCEANSIDE

DATE: August 15, 2012

TO: Honorable Mayor and City Council Members

FROM: Information Technologies Division

SUBJECT: **INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 35 OF THE OCEANSIDE CITY CODE REGARDING TAXICABS; ADOPTION OF A RESOLUTION REPEALING RESOLUTION 11-R0668-1 AND CONFIRMING BUSINESS LICENSE ADMINISTRATION FEE AMOUNTS (REMOVING TAXICAB COMPANIES FROM CATEGORY II); AND ADOPTION OF A RESOLUTION ESTABLISHING A FEE SCHEDULE FOR TAXI CAB OPERATORS, AND ESTABLISHING AN AUTOMATIC ANNUAL INCREASE FOR TAXICAB SERVICE RATES BASED ON THE PUBLISHED ANNUAL CONSUMER PRICE INDEX-URBAN FOR SAN DIEGO COUNTY**

SYNOPSIS

Staff recommends that the City Council adopt an ordinance amending Chapter 35 of the Oceanside City Code regarding taxicabs; adopt a resolution repealing Resolution 11-R0668-1 and any amendments and confirming business license administration fee amounts (removing taxicab companies from Category II); and adoption of a resolution establishing a fee schedule for taxicab operators and establishing an automatic annual increase for taxicab service rates based on the published Annual Consumer Price Index-Urban for San Diego County.

BACKGROUND

The current taxicab ordinance was adopted in September 1982 and has remained unchanged. In 2008 City Council directed staff to compile a comprehensive list of fees to address fee increases at one time as part of the budget process. A staff report was prepared in April of 2009 and presented to the City Council for adoption. The City Council adopted new rates and rate structures for several City services to ensure maximum program cost-recovery. Taxicabs fees were categorized, but not adjusted to reflect the amount of staff time involved during the fee review process.

ANALYSIS

The current application process is very labor-intensive and involves several departments and a review committee with final approval provided by the City Council

through a public hearing. The process for the applicant or operator to render a change in operation or apply for a certificate to operate can take several months.

In an effort to streamline the process, staff is providing a revised ordinance for Council consideration. Under the revised ordinance, the process for applying for or changing an existing certificate is simplified, providing an efficient and less labor-intensive process while still providing integrity to the process and protection to current franchise/certificate holders with regards to mode of operation and distinctive coloration of vehicles. The proposed process would have a current applicant or operator file a request with the Business License Section. Staff would review the application for completeness and then route to the City Manager for consideration. Should the applicant disagree with the decision of the City Manager, the applicant has the right of appeal. The appeal process would consist of a public hearing heard by the City Council. Several municipalities throughout Southern California use this method, which allows current operators an expedited process for requesting additional vehicles or for new applicants to apply to provide services within the City.

In addition to the streamlined process for obtaining a certificate, staff included new protocols within the revised ordinance to ensure the safety and convenience of passengers. Within the ordinance, all taxicabs operating within the City must have the ability to accept credit cards, have a fire extinguisher and a global positioning system (GPS), and operators must have a substance abuse testing program.

The fees established by the City Council are designed to recover costs for providing services. All of the fees discussed in this agenda item have been reviewed for several different types of costs such as personnel and overhead. Costs are typically set during the budget process. The intent is to ensure the fees cover the cost of the services provided and the related activities in collection of those fees, with the goal of achieving complete cost-recovery for services provided.

Taxicabs are considered a Category II Business per City Resolution 11-R0668-1 which was adopted by City Council in September 2011, indicating that there is a high level of enforcement and processing require in approving this type of business to operate within the City. Within the resolution, the fully burdened rate including a 10 percent general administration overhead charge for a Business License Inspector is $41.60 an hour. The proposed rate structure is based on the Business License Inspector preforming the majority of the analysis pertaining to a new or renewal application in addition to performing vehicle inspections. Involvement of the Financial Services Manager and the City Manager, based on overall involvement, would be considerably less.

When calculating costs, staff anticipates the cost for an initial review of an application and vehicle to be considerably higher than a renewal application and vehicle re-inspection. After the first year of operation, rates for an application renewal or vehicle inspection are decreased 25 percent for application processing and 50 percent for the inspection.

In addition to calculating cost of the staff time involved with processing an application and inspecting a vehicle, research was undertaken to compare current rate structures with other city government agencies which provide similar services. Several agencies were contacted to obtain information about the services and costs of services provided.

The following table lists the current fees charged by other cities that provide taxicab services, as well as the current and proposed fees charged by the City of Oceanside.

Application Fee		**Cost**
City of Oceanside, CA	Current Fee	$25.00
City of Santa Ana, CA		$145.00
City of Solana Beach, CA		$158.00
City of Long Beach		$451.42
City of Oceanside, CA	***Proposed Fee***	$475.00
City of Glendale		$475.00

Recommended Fee Structure:

Description	**Current**	**Proposed July 1, 2012**
New Applicant		
Application Fee	$25.00	$475.00
Vehicle License (per vehicle)	$0.00	$165.00
Vehicle Inspection (per vehicle)	$0.00	$100.00
Annual Renewal/Modification		
Renewal Application Fee	$160.00	$360.00
Renewal/Modificiation Fee (per additional vehicle)	$60.00	$0.00
Vehicle License (per vehicle)	$0.00	$124.00
Annual Vehicle Inspection (per vehicle)	$0.00	$50.00

Additionally, staff recommends that an annual adjustment to fees be implemented using the locally focused Consumer Price Index-Urban (CPI-U). Tying future rate increases to this index is intended to automatically increase rates based on moderate annual increases as costs for services increase. Therefore, staff is recommending using the locally focused Consumer Price Index-Urban (CPI-U) published by the Bureau of Labor Statistics to cover the San Diego region (CPI-Urban, San Diego) for future annual rate increases, which is consistent with other resolutions.

