



## MEMORANDUM

**TO:** City Council

**FROM:** David W. Nye, Chief of Police *David W. Nye*  
Kathleen Dooley, City Attorney *Kathleen Dooley*

**DATE:** November 15, 2016

**RE:** Proposed revisions to taxi regulations

### ISSUE:

This item was presented to City Council at its November 8, 2016 work session. It now comes to Council for formal consideration and adoption.

### SUMMARY:

The City Council and staff have worked for several years to find a good solution to the revision of the City's taxi fares and zone system, studying a conversion to taximeters, approving a gasoline surcharge, and considering imposing a flat fare rate. Meanwhile, the market has changed with the introduction of online services such as Uber and Lyft; technology has changed with the introduction of GPS and smartphone apps that connect drivers and ride seekers. The City's fare regulations may in fact harm the competitiveness of local taxis vis a vis Uber and Lyft, because while taxis are required by law to charge one rate 24/7, their competition may raise and lower rates as market conditions may require. The fare regulations, last over hauled in 2004, should be repealed.

But the City continues to have an important interest in public safety, and it should continue to advance that interest through its taxi regulations. The interest in public safety is effectuated through the taxi driver permit system, which includes background checks, and thorough safety inspections of motor vehicles used as taxis. The public is also interested in non-discriminatory fares and services.

Fredericksburg Police officers met with six taxicab operators on Tuesday, April 19, 2016, to review a previous draft of the proposed ordinance.

The proposed ordinance modernizes the City Code, in light of the evolution of the taxicab business and technology, while still protecting the public interest in safety, service, and nondiscrimination.

#### BACKGROUND:

Today, 60 motor vehicles are licensed by the Fredericksburg Police Department to offer taxicab service in the city of Fredericksburg. The 60 taxicabs are owned or licensed through 8 companies. Taxicab service is regulated by the City if both the point of origin and the destination are within City limits. The local regulations address public safety (motor vehicle and driver), service standards, and fares. Many cities in Virginia regulate taxicab service; counties typically do not do so.

With respect to public safety, the City requires an annual safety inspection of the motor vehicle, and the Police Department conducts annual criminal history and driving record checks for each licensed driver. Taxicabs must always be clean, and police officers may inspect the cabs to confirm that they meet standards. The taxicabs must be clearly identified as such; drivers carry photo identification. The taxicabs must carry insurance that meets state requirements. The motor vehicle approvals all expire on December 31, at this time. This creates a sudden demand by all 60 cabs for inspections, every year in December. The proposed ordinance Provides for the expiration of permits on a rolling basis throughout the calendar year.

The City first regulated taxi fares and charges in 1948. In 1964 the City was divided into 2 zones; in 1989, the 3 zone system was introduced. The ride fares are determined by the number of zones through which the taxi travels from the point of origin to the point of destination. Today, taxicabs are required to display the 1989 zone map, because it continues to form the framework for fare calculations.

Fares were last revised in 2004, but City Council approved a variable gasoline cost surcharge in 2005, and a surcharge for trips affected by construction on Fall Hill Avenue in 2008. In 2008, City Council considered requiring the installation of taximeters. However, that proposal ultimately failed to gain Council approval. The taximeter proposal was renewed in 2013, again failing to gain Council support. The Council created a taxicab advisory board, which recommended going to a flat fare structure in 2014. But the Board was not able to answer Council's questions about the reasonableness of the proposed amount of the flat fare, so that proposal failed. Taxi fares are now governed by the 1989 zone map, the 2004 rates, and the surcharges, when applicable. One of the taxicab company owners addressed the City Council in March 2016, asking for another review of the local ordinance.

Meanwhile, the availability of GPS service, combined with online marketing and payment technologies, combined to create "transportation network companies," better known as Uber and Lyft. These companies use the Internet, not public streets, for ride-hailing, and they require online payment in advance with a credit card, instead of payment to the driver. Their fares and charges may rise or fall based on market conditions, to the delight or consternation of their passengers, but the fares and charges are disclosed to the passenger before the ride is confirmed, for the passenger to either accept or reject.

