

ORDINANCE NO. 2051

AN ORDINANCE FOR THE LICENSING AND OPERATION OF TAXICABS AND LIMOUSINES AND FOR LIMITED FRANCHISE OPERATIONS

WHEREAS, the General Assembly of the State of Arkansas, pursuant to Arkansas Code Annotated, §14-57-301 et seq. and Arkansas Code Annotated §14-57-201 grants the exclusive power to cities of the first and second class to regulate and control by ordinance all motor carriers operating within the corporate limits originating at and destined to points within the corporate limits and the business and operation of taxicabs and limousines upon the streets and public ways of the municipality, and

WHEREAS, the City of Eureka Springs, Arkansas, has previously provided for such operations by ordinance and now deems it necessary to revise and amend the existing ordinance under Chapter 4.32 of the City Code or of any other ordinance including but not limited to the Municipal Code of Eureka Springs as Codified through Ordinance No. 1990 enacted April 25, 2005 and

WHEREAS, the City of Eureka Springs, Arkansas has licensed and authorized a company to provide taxi services in the City and made a determination of the public necessity and convenience for that service and it is not necessary to revise, revoke or alter the existing license but that provisions for additional taxi and limousine services must be clarified,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS THAT:

- I. The City of Eureka Springs hereby repeals all previous ordinances pertaining to taxicabs and limousine operations and provides the following regulations.
- II. The City of Eureka Springs adopts and incorporates by reference the terms and provisions of State law as specified by A.C.A. §14-57-201, A.C.A. §14-57-301 et. Seq. and A.C.A. §27-14-1501 et seq. as if stated herein word for word.
- III. The City of Eureka Springs shall have the power to issue certificates of limited franchise operations for taxicabs and limousine service. Such certificates may be issued for limited times and/or for specific events as the City Council deems necessary.
- IV. The City of Eureka Springs shall exempt and license (“grandfather”) any existing taxicab and limousine company which has operated in the City under a previous franchise or license if such company is operating at the time of the passage of this ordinance and that the passage of this revised ordinance shall not effect the rights of said service to continue operations of taxis and limousines unless such license is revoked under the provisions of this Chapter.

TAXICABS AND LIMOUSINE FRANCHISE.

It shall be unlawful to engage in the business of operating a taxicab or limousine in the city without first having secured a franchise therefore in compliance with the provisions of this chapter. Applications for such licenses shall be made in writing to the City Council, and shall state thereon the name of the applicant the intended place of business and the number of cabs or limousines to be operated. If the applicant is a corporation, the names and addresses of the president and secretary thereof shall be given.

SECTION 1. PENALTIES

(a) An offense against any provision of this chapter shall be a violation which shall be punishable upon conviction and fined in a sum not less than Twenty-Five (\$25.00) Dollars nor more than One Hundred

(\$100.00) Dollars and each violation shall be deemed a separate offense.

(b) In addition to the penalties herein provided, the licensee shall be liable to suspension or revocation of any license hereunder held by the licensee. Any person operating a taxicab or limousine without a license pursuant to this ordinance or any previous ordinance shall not be issued a license.

SECTION 2. DEFINITIONS.

Unless otherwise expressly provided, the following words for the purpose of this chapter shall have the meanings herein indicated:

- a. "Business" shall mean a single act of transporting a passenger or passengers for hire.
- b. "City" shall mean the city and the police jurisdiction thereof.
- c. "Driver" shall mean a person operating a taxicab or limousine upon the public streets of the city.
- d. "Limousine" shall mean an unmarked luxury passenger automobile, capable of seating not less than eight (8) persons but not more than fifteen (15) passengers and meeting the vehicle restrictions as stated in this ordinance. Provided, however, the classification "limousine" shall not apply to any motor vehicle which is:
 - (1) Classified as a taxicab as herein defined.
 - (2) Operated as a bus under a franchise granted by the city.
- e. "Operate" shall mean the picking up of a passenger for hire within the city and shall mean that there shall not be a fixed route or terminal and shall be synonymous with the word "drive."
- f. "Owner" shall mean a person owning or controlling one (1) or more taxicabs or limousines and driving or causing any such vehicle to be driven upon the public streets for hire.
- g. "Passenger" shall mean a person other than the driver who is an occupant of a taxicab or limousine and for the purpose of this chapter, such person or persons shall be presumed to be a passenger or passengers for hire.
- h. "Person" shall mean an individual, partnership, firm, association, corporation or any other legal entity.
- i. "Taxicab" shall mean a motor vehicle having a seating capacity not in excess of seven (7) passengers and used in the business of transporting passengers for hire in the city, on demand, and not operated on a fixed route. Included within the meaning of the term shall not be any vehicle having a seating capacity in excess of seven (7) passengers and employed in transporting persons over regular routes having fixed termini or upon regular schedules of operation. Provided, however, the classification "taxicab" shall not apply to any motor vehicle which is:
 - (1) Classified as a limousine as herein defined.
 - (2) Operated as bus under a franchise granted by the city.
- j. "Sightseeing vehicle" means all motor vehicles which are operated for conducting sightseeing tours for the general public which have a seating capacity in excess of ten (10) passengers and which is utilized for the purpose of conducting sightseeing tours.
- k. "Hotel Shuttle" means any motor vehicle operated for the purpose of transporting hotel guests to a hotel from a parking area or to a parking area and is not "for hire".