FISCAL IMPACT

There is a one-time application fee of $475 in addition to a $165 per vehicle license fee and $100 per vehicle inspection fee. After the first year of operation, each applicant would be assessed a $360 dollar renewal fee in addition to an annual per vehicle license fee of $124 and a per vehicle inspection fee of $50.

As an example, a taxicab company with 10 taxicabs approved to operate in Oceanside would pay $3,125 in the first year of operation with ongoing annual revenues/fees of $2,100 in subsequent years.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt an ordinance amending Chapter 35 of the Oceanside City Code regarding taxicabs; adopt a resolution repealing Resolution 11-R0668-1 and any amendments and confirming business license administration fee amounts (removing taxicab companies from Category II); and adoption of a resolution establishing a fee schedule for taxicab operators and establishing an automatic annual increase for taxicab service rates based on the published Annual Consumer Price Index-Urban for San Diego County.

PREPARED BY:

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Chief Information Officer

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle-Skaggs Lawrence, Deputy City Manager

Teri Ferro, Financial Services Director

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 35 OF THE OCEANSIDE CITY CODE REGARDING THE REGULATION OF TAXICABS

WHEREAS, the City Council of the City of Oceanside desires to amend Chapter 35 of the Oceanside City Code to protect the public health, safety, and welfare in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, that are operated within the jurisdiction of the City;

WHEREAS, the City Council of the City of Oceanside further desires to amend Chapter 35 of the Oceanside City Code to provide protection for the public health, safety, and welfare by adopting additional requirements for taxicabs to operate within the City;

WHEREAS, the City Council of the City of Oceanside finds that many residents of the City, including senior citizens and veterans, are disabled and require transportation in wheelchair accessible vehicles and that it would therefore benefit the public to require taxicab operators to furnish at least one taxicab that is wheelchair accessible within the meaning of the Americans with Disabilities Act (ADA);

WHEREAS, the City Council of the City of Oceanside finds that requiring taxicab certificate holders to have a minimum of ten (10) taxicabs in their fleet will benefit the public by encouraging the provision of responsible, regulated and permitted city-wide coverage; and

WHEREAS, it is the intent of the City Council of the City of Oceanside that, to the fullest extent allowed by law, the provisions of this ordinance, including those provisions relating to mandatory controlled substance and alcohol testing as required by Government Code section 53075.5, be made applicable to all certificate holders, franchisees and carriers currently operating in the city.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain that Chapter 35 is hereby amended as follows:

SECTION 1. Chapter 35 of the Oceanside City Code is amended in its entirety to read

as follows:

ARTICLE I. IN GENERAL

Sec. 35.1. Definitions.

For the purpose of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Carrier. "Carrier" means every person, corporation, cooperative, partnership, joint venture, or other form of business organization, receivers or trustees, engaged in operating, or causing to be operated, taxicabs, or any other vehicle as defined in this section.

Certificate. "Certificate" means a certificate of public convenience and necessity issued pursuant to this chapter.

City Manager. "City manager" means the city manager of the City of Oceanside and includes his or her designee.

Compensation. "Compensation" means any money, thing of value, payment, consideration, reward, tip, donation, gratuity or profit paid to, accepted or received by the driver of any vehicle in exchange for transportation of persons whether paid upon solicitation, demand or contract, or voluntarily, or intended as a gratuity or donation.

Cooperative. "Cooperative" means a corporation duly organized under the California Consumer Cooperative Law, California Corporations Code section 12200 et seq.

Driver. "Driver" means a person who drives or is in actual physical control of any passenger-carrying or motor-propelled vehicle as regulated by this chapter, including a taxicab.

Driver's permit. "Driver's permit" means a currently valid taxicab driver's identification card as defined in, and issued pursuant to the provisions of, Title 2, Division 1, Chapter 3 of San Diego County Code of Regulatory Ordinances, section 21.301 et seq.

Motor vehicle or *vehicle.* "Motor vehicle" or "vehicle" means every motor-propelled vehicle used for the transportation of persons over the public streets for compensation.

Owner. "Owner" means every person who is the registered owner of any passenger-carrying or motor-propelled vehicle.

Petitioner. "Petitioner" means any person who files a petition for a certificate pursuant

to sections 35.7 though 35.9 of this chapter.

Person. "Person" means any individual, partnership, association, corporation, cooperative, or other organization owning, operating, or proposing to operate any taxicab, or other motor vehicle as herein defined.

Public Convenience and Necessity. "Public convenience and necessity" means fitting or suited to the public need; there is both a present and future apparent reasonable need for use of the service, and the public highways and public health, safety and welfare are not unduly burdened by such service.

Street. "Street" means any place commonly used for the purpose of public travel.