The emergence of this new service led to the creation of new state laws and regulations in 2015, to govern transportation network companies. The 2015 law is focused on issues of public safety, primarily. Virginia does not regulate the fares that these new market entrants may charge. Uber and Lyft services are available in Fredericksburg, although the number of drivers appears to be small. Under state law, TNC businesses are subject to the exclusive regulation of the Commonwealth. There is no local authority to regulate TNC businesses.

With this background in mind, the Police Department and the City Attorney worked together to generate draft revisions to the City Code taxicab regulations. The draft revisions create a level playing field between local cabs and cab drivers and “TNCs” with respect to public safety inspections, background checks, insurance compliance, etc. The City’s regulations for taxicab driver qualifications, for example, are updated to match the state regulations for TNC drivers.

The proposal is to repeal local taxicab fare regulation, so that local cabs may respond to (or create) emerging market forces. But the regulations also recognize that cab fare may continue to be charged at the conclusion of a trip, creating the possibility of the surprised passenger, and potentially opening the door to allegations that a fare was charged in discriminatory manner. In order to protect both the drivers and the passengers from these pitfalls, the revised regulations provide that taxicab companies shall file their schedule of fares and charges with the Chief of Police. Those schedules may be as flexible as the company may desire. The company may file new schedules as it may choose. But the taxicabs would be required to charge the rates set forth on the company’s schedule on file. Taxicabs would be required to post the fare schedule inside the cab, and drivers would be required to provide receipts to passengers. Any passenger who questioned a charge could call the company or the Police Department to compare the charge against the fare schedule on file.

Under the proposed ordinance, there would be no local regulation of the amount of fare that the taxicab service may charge for trips originating and ending within the City limits; just as there is no local regulation of fares for trips that begin or end in a neighboring jurisdiction, and no local regulation of fares for trips handled by transportation network advisors.

The proposed ordinance would have a negligible fiscal impact on the City budget.



**MOTION:**

November 22, 2016

**SECOND:**

Regular Meeting

Ordinance No. 16-\_\_

**RE:** Revising taxicab regulations relating to certificates of public convenience and necessity, motor vehicle safety, driver safety, and fares and charges, and dissolving the taxicab board

**ACTION:** Ayes: ; Nays: ;

**FIRST READ:** \_\_\_\_\_ **SECOND READ:** \_\_\_\_\_

**IT IS HEREBY ORDAINED** by the City Council of the City of Fredericksburg, Virginia, that Chapter 58 of the City Code is amended as follows:

**SEC. I. Repeal of Resolutions 09-61 and 13-65.**

Resolution 09-61, "Approving an extension of the gasoline surcharge for taxicab fares," adopted by City Council at its regular meeting June 9, 2009, and Resolution 13-65, "Approving a taxicab surcharge during the closure of Fall Hill Avenue," are repealed, effective \_\_\_\_\_, 2017.

**SEC. II.** Dissolution of the Taxicab Board.

City Code Chapter 10, Article II, Division 21, "Taxicab Board," is repealed.

**SEC. III. City Code Amendments.**

1. City Code Chapter 58, Motor Vehicles and Traffic," Article VII, "Public Vehicles," is repealed in its entirety.
2. City Council adopts a new City Code Chapter 58, Motor Vehicles and Traffic, Article VII, "Taxicabs," as follows:

ARTICLE VII  
**Taxicabs** (effective [date])

DIVISION 1  
**Generally**

**Sec. 58-430. Definitions.**

*Taxicab or other motor vehicle performing a taxicab service* means a for-hire passenger-carrying, self-propelled motor vehicle not operating on a regular route or between fixed terminals and having a seating capacity of not more than six persons.

*Waiting time* means time consumed while the taxicab is waiting and available for passengers, beginning five minutes after the time of arrival at the place to which the vehicle has been called, and time consumed while standing at the direction of the passengers. Waiting time shall not include time lost on account of time consumed by premature response to a call, or a motor vehicle accident or breakdown.