SECTION 3. VEHICLE REQUIREMENTS.

(a) Every motor vehicle operated upon the streets of the city as a taxicab or limousine shall be kept clean, sanitary, fit, and of good appearance, and in a safe condition.

(b) Any vehicle operated as a taxicab shall have an insignia or sign indicating the name of the company and the words "taxi" or "taxicab". At a minimum, each such insignia or sign shall be posted or painted on one door on the right and left side of the vehicle.

(c) Each driver shall display a "photo identification" card with the rate card which shall be a minimum of three (3) inches by five (5) inches in size which shall have the driver's name and license number or a replica of his

or her Arkansas Driver's license.

SECTION 4. VEHICLE INSURANCE.

- (a) Each taxicab or limousine operated within the city limits or police jurisdiction thereof shall be required to carry and maintain in effect the following minimum personal injury and property damage liability insurance:
- (1) Comprehensive automobile liability insurance including owned, non-owned and hired vehicles:
- a. Bodily injury liability:
Each person: \$100,000
Each occurrence: \$300,000
 - b. Property damage liability, each occurrence: \$100,000.
 - c. Bodily injury and property damage combined, single limit: \$400,000
- (b) No permit required by this chapter or business license shall be granted to any person to operate any taxicab or limousine upon the streets or elsewhere in the city or its police jurisdiction until such person shall have first filed with the city revenue department a certificate of the above stated insurance requirements, issued to such person by a public liability insurance company authorized to do business in the state.
- (c) The insurance coverage required by this section shall at all times be maintained for the full amount. The cancellation of any such policy shall have the effect of suspending the permit of such person to operate any taxicabs, limousines or business covered thereby until a new policy or policies complying with the provisions of this section is filed with the city revenue department.

SECTION 5. VEHICLE INSPECTION. (Reserved)

SECTION 6. TAXIMETERS. (Reserved)

SECTION 7. TAXI STANDS. (Reserved)

SECTION 8. RATES OF FARE.

(a) No rate, tariff, or regulation shall be approved or prescribed by the City Council except after due and reasonable notice to each and every taxicab operator affected shall have been given and after adequate opportunity to be heard with respect thereto shall have been afforded to each and every taxicab operator.

(b) Any rate, tariff, or regulation approved, disapproved, prescribed or rejected shall be subject to judicial review.

(c) On review, the rates, tariff or regulation shall be sustained if reasonable and adequate to permit a fair, just, and reasonable return to the operator.

(d) If unreasonable, confiscatory, or inadequate to permit a fair and reasonable return to the operator, they shall be annulled.

(e) No court shall, in any event, however, have any power or jurisdiction to make or fix rates, tariffs, or regulations.

(f) All rates, tariffs and regulations initiated, prescribed, approved or enforced by the city shall apply equally and uniformly to all taxicab operators in the city.

(g) Absent an ordinance enacted in compliance with these provisions the operator shall post in each taxicab a schedule of fares or rates that are charged for services provided. This "Rate Card" shall be clearly

visible to the passengers.

SECTIONS 9 SIGHT SEEING VEHICLES (Reserved)

SECTION 10 TRAMS (Reserved)

SECTION 11 TROLLY (Reserved)

SECTION 12 CARRIAGE (Reserved)

ARTICLE II. TAXICAB OR LIMOUSINE LICENSE

SECTION 13. REQUIRED.

It shall be unlawful for any owner of any taxicab or limousine to operate or to permit the same to be operated upon the public streets of the city without having first obtained and having then in force a taxicab license or limousine license therefore, as the case may be, as herein provided. Any violation of this requirement shall be grounds for the denial of an application or the revocation of the existing license.

Recognizing that it is unusual for a city the size of Eureka Springs to maintain a fully operational taxicab company for twelve (12) months each year, a limousine license shall be given to the operator of the taxicab company/franchise currently operating in the city in order to maintain the viability of services in the city. No additional license for a limousine service shall be issued without a finding of public necessity and convenience. The City Council shall have absolute authority to grant or refuse any license or permit.

SECTION 14: LIMOUSINES

The following restrictions shall apply to any vehicle licensed as a limousine.