Taxicab. "Taxicab" means every vehicle bearing a distinctive color or colors and bearings signs, markings or other identifying markings or symbols commonly associated with taxicabs, and operated at rates per mile or for wait time or for both, used for the transportation of passengers for hire over the public streets of the city and not over a defined route and irrespective of whether the operation thereof extends beyond the boundary limits of the city, and such vehicle is routed under the direction of such passenger or passengers or of such persons hiring same. All taxicabs must be equipped with meters as hereinafter provided. No taxicab shall have a seating capacity, excluding the driver, in excess of eight (8) passengers.

Taxi stand. "Taxi stand" means a place on a public street designated by the council or the city manager for the use, while awaiting employment, of any taxicab covered by this chapter.

Sec. 35.2. Insurance requirements.

Before a certificate is issued by the city manager, the petitioner shall deliver to the city manager a valid policy of insurance executed by a company duly authorized under the laws of this state to carry on an insurance business in this state, which shall be for a combined single limit bodily injury and property damage liability of not less than one million dollars ($1,000,000) combined single limit (CSL) with no self-insured limit (SIR) or deductible, and shall be approved by the city attorney.

Sec. 35.3. Enforcement generally.

Upon the granting of any certificate to any carrier as provided by section 35.4, a copy of such certificate and a listing of rates shall be filed with the business license section of the Financial Services Department. The chief of police or any other duly authorized agents of the city shall thereupon be charged with the duty of enforcement of such rates and the provisions of this chapter and other ordinances pertaining to the operation of taxicabs and other vehicles as herein defined.

ARTICLE II. CERTIFICATE TO OPERATE

Sec. 35.4. Required—generally.

No person shall drive, operate or cause to be operated, nor shall any person employ, enter into a lease agreement, permit or allow another to drive, operate or cause to be operated, any vehicle over any street of the city for the purpose of transporting a passenger for compensation, regardless of whether such operation extends beyond the boundary limits of the city, nor shall any person solicit, induce, persuade, invite or procure such transportation of passengers for compensation, or accept compensation therefor, without a certificate first having been obtained from the city authorizing such operations and acts.

Sec. 35.5. Same—exceptions.

The following vehicles are exempt from the terms of section 35.4:

(a) A vehicle which is lawfully transporting a passenger from a point outside the city to a destination within the city. Any person or carrier who exceeds five (5) compensated transports within a thirty (30) day period from a point outside the city to a destination within the city shall be subject to the terms of section 35.4.

(b) A vehicle which is lawfully transporting a passenger from a point outside the city to a point outside the city.

(c) A vehicle being operated pursuant to the public utilities commission of the state, excluding any vehicle which is operated pursuant to a charter party carrier certificate where the operation of such a vehicle has been excluded from the applicability of such sections of the Public Utilities Code.

(d) A vehicle being used as an ambulance and being operated pursuant to authority

granted by, and in accordance with, other ordinances or laws.

(e) A vehicle rented or leased for self operation by a person using such vehicle under a plan commonly known as a "U-Drive", but not when transporting other persons for compensation.

Sec. 35.6. Prerequisite to soliciting.

Except as provided in section 35.5, no person shall solicit or accept a passenger in the city for any compensation or consideration whatsoever, for transportation by taxicab to any destination either inside or outside the city, unless that person is authorized to do so pursuant to this chapter.

Sec. 35.7. Petition—filing.

Any person desiring permission to operate vehicles covered by this chapter shall file a petition therefor, containing the information required by sections 35.8 and 35.9, in accordance with the procedures set forth below:

(a) Initial submission to the business license section with the appropriate fees, as set forth in the schedule of fees established by resolution of the city council.

(b) The business license section shall only accept a completed petition. Upon receipt of a complete petition the business license section shall, within ten (10) business days, provide the petition to the police department for review.

(c) The police department shall have thirty (30) days from the date of receipt to review the petition and return it to the business license section.

(d) The business license section, upon receipt of the petition from the police department as specified in subsection (c) above, shall forward the petition to the city manager within three (3) business days.

(e) The city manager shall, within forty-five (45) days of receipt of the petition, review the petition and render a decision.

Sec. 35.8. Same—verification.

The petition provided for in the preceding section shall be verified by oath of the petitioner, if a natural person; or by oath of an officer or partner of the petitioner, if petitioner

be a corporation, partnership, association, unincorporated company, or cooperative.

Sec. 35.9. Same—contents, investigation fee.

The petition provided for in section 35.7 shall set forth the following information:

(a) The name, address, with cross streets, of the petitioner, if a natural person;

(b) If a corporation, its name, date and place of incorporation, address, with cross streets, of its principal place of business, and the names of all its officers together with their respective addresses;

(c) If a partnership, association, unincorporated company, or cooperative, then the names of the natural persons comprising the partnership, association, company or the cooperative shall be included in the petition, together with their addresses, and the addresses and cross streets of the principal place of business;

(d) The trade name or style, if any, under which the petitioner proposes to operate, colors and trade name must not be in conflict or existing with any current operator;

(e) The extent, character, and quality of operations, which shall include, but not be limited to:

(1) Description of how the operation works, number of years in business;

(2) The area to be covered;

(3) Kind and extent of service, other areas of service;

(4) A complete declaration of all rates and fees to be charged;