**Sec. 58-431. Certificate of public convenience and necessity required.**

- (a) No person shall own or operate a taxicab or other motor vehicle performing a taxicab service upon the streets or highways of the City without having first obtained from the Chief of Police a certificate of public convenience and necessity.
- (b) The Chief of Police shall prescribe the form to be used in initially applying for the certificate and the form to be used in applying for a renewal. The application shall include:
  - 1. the full name and address of the applicant, including;
  - 2. application for a background check of the applicant;
  - 3. the VIN number(s), make, model, seating capacity, and color scheme of each taxicab;
  - 4. a copy of the current for-hire registration for each taxicab;
  - 5. proof of Virginia title and registration for each taxicab;
  - 6. proof of current Virginia safety inspection for each taxicab;
  - 7. information on the wheelchair accessibility of each taxicab;
  - 8. a certificate of insurance;
  - 9. schedule of rates and charges, and methods of payment;
  - 10. customer support telephone number and instructions for reporting a complaint;
  - 11. proposed schedule and customer complaint notice for taxicabs;
  - 12. the operator's policy of nondiscrimination;
  - 13. for a renewal, records of activities of the certificate holder for the previous 12 months;
  - 14. such other information as the chief of police reasonably may require for the implementation of this article.
- (c) The chief of police shall inspect all motor vehicles proposed to be used as taxicabs for compliance with this article.
- (d) The chief of police shall promptly investigate the matters stated in the application, and act upon each complete application within 30 days from receipt. In making his decision, he shall consider whether the public convenience and necessity require the operation of the public vehicle(s) for which the application is filed. The chief of police shall consider whether the application, schedule of rates and charges, and motor vehicles, comply with this article. Any denial of an application shall be made in writing, setting forth the grounds for denial.
- (e) The chief of police shall report to the Commissioner of Revenue all approved or renewed certificates, together with the number of vehicles allotted.
- (f) Upon receipt of the approved applicant's current business license, the chief of police shall issue to the applicant a certificate for each approved motor vehicle, authorizing the use of the motor vehicle to provide taxicab services in the City.

**Sec. 58-432. Certificates generally.**

- (a) The term of validity of a certificate shall expire on the last day of the twelfth month after the date of issuance.
- (b) The certificate shall be affixed to the motor vehicle for which it was issued, in the location directed by the Chief of Police.
- (c) A certificate shall not be transferable.
- (d) A certificate shall lapse with respect to an individual vehicle or any one of the specified number of vehicles for which the certificate has been issued when the particular vehicle has not been used to provide taxicab service for 60 or more consecutive days.
- (e) The chief of police may, for cause, suspend or revoke any certificate, for failure to comply with one or more requirements of this article, upon prior notice to the certificate holder, and an opportunity to respond.

**Sec. 58-433. Insurance.**

Each holder of a certificate shall maintain motor vehicle liability insurance of at least \$125,000 or such higher amount required by state law for motor carriers operating exclusively taxicabs or other motor vehicles performing a taxicab service. The policy shall be issued by an insurer licensed to transact the business of insurance in the Commonwealth of Virginia.

**Sec. 58-434. Violations.**

Any person who:

- (a) Owns or operates a taxicab or other motor vehicle performing a taxicab service upon the streets or highways of the City without a current certificate of public convenience and necessity;
- (b) Knowingly makes or causes to be made any false statement on an application for a certificate of public convenience and necessity or driver's permit;
- (c) Drives a taxicab while performing a taxicab service upon the streets or highways of the City without a current taxicab driver's permit;
- (d) Permits a driver without a valid taxicab driver's permit to drive a taxicab owned by the person;
- (e) Unlawfully refuses to provide taxicab service to a passenger;
- (f) Charges an unlawful rate or charge for taxicab service;
- (g) Refuses to provide a receipt for payment of fare to a passenger who has paid the lawful fare;
- (h) Engages a taxicab for transportation with intent to obtain service without paying the lawful fare;

shall be guilty of a misdemeanor and upon conviction thereof be fined not more than \$100 for the first offense and not more than \$500 for each subsequent offense.

**Sec. 58-435. Hearing on denial, suspension, or revocation of a certificate or permit.**

- (a) A decision to deny an application for a certificate of public convenience and necessity or for a taxicab driver's permit, or to suspend or revoke a certificate or taxicab driver's permit, shall be made in writing, stating the reasons therefor. The written notice of denial shall inform the applicant or holder of his right to request a hearing within ten days of the notice.
- (b) If a request for a hearing is not made within ten days of the notice, the decision of the chief of police shall be final.
- (c) If a hearing is requested, then it shall be held by the chief of police or his designee, and the applicant shall have the right to present his own case or have counsel do so. Within a reasonable time after the hearing, the chief of police shall render his decision. If the chief of police refuses to issue or reinstate the certificate or permit, then the applicant or holder may, within ten days after the date of such action, file a petition with the Fredericksburg Circuit Court seeking judicial review of the action of the chief of police, with a copy of the petition to be served on the chief of police.
- (d) The filing of the petition with the circuit court shall not postpone the effective date of the decision of the chief of police except by order of the court.