(a) ***Full Size Limousine***. An unmarked luxury passenger automobile (known in the automobile industry as a limousine), bearing current State of Arkansas license as required by the state for limousines, not more than twelve (12) years old, seating not more than fifteen (15) passengers, with a partition between the driver and passenger compartment, and with a wheelbase of not less than one hundred twenty-five (125) inches may be licensed as a limousine.

(b) ***Antique limousine***. A full sized luxury limousine licensed as an antique vehicle in accordance with Arkansas law and otherwise complying with the requirements of this article may be licensed as a limousine.

(c.) ***Luxury van***. Luxury vans, classified as such by the manufacturer, bearing current Arkansas license, not more than seven (7) years old, and with a seating capacity of not more than fifteen (15) passengers may be licensed as a limousine upon specific approval by the city. In this regard, any permitted limousine operator who wishes to operate a luxury van must attach to the vehicle license application information describing the vehicle (make, model, year, options, features, etc.) and a color photograph of the vehicle's interior and exterior. The applicant shall verify that the vehicle is of a luxury nature and shall so note on the operator's application.

(d) No limousine may be operated as a taxi except by the licensed franchised taxi company.

SECTION 15. APPLICATION FOR CERTIFICATE OF PUBLIC NECESSITY AND CONVENIENCE.

Any person desiring to operate a taxicab franchise or a limousine service shall apply for a certificate of public necessity and convenience. The City Council may waive the requirement and issue a limited franchise or temporary permit for special events, festivals or limited periods of time as it deems necessary.

SURETY BOND REQUIREMENT.

No permit, temporary permit or limited franchise, shall be granted until and unless the applicant shall file with the City a surety bond or a corporate surety authorized to do business in this state, in the amount of Ten Thousand Dollars (\$10,000.00) or other such amount as the City Council shall deem appropriate upon the amending of this ordinance, which shall be conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the permit/license issued to the applicant is cancelled, withdrawn or has expired.

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

Every person who desires a taxicab or limousine license SHALL, prior to obtaining a business license from the City Finance Department, pay a fully refundable filing fee of One Thousand Dollars (\$1,000.00) and make a written application for a certificate of public convenience and necessity to the City Council upon forms to be furnished by the City Clerk, verified under oath stating:

(1) The name and address of the applicant, specifying, in case of any unincorporated association, partnership or firm, names and addresses of each member thereof, and the quantum of interest of each member; and in the case of any corporation, the names and addresses of each stockholder, officer and director thereof with the number of shares of stock owned by each of them.

(2) A complete statement by the applicant, specifying the amounts of all unpaid judgments against the applicant, each member, officer or director, and the nature of the transaction giving rise to the judgments and the name and location of the court in which, and the date on which, each was entered.

(3) Applicant must list all misdemeanors or felonies of which the applicant and any member thereof, if an unincorporated association, partnership or firm, and any officer or director, if a corporation, have been convicted stating the names and locations of the court in which, and the date on which, such convictions were held and the penalties imposed therefore.

(4) The location, if any, of all depots and terminals proposed to be used by the applicant.

(5) The number of vehicles which the applicant wishes to operate on a regular basis and the number which he may operate on an "as needed" basis.

(6) That the applicant is 25 years of age or over or is able to obtain insurance for the operation of a commercial vehicle.

(7) A description of the insignia and trade name for each taxi. Any trade name must contain the word "taxicab," "taxi" or "cab" unless such application is for the operation of a limousine service.

(8) The basis for the applicant's belief that a certificate of public necessity and convenience should be issued including all relevant data on the population of the City, the visitor population to be served, analysis of the need for additional service based upon the demographics of the two populations and a complete business plan.

(9) Any other relevant information which the City Clerk may require or which the City Council may direct to be included with the application.

SECTION 16. FINDING OF NECESSITY REQUIRED/HEARING

1. Upon the filing of an application, the City shall cause to be given to each and every taxicab operator in the city a due and reasonable notice, in writing. Notice of the hearing shall set forth the time and place of the hearing. The hearing shall be conducted by the City Council for all persons interested in, or affected by, the application. The hearing shall be on a day and time other than the regularly scheduled City Council meeting.

2. 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 representatives of their own choosing, 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.

3. No taxicab or limousine license shall be granted until the City Council shall have determined by resolution that the public convenience and necessity requires the additional taxicab or limousine service based upon the completed application with demographic analysis and business plan, provided, however, that no such finding shall be necessary for the issuance of a license to the holder of a current license on the effective date of this ordinance.

4. The City Council shall have the power to review any license issued and to suspend, revoke or cancel any such license for good cause. "Good cause" shall include, but is not limited to, failure to pay license or fees when due, operation without a valid license or franchise in the City at any time or any other violation of state or federal law deemed by the Council to adversely affect the licensee or the City of Eureka Springs.

5. Any final action of the City Council in respect to any application shall be subject to judicial review.

SECTION 17. ISSUANCE OF CERTIFICATE.