(5) Proof of insurance pursuant to section 35.2;

(6) Copies of any lease or subcontract arrangements for operation for file information;

(f) The number, type, model, model year, capacity, state license number and condition of each vehicle proposed to be operated;

(g) A full statement of the petitioner's assets and liabilities;

(h) The name of the legal and registered owner of each such vehicle;

(i) A statement establishing the existence of public convenience and necessity;

(j) A statement of whether the petitioner has a mandatory controlled substance and

alcohol testing certification program pursuant to Government Code section 53075.5, and if so, submit a copy of the same; and

(k) The name of each driver who will operate a taxicab pursuant to this chapter, along with a copy of his or her driver's permit, and the results from controlled substance and alcohol tests that have been completed within the preceding 30 days pursuant to the provisions of Government Code section 53075.5(b)(3).

The petition shall be filed with the business license section of the Financial Services department, and shall be accompanied by a nonrefundable application fee as set forth in the schedule of fees established by resolution of the city council.

Sec. 35.10 Grounds for denying petition and/or refusing to issue a certificate.

Any of the following reasons shall be sufficient for denial of a petition to obtain a certificate required by this chapter:

(a) That the petition is not in the form, and/or does not contain the information required to be contained therein by this chapter;

(b) That the vehicles described therein are inadequate or unsafe for the purposes for which they are to be used or do not conform to the requirements of this chapter;

(c) That the color scheme, name, monogram or insignia to be used upon such automobiles shall be in conflict with or imitate any color scheme, name, monogram or insignia used by any person in such manner as to be misleading or tend to deceive or defraud the public;

(d) That the petitioner does not have a mandatory controlled substance and alcohol testing certification program pursuant to either Government Code section 53075.5 or any other applicable state law; or that any of petitioner's proposed drivers or, if a natural person, petitioner him or herself, has tested positive for a controlled substance or alcohol as specified in Government Code section 5307.5(b)(3);

(e) That the petitioner has, at some prior time, had a license permit, certificate franchise, agreement, or other authority or permission to operate a taxi or similar service suspended or revoked;

(f) That it appears to the city manager that there are sufficient taxicabs for hire in the

city to fully serve the public, and that the public interest, convenience, and necessity do not require the issuance of such certificate;

(g) That the schedule of fares or rates does not appear to be fair and equitable;

(h) That the petition is for less than ten (10) vehicles;

(i) That at least one (1) of the vehicles proposed to be operated is not wheelchair accessible in compliance with the standards set forth in the Americans with Disabilities Act (ADA);

(j) That petitioner does not make an affirmative showing of the existence of public convenience and necessity; or

(k) For any of the reasons set forth in section 35.18.

Sec. 35.11. Appeal of denial of petition or refusal to grant certificate.

Within ten (10) calendar days after receipt of the decision of the city manager is deposited in the U.S. Mail postage pre-paid addressed to the person filing the petition, the petitioner may file with the city clerk a written request for a hearing before the city council. Fees for appeal shall be established by resolution of the city council. Upon the filing of such a request and payment of fees, the city clerk shall set the matter for a hearing and shall notify the petitioner of the date, time and place of such hearing at least five days before the hearing date. At the hearing, any person may present evidence in opposition to, or in support of, petitioner's case. At the conclusion of the hearing, the city council shall either grant or deny the appeal, and the decision of the city council shall be final.

Sec. 35.12. Same—facts to be considered.

The council, in determining whether or not such facts as set forth in section 35.10 exist, shall take into consideration the public demand for such service, the adequacy or inadequacy of service being rendered by other carriers, the effect of such service upon traffic, the financial responsibility of the petitioner, the character of equipment proposed to be furnished, and any and all other facts which the council may deem relevant.

Sec. 35.13. Scope.

(a) A certificate shall only be issued for ten (10) or more vehicles, each bearing a

consecutive number. At least one of these ten vehicles must be wheelchair accessible in compliance with the standards set forth in the Americans with Disabilities Act (ADA). The size and location of the numbers will be permanently affixed and prominently displayed on the vehicle as determined by the business license section. The number of vehicles shall only be increased by authority of the city manager pursuant to the procedure provided in subsection (b) below.

(b) Once a certificate is issued, the procedures listed below shall be followed in order to increase the number of vehicles:

(1) Certificate holder shall file a petition, containing all of the items set forth in section 35.9, requesting an increase to the city manager. The city manager may waive any of the requirements of section 35.9 to the extent that this information is on file and current.

(2) The city manager shall, within forty-five (45) days of receipt of the petition, review the petition and make a decision, pursuant to section 35.10.

(3) If petition is denied, the certificate holder has 30 days to file an appeal pursuant to the provisions of section 35.11.

Sec. 35.14. Amended certificate for additional vehicles.

In the event that the city manager determines to grant an additional number of vehicles to be operated by a carrier, then an amended certificate shall be issued to such carrier specifying the total number of vehicles to be operated by such carrier.

Sec. 35.15. Period covered.

The certificate may, at the pleasure of the city manager, be for a prescribed period or for an indefinite period.

Sec. 35.16. Effect; fee.