DIVISION 2  
**Motor Vehicles Used as Taxicabs**

**Sec. 58-437. Requirements for taxicabs.**

- (a) Each taxicab shall:
  - 1. Be validly titled and registered in the Commonwealth of Virginia;
  - 2. Not have been issued a certificate of title, either in Virginia or in any other state, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;
  - 3. Be equipped with a working, standard dome light;
  - 4. Have a valid Virginia safety inspection and carry proof of that inspection in the vehicle;
  - 5. Be covered by an insurance policy meeting the requirements of §58-433;
  - 6. Be at least a four-door vehicle having a front seat and a rear seat. Each taxicab shall be maintained in good order and repair at all times. It shall be unlawful to use as a public vehicle one which has been subjected to such use that its continued use as a taxicab may endanger the occupants.
- (b) Each taxicab shall have the name and telephone number of the taxicab owner or operator painted on the outside of the vehicle in letters not less than three inches high and of such color and at such location as specified by the Chief of Police. A sign attached to the vehicle, whether removable or not, shall not be deemed to comply with this section.

- (c) Each taxicab covered operated by a single owner shall be of uniform color scheme and shall be numbered consecutively. The number of a particular vehicle shall be painted at least three inches high on both sides and on the rear of the vehicle.
- (d) No motor vehicle shall be substituted for one described in the certificate until the substitution is approved by the Chief of Police and he endorses the fact of the approval on the certificate.

[Sec. 58-438 – Reserved.]

DIVISION 3.  
**Taxicab drivers**

**Sec. 58-439. Taxicab driver's permit.**

- (a) No person shall drive a taxicab within the City without a taxicab driver's permit issued by the chief of police.
- (b) No owner of a taxicab shall permit any person who does not possess a taxicab driver's permit issued by the chief of police to drive his taxicab.
- (c) Before issuing a taxicab driver's permit to any individual, or renewing a taxicab driver's permit, the chief of police shall perform the following background check:
  - 1. Confirm the person possesses a valid driver's license issued by the Commonwealth of Virginia.
  - 2. Obtain a Virginia criminal history records check of that person. If permitted by Virginia Criminal Information Network rules, the background check shall include (i) a Multi-State/Multi-Jurisdiction Criminal Records Database search or a search of a similar nationwide database with validation (primary source search) and (ii) a search of the Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offender Public Website.
  - 3. Obtain and review a driving history research report on that person.
- (d) Each applicant for a taxicab driver's permit shall pay an initial application fee of \$50\_, and a renewal fee of \$25. The application shall contain such information as the chief may require to conduct the background check or to issue the driver's permit.
- (e) Upon approval or renewal of an application, the chief of police shall issue a taxicab driver's permit. The permit shall include a picture of the driver. The driver shall post his taxicab driver's permit in the taxicab driven by him in such manner that it will be in full view of passengers. The driver shall keep the permit in good condition, and shall replace the permit whenever, in the opinion of the chief of police, it has become dirty, disfigured or mutilated so that it cannot be read or the driver cannot be identified by his photograph.
- (f) The chief of police shall deny a taxicab driver's permit or renewal if the background check reveals one of the disqualifying factors listed in Code of Virginia §46.2-2099.49 for transportation network company partners.

- (g) The chief of police shall suspend or revoke a taxicab driver's permit for any cause which would have been grounds for refusing to issue the permit, whether the cause occurred before or after the permit was issued.
- (h) The taxicab driver's permit shall be valid for a period of twelve months from the date of issuance, unless suspended or revoked as provided in this section.
- (i) The taxicab driver's permit shall not be transferable.

[Sec. 58-439 through 58-442 – Reserved.]