When issued, a certificate shall constitute evidence of compliance with the terms of this chapter and shall authorize the certificate holder to operate vehicles under the conditions specified in this chapter; subject, however, to the requirements, obligations and limitations imposed by other applicable laws, ordinances and orders of the council, and shall become effective only upon payment of the fees required by this chapter.

Sec. 35.17. Revocation, suspension or modification—provision for.

The city manager shall have power to modify, suspend or revoke any certificate granted under the provisions of this chapter for the reasons set forth in section 35.18.

Sec. 35.18. Same—grounds.

The city manager may modify, suspend, or revoke any certificate when he or she finds, based on substantial evidence, that any taxicab is inadequate or unsafe, or that the holder of any certificate, or if not a natural person, any of certificate holder's partners, directors, officers, agents, managers, or members:

(a) Has or have obtained the certificate by fraud or misrepresentation, or failed to comply with the terms of the certificate, the provisions of this chapter, this Code, or any other city codes and/or ordinances, or any State or Federal laws that relate to the operation of taxicabs;

(b) Has or have been convicted of, or plead guilty or no contest to, a felony or a crime involving moral turpitude which is substantially related to the business activity for which the certificate is issued;

(c) Fails to have at least ten (10) vehicles that are fully compliant with the provisions of this chapter available to be dispatched at all times;

(d) Fails to have at least one wheelchair accessible vehicle pursuant to section 35.13 available to be dispatched at all times;

(e) Employs a person as a taxicab driver, or maintains an independent contracting relationship with a taxicab driver, or enters into a lease, partnership or cooperative agreement with, or otherwise allows a person to operate a taxicab pursuant to the certificate, if that person:

(1) Does not have a valid driver's permit, or has his or her state issued drivers license suspended or revoked;

(2) Fails to comply with any of the provisions of this chapter, or fails to promptly obey all lawful orders or instructions of any peace officer or fire department official;

(3) Tests positive for a controlled substance or alcohol as set forth in section 35.52.1;

(4) Has registered, or is required to register, as a sex offender pursuant to Penal Code section 290;

(5) Has been convicted of, or plead guilty or no contest to, an offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health & Safety Code section 11590;

(6) Has been convicted of, or plead guilty or no contest to, any of the following motor vehicle offenses within the preceding five (5) years: operating a motor vehicle under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, reckless driving, vehicular manslaughter, fleeing from or evading a police officer, or failing to fulfill the duty required after being involved in a motor vehicle accident involving property damage, injury or death; or

(7) Has been convicted of, or plead guilty or no contest to, murder, manslaughter, assault, battery or other crime of violence within the preceding five (5) years.

Sec. 35.19. Same—right to hearing; notification.

Before modification, revocation or suspension of a certificate, the certificate holder shall be entitled to a hearing before the city council, and shall be notified thereof.

Sec. 35.20. Same—notice of hearing; form; service.

Notice of hearing on such suspension, or revocation, shall be in writing, and shall be served at least ten (10) days prior to the date of the hearing thereon, service to be upon the holder of the certificate, or its manager, or agent, and which notice shall state the grounds of complaint against the holder of the certificate, and shall also state the time when, and the place where, such hearing will be held.

In the event the holder of the certificate cannot be found, or service of such notice cannot be made upon it, or him, in the manner provided in this section, then a copy of the notice shall be mailed, postage prepaid, addressed to such carrier at its last-known address, at least ten (10) days prior to the date of such hearing.

Any hearing conducted under this section shall be based on a preponderance of the evidence standard. The decision of the city council shall be final.

Sec. 35.21. Transferability of certificates.

The certificates heretofore or hereafter issued are not assignable or transferable.

Sec. 35.22. Permission to make changes in mode of operation.

In the event that any certificate holder desires to change the schedule of rates and charges or the color scheme, name, monogram or insignia used on its taxicabs, or to substitute any vehicle for and in place of a vehicle described in the petition, certificate holder shall first make application for permission to do so from the city manager, which permission shall be granted if, in the discretion of the city manager, he or she deems the public interest, necessity and convenience will be served by such change, and if the certificate holder has complied with all provisions of this chapter.

Sec. 35.23. Validity on termination of business.

In the event that any certificate holder sells its business or otherwise ceases to operate its business, the certificate herein granted shall be null and void.

In the event that the certificate holder is a corporation or cooperative, any transfer or transfers of its outstanding stock, individually or in the aggregate, amounting to more than ninety (90) percent of its outstanding stock shall constitute a termination of the business and the certificate herein granted shall be null and void; provided, however, that any certificate holder being a corporation or cooperative may apply for a transfer of the certificate setting forth the terms of the stock transfer transaction, supplying all of the information and meeting all of the requirements of this chapter as is required of an original petition for a certificate. Each additional stockholder/shareholder shall be subject to the fees as set forth in the schedule of fees established by resolution of the city council.

Sec. 35.24. Transferee to obtain new certificate.

In the event that any certificate holder desires to sell its business, the proposed buyer shall file an original petition for a certificate as prescribed in section 35.9 and/or 35.23 as applicable, and he or she shall have a preferential right to obtain the same, if otherwise qualified, over any other application then being processed by the city.

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ARTICLE III. LICENSES

Sec. 35.25. Right to business license.

The certificate required by section 35.4 shall entitle the holder thereof, and each driver authorized by the certificate, to obtain a business license to engage in the business described in the certificate. A certificate holder and each driver shall obtain a separate business license pursuant to chapter 15 prior to operating a taxicab in the city.

Sec. 35.26. Fees.

The amount or rate of any license or other fees to operate each taxicab in the city shall be established and/or modified by resolution of the city council, payable in advance along with a current copy of each driver's permit on an annual basis; provided, that if petition is made and a certificate granted, such license fee may be prorated to the first day of the month in which the certificate is granted. The schedule for such fees shall remain on file. Fees shall be reviewed at least once annually by the business license section and shall, with the approval of the city manager, recommend changes to the council when appropriate.

Sec. 35.27. License year.

The license year shall begin on the first day of July of each year and run through the thirtieth day of June of the succeeding year.

Sec. 35.28. Penalty for delinquency.

In the event that license fees are not paid as prescribed in section 35.26, the business license section shall add a penalty thereto of ten (10) percent of the amount due on the tenth day of each month during the period that the amount remains unpaid. Upon reaching 120 days past the original due date the certificate is revoked.

ARTICLE IV. OPERATING REGULATIONS

Sec. 35.29. Availability of service.

Taxicab service shall be available at all times by telephone call, by engagement of the taxicab when standing at a regularly assigned stand, or when properly hailed from the street or curb.

Sec. 35.30. Refusal to convey passengers unlawful.

No person as herein defined or driver of a taxicab shall refuse or neglect to transport any orderly person upon request anywhere in the city when a taxicab is standing in a regularly assigned taxi stand; and such service shall be rendered immediately upon request, unless it is readily apparent the prospective or actual person to be transported poses a safety hazard to the driver.

Sec. 35.31. Loitering prohibited; radio dispatch and GPS required.

It shall be unlawful for any driver of a taxicab, while driving such vehicle, to loiter, or stop on a public street for the purpose of soliciting passengers other than at a taxi stand.

All taxicabs operated by certificate holders shall be radio-equipped and computer-dispatched with the ability to dispatch taxicabs via a global positioning system (GPS) which allows the dispatcher to dispatch the closest vehicle to the requesting party.

Sec. 35.32. Accepting employment.

It shall be lawful for a taxicab while proceeding to a regularly assigned taxi stand or to the carrier's principal place of business, to accept employment when hailed from the street or curb.

Sec. 35.33. Improper loading places.

It shall be unlawful for a driver to accept or discharge passengers at any of the following places:

Crosswalks. In any marked or unmarked crosswalk.

Bus stop. At any regularly established bus stop.

In street. At any place in a street except alongside a curb.

Safety zone. Alongside any curb opposite a regularly established and marked traffic safety zone.

Sec. 35.34. To take most direct route.

Every driver of a taxicab who is engaged in carrying passengers shall take the most direct route possible that will carry the passengers safely and expeditiously to their destinations, unless otherwise directed by a passenger.

Sec. 35.35. First occupants to have exclusive use of taxicab during engagement.

When a taxicab is engaged, the person engaging such taxicab shall have the exclusive right to the full and complete use of the passenger compartment; and it shall be unlawful for any person as herein defined, or driver, of the taxicab to solicit, or carry, additional passengers therein.

Sec. 35.36. Passenger limit.

The number of passengers which may be carried in any vehicle covered by this chapter shall be limited to the seating capacity of such vehicle as specified by the manufacturer; provided, that in no event shall the seating capacity of such vehicle exceed eight (8) passengers, excluding the driver.

Sec. 35.37. Proper seating required.

No person shall be carried in any vehicle who is required to share in any way the seating space occupied by another; nor shall any person be carried who is required to occupy any space in or on such vehicle which does not provide a seat.

Sec. 35.38. Taxi stands—establishment.

The city council or the city manager may establish taxi stands upon the streets of the city and their times of operation.

Sec. 35.39. Same—change of location.

The city council or the city manager may, at any time, change the location or time of operation of any taxi stand if in their discretion public necessity and convenience require such change.

Sec. 35.40. Same—determination; marking.

Such taxi stands or spaces shall be painted a distinct color, such color to be determined by the superintendent of streets, and such spaces shall be marked "For Taxi Cabs Only" and may indicate the hours of operation, if applicable.

Sec. 35.41. Same—reservation.

The taxi stands granted in the preceding sections of this article are hereby reserved for the use of vehicles operated pursuant to a valid certificate issued under this chapter.

Sec. 35.42. Same—unauthorized use.

It shall be unlawful for any person to stop, park or stand any motor vehicle upon a taxi stand during the designated hours of operation of the taxi stand, unless that person is operating:

(a) A taxi pursuant to a valid certificate issued under this chapter; or

(b) An "authorized emergency vehicle" as defined by the Vehicle Code.

Sec. 35.43. Stopping for passengers.

It shall be lawful to stop a taxicab along the curb of any public street only for the purpose of discharging passengers therefrom, or to accept passengers for hire when hailed from the street or a curb, in accordance with the provisions of section 35.32.

Sec. 35.44. Fire extinguishers.

Every taxicab shall be equipped at all times with a standard type fire extinguisher in good working condition.

Sec. 35.45. Sanitary condition.

No taxicab shall be operated unless the passenger compartment is kept clean and in sanitary condition.

Sec. 35.46. Age of vehicle.