DIVISION 4  
**Taxicab operations.**

**Sec. 58-443. Fares and charges, filing and posting.**

- (a) Each operator shall file with the chief of police a schedule of the rates and charges, discounts, and methods of payment accepted, for taxicab services for the transportation of passengers for consideration on any highway, street, road, lane or alley of the City. The filing of the schedule shall accompany the initial application for a certificate or renewal, or at least five business days prior to the effective date of any change in rates and charges.
- (b) The schedule may provide a discount for:
  - 1. senior citizens.
- (c) The schedule may provide a charge for:
  - 1. hazardous snow conditions;
  - 2. high-demand conditions;
  - 3. each additional passenger who initially engages the public vehicle;
  - 4. the transport of animals other than service animals;
  - 5. baggage, packages, or suitcases carried by the driver;
  - 6. waiting time or sightseeing time.
- (d) There shall be no additional charge for:
  - 1. providing services to persons with disabilities because of those disabilities;
  - 2. any additional passenger accepted after the taxicab has been engaged for hire, unless the additional passenger rides beyond the first passenger's destination, in which case the additional passenger shall only be charged for the additional distance traveled;
  - 3. passengers under the age of three years, if accompanied by a parent or adult.
- (e) The approved schedule shall be posted inside each taxicab, in a conspicuous location in view of passengers. The approved complaint telephone number shall be included on the posted schedule.
- (f) The driver of a taxicab shall charge only those rates and charges, and provide those discounts, included in the schedule approved by the chief of police.
- (g) The driver of a taxicab shall accept those methods of payment included in the schedule approved by the chief of police.

**Sec. 58-444. Receipt for fare and charges.**

Upon request, the driver of a taxicab shall provide any passenger who has paid the legal fare and charges with a receipt for payment. Such receipt shall be in legible type or writing and shall contain the name of the driver of the vehicle, the license number of the vehicle, the amount of the fare, any charges and discounts, and the date of the transaction.

**Sec. 58-445. Accepting passengers.**

- (a) No driver of a taxicab shall willfully refuse to accept any orderly person as a passenger unless the taxicab is already engaged by another passenger or the driver is off duty.
- (b) Drivers shall comply with all applicable laws regarding nondiscrimination against passengers and potential passengers.
- (c) If a passenger requires a wheelchair accessible vehicle, and the taxicab is not wheelchair accessible, the driver shall refer the passenger to a provider of wheelchair accessible service, if available.
- (d) Drivers shall comply with all applicable laws relating to accommodation of service animals.
- (e) Once a passenger has engaged a taxicab for hire, the driver shall accept no other passenger without the consent of the first passenger.
- (f) A driver of a taxicab may refuse to transport a passenger for any reason not prohibited by law, including any case in which (i) the passenger is acting in an unlawful, disorderly, or endangering manner; or (ii) the passenger is unable to care for himself and is not accompanied by a responsible companion.

**Sec. 58-446. Completion of calls; manifests.**

- (a) An on-duty driver shall complete or cause to be completed all accepted calls as promptly as possible.
- (b) Every driver of a taxicab shall keep and maintain a daily written or electronic manifest and therein record all trips made by such driver each day and shall include therein a record showing the time and place of the origin and destination of each trip and the amount of each fare. The driver shall record any instance in which the transport of a passenger is refused or declined, including the date, time, and place of the encounter, and the reason for refusing transport. The owner shall preserve and keep in his possession and control each manifest for a period of one year next following its date. All manifests shall be subject to inspection by the Chief of Police.

**Sec. 58-447. Additional operational regulations.**

- (a) The owner shall immediately report to the chief of police every accident in which a taxicab is involved.
- (b) On public streets, drivers shall use only taxicab stands designated and assigned by the chief of police.

SEC. IV.           Effective date.

This ordinance shall take effect on January 1, 2017. The Chief of Police is authorized to grant extensions of up to 90 days to calendar year 2016 certificates of public convenience and necessity and taxicab drivers permits, for the purpose of staggering renewal periods.

Approved as to form:

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Kathleen Dooley, City Attorney

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**Clerk's Certificate**

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16-\_\_\_\_ duly adopted at a meeting of the City Council held \_\_\_\_\_, at which a quorum was present and voted.

\_\_\_\_\_  
Tonya B. Lacey  
Clerk of Council