No taxicab shall be operated which is older than seven (7) years from the model year as dictated by the manufacturer of that vehicle. When a vehicle listed in the certificate exceeds seven (7) years of age, the certificate holder shall follow the procedures set forth in section 35.58 to replace and re-number the vehicle.

Sec. 35.47. Credit cards

Every taxicab shall be equipped with an ability to accept and process credit cards.

ARTICLE V. DRIVERS

Sec. 35.48. Who may drive.

Vehicles covered by this chapter shall be operated only by the certificate holder or by a person authorized by the certificate holder pursuant to the provisions of this chapter. No person shall drive or operate any taxicab covered by this chapter for the purpose of transporting a passenger for compensation, nor shall any person solicit, induce, persuade, invite or procure such transportation of passengers for compensation, or accept compensation therefor, unless:

(a) That person holds a valid driver's permit as defined in this chapter; and

(b) That person is listed as a driver on the certificate.

Sec. 35.49. Driver relationship to carrier.

Drivers may be employed by or be lessees of a certificate holder or, if certificate holder is a cooperative, may be a member of that cooperative.

Sec. 35.50. Driver obligations.

No person shall drive or operate any vehicle covered by this chapter while carrying passengers unless the following are on display in the vehicle:

(a) The driver's permit;

(b) A copy of the driver's city business license; and

(c) A copy of the carrier's taxicab certificate.

Sec. 35.51. Use of another's license; permit, certificate.

No driver operating, or in charge of, any vehicle covered by this chapter shall display a business license, driver's permit, or certificate issued to another, except as provided for in section 35.49.

Sec. 35.52. Using driver without license and driver's permit prohibited.

No certificate holder shall permit any vehicle covered by this chapter to be operated by any person while carrying passengers unless that person has a valid driver's license and a valid driver's permit.

Sec. 35.52.1. Driver mandatory drug and alcohol testing.

No person shall drive or operate a taxicab in the city unless that person:

(a) Participates in periodic testing for controlled substances and alcohol as set forth in Government Code section 53075.5(b)(3) not less than once per year;

(b) Provides the results thereof as specified in Government Code section 53075.5(b)(3) to the carrier for which he or she drives, or, if self employed, directly to the city manager; and

(c) Tests negative for drugs and alcohol as required by Government Code section 53075.5(b)(3).

Sec. 35.52.2. Duty to update certificate to add new drivers.

If a certificate holder desires to add a driver to the certificate, the certificate holder must provide all of the information specified in section 35.9(k) to the city manager along with the assigned number of the taxicab that the driver will be operating. No certificate holder shall permit or authorize any person to drive or operate a taxicab as required by this chapter unless that person is first listed on the certificate.

ARTICLE VI. SPECIFICATIONS AND EQUIPMENT

Sec. 35.53. Unauthorized name or service.

No certificate holder shall conduct any operation under a name other than the name authorized by the certificate, or give any service other than the service authorized by the certificate granted by the city manager in accordance with the provisions of sections 35.54 to 35.56.

Sec. 35.54. Operation of vehicle under unauthorized name.

No certificate holder shall operate, or cause to be operated, any vehicle under any name other than the name for which the certificate has been granted by the city manager. All vehicles must be registered under the name of the certificate holder or an authorized member of a cooperative.

Sec. 35.55. Numbering of taxicabs.

Each taxicab operated pursuant to the terms of this chapter shall be numbered to correspond with the number appearing on the certificate. The numbers shall be painted upon the body of the taxicab in numerals not less than four (4) inches or more than six (6) inches in height in a position approved from time to time by the business license section. Each taxicab shall be assigned to a specified driver

Sec. 35.56. Misleading appearance of vehicle.

No certificate shall be granted to any certificate holder to operate any vehicle covered by this chapter whose color scheme, name, trade name, monogram or insignia shall be in conflict with, or in imitation of, any color scheme, name, trade name, monogram or insignia used by any other certificate holder, and which shall be of such character and nature as to be misleading

or deceptive to the public.

Sec. 35.57. Duty to permit inspection; vehicle maintenance; copies of other inspections.

(a) The certificate holder or authorized member of a cooperative shall allow the city manager, the chief of police, or any duly authorized agents, officers, or authorized city staff to inspect any of certificate holder's or authorized member of a cooperative's vehicles at any time to ascertain that the same are in safe mechanical condition, to ensure vehicle(s) are operational without danger to the public, and to determine whether or not such vehicle complies with all the provisions of this chapter and any applicable laws, ordinances and resolutions, including but not limited to, the California Vehicle Code.

(b) The safe operation and maintenance of each vehicle is the sole responsibility of certificate holder or authorized member of a cooperative.

(c) Vehicles inspected pursuant to subsection (a) and found to be in an unsafe condition shall be withdrawn from service until proof of completed repair, by a state certified licensed mechanic, is given to the chief of police or the city manager.

(d) Results of vehicle inspections made of a certificate holder's or authorized member of a cooperative's vehicles by a non-city agency shall be forwarded to the city manager within seven (7) working days of such inspection. The report of the inspection shall include the name of the inspecting agency, inspector's name and title, reason for inspection, scope and result of inspection, and the vehicle(s)' certificate number.

Sec. 35.58. Transfer of number upon replacement of vehicle.

If certificate holder desires to substitute any vehicle or vehicles for one or more vehicles operating under the provisions of this chapter, certificate holder shall first make a report thereof to the city manager and obtain from the city manager a consent in writing to the transfer of the number which was borne by the discontinued vehicle. No such consent shall be given by the city manager until he or she has caused a safety inspection to be made of the proposed substitute vehicle or vehicles.

ARTICLE VII. FARES

Sec. 35.59. Notice of increase in rates; establishment of rate ceiling by council

permitted.

(a) Certificate holder shall give sixty (60) days written notice to the city manager of any increase in rates subsequent to the rates listed in certificate holder's petition. The certificate holder shall also publish a notice of the rate change in a newspaper of general circulation in the City. The increased rate may not exceed any ceiling established by the city council pursuant to subsection (c).

(b) If the increased rate exceeds the ceiling amount, the council may, after notice to certificate holder and a hearing, revoke a permit.

(c) The council hereby reserves the right to set by resolution, after a public hearing, a ceiling on taxicab rates as may be necessary to protect the public interest and welfare.

Sec. 35.60. Taximeters required; general meter requirements; investigation of inaccurate taximeters.

It shall be unlawful for any owner or driver to operate any taxicab in the city unless such vehicle is equipped with a taximeter designed to calculate fares upon the basis of a combination of mileage travel and time elapsed, and when operative with respect to fare indication, the fare-indicating mechanism shall be actuated by the mileage mechanism whenever the vehicle is in motion at such a speed that the rate of mileage revenue equals or exceeds the time rate, and may be actuated by the time mechanism whenever the vehicle speed is less than this and when the vehicle is not in motion. Means shall be provided for the vehicle operator to render the time mechanism either operative or inoperative with respect to the fare-indicating mechanism. The taximeter shall also be of a style and design approved by the city manager. Waiting time shall include all time when a taxicab occupied or engaged by a passenger is not in motion or traveling at a speed which is slow enough for the time rate to exceed the mileage rate; and the time consumed while standing at the direction of the passenger or person who has engaged such taxicab. It shall be the duty of every owner of a taxicab to keep such taximeter in perfect condition so that such taximeter will, at all times, correctly and accurately indicate the correct charge for the distance traveled and waiting time, and such taximeter shall be at all times subject to inspection by an inspector of the city manager, or any peace officer, and such

inspector or any peace officer is hereby authorized at his insistence or upon complaint of any person to investigate or cause to be investigated such taximeter, and upon discovery of any inaccuracy in the taximeter, or if the taximeter is unsealed, to remove or cause to be removed such vehicle equipped with such taximeter from the streets of the city until such time as the taximeter shall have been correctly adjusted, or sealed.

Sec. 35.61. Flag to indicate when taxicab in use.

It shall be unlawful for any driver of a taxicab while carrying passengers to display the flag or device attached to such taximeter in such a position as to denote that such vehicle is for hire, or is not employed, or to have such flag or other attached device in such a position as to prevent the taximeter from operating, and it will be unlawful for any driver to throw such flag into a position which causes the taximeter to record when such vehicle is not actually employed, or to fail to throw the flag or other device on such taximeter into a non-recording position at the termination of each and every service.

Sec. 35.62. Concealment of taximeter dial prohibited.

The taximeter shall be so placed in the taxicab that the reading dial showing the amount to be charged shall be well lighted and readily discernible by any passenger riding in such taxicab.

Sec. 35.63. Charges other than lawful rates prohibited.

It shall be unlawful for any owner, driver, or operator of a vehicle covered by this chapter to demand of a passenger a charge for hire other than the current applicable rate on file with the chief of police for that particular carrier.

Sec. 35.64. Rates to be conspicuously displayed in vehicle.

Information to be posted in taxicabs. In every taxicab there shall be a sign of heavy material, not smaller than six inches by four inches, (or such other specified by the city manager) securely attached and clearly displayed in view of the passenger at all times, providing in letters as large as the size of the sign will reasonably allow, all of the following information:

(a) The name, address, and telephone number of the police department;

(b) The name, address, and telephone number of the carrier licensed under this chapter;

(c) The name or trade name of the certificate holder;

(d) The taxicab number; and

(e) A schedule of rates and charges.

Every person making an inquiry regarding the rates charged by the operator shall be furnished with a copy of such printed rates upon request and at no charge.

SEC. 35.65. Refusal to pay fare unlawful.

No person shall refuse to pay the authorized fare of any of the vehicles mentioned in this chapter after having employed the same; and no person shall hire any vehicle defined in this chapter with intent to defraud the person from whom it is hired or engaged, of the value of such service.

Sec. 35.66. Receipt to be given on request of passenger.

No driver of any vehicle covered in this chapter, upon receiving full payment for the fare, shall refuse to give a receipt upon the request of any passenger making such payment.

SECTION 2. Severability.

If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish this ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15) days after its passage in the North County Times, a newspaper of general circulation published in the City of Oceanside.

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SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California, held on the ___ day of _____, 2012, and, thereafter,

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside California, held on the ____ day of _____, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

APPROVED AS TO FORM:

_____

CITY CLERK

_____

CITY ATTORNEY

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 35 OF THE OCEANSIDE CITY CODE REGARDING THE REGULATION OF TAXICABS