(a) If the City Council determines that an additional taxicab or limousine service is required by public convenience and necessity, and that the applicant is qualified and able to perform such public transportation and to conform with the provisions of this chapter, then the Council shall adopt a resolution that the public convenience and necessity require the proposed taxicab or limousine service and shall upon certification of each limousine, or, in the case of taxicabs, upon certification of at least three (3) taxicabs proposed to be operated by the applicant pursuant to sections 3-5, instruct the City Clerk to issue upon payment of a fee established by the City license code, a license stating the name and address of the business license applicant, the date of the issuance thereof, the number of vehicles the applicant is licensed to operate, and at the same time, the City Clerk shall furnish to the individual a written statement of restrictions, limitations or requirements, if any, the City Council may wish to further impose along with a statement of the number of vehicles the applicant is authorized to operate on a regular basis or which may be added for special events.

(b) Before making any finding as to whether public convenience and necessity justify the issuance of a taxicab or limousine license the Council shall cause to be published in a newspaper of general circulation in the city, and sent by mail to each holder of a certificate of public convenience and necessity, a notice stating that such application has been made, the number of vehicles for which such application has been made, and that a public hearing shall be held to determine whether public convenience and necessity requires such license or additional taxicabs or limousines on the date of such publication.

SECTION 18. FACTORS FOR CONSIDERATION IN FINDING OF NECESSITY.

(a) In making the findings of public convenience and necessity required by the provisions of this ordinance, the City Council shall take into consideration the number of taxicabs and limousines already in operation in the City, whether existing transportation is adequate to meet the public need, the probable effect of additional taxicabs or limousines on local traffic conditions, the financial impact on the viability of the existing taxicab/limousine service and the character, experience and responsibility of the applicant and the adequacy of the service which the applicant proposes to give.

(b) In order to better control and regulate the taxicab operations within the City, the City Council shall not make a finding that the public convenience and necessity justifies the issuance of a taxicab or limousine license unless the application therefore shall provide for the licensing of at least three taxicabs, the intent being that no license for taxicab service shall be granted to any person unless such person operates three or more taxicabs.

SECTION 19. INFORMATION PREREQUISITE TO LICENSE ISSUANCE.

(a) Each applicant shall, before the issuance to applicant of a license under this section, file with the City Finance Department:

(1) A description of each motor vehicle to be operated by the applicant pursuant to the license, including the make, model, passenger seating capacity, year of manufacture, state license number, the motor number thereof, and the name and address of the owner.

(b) Failure to comply with subsection (a) hereof within ten (10) days after the adoption of a resolution by the City Council of public convenience and necessity as required by this ordinance shall be deemed to be abandonment of the application and license in respect to the number of motor vehicles not so reported and not so insured pursuant to Section 27.

SECTION 20. RENEWAL.

Any license issued under this chapter may be renewed annually for additional periods of one (1) year each from the date of expiration upon the certification under oath that there have been no changes in the information submitted except as to the finding by the City Council of public convenience and necessity; provided, however, that no license shall be renewed after March 1 each year without reapplying therefore as herein provided and a finding by the City Council that public convenience and necessity justify the issuance of such a license.

SECTION 21. NONTRANSFERABLE.

The taxicab or limousine license issued hereunder shall not be transferable without written consent of the city.

SECTION 22. PROCEDURE FOR ADDITIONAL LICENSED VEHICLES.

Additional vehicles may be added for special events, festivals or as required or deemed necessary by the operator by the completion of supplemental forms as supplied the City.

SECTION 23. SUSPENSION OR REVOCATION.

(a) A certificate issued under the provisions of this chapter may be revoked or suspended by the city council if the holder has

(1) Violated any of the provisions of this chapter,

(2) Discontinued operations for more than ten (10) days

(3) Violated any of the ordinances of the city or the laws of the United States or of the state, the violation of which reflects unfavorably on the fitness of the holder to offer public transportation, or

(b) In the event of recovery of any final judgment and termination of final appeal proceedings, if any, against the holder for damages on account of bodily injuries or death or for damage to property resulting from the ownership, maintenance or use of taxicabs or limousines in the city and nonpayment thereof for a period of eighty (80) days thereafter; provided, however, that such licensee has been given a ten (10)-day written notice in person or addressed and mailed to licensee at the address furnished on the application and full opportunity to be heard in licensee's own defense.

(c) As provided under any other provision of this chapter.

SECTION 24. CHANGES IN LICENSE INFORMATION. (Reserved)

SECTION 25. LIMITATION ON OPERATING AREA.

It shall be a violation of this Ordinance for any operator of a taxicab or limousine not licensed by the City of Eureka Springs to offer services for passengers which originate in the City. It shall not be a violation of this ordinance if the fare/passenger service originates outside the City limits and the fare/passenger service requires round trip service into and out of the City or one way into the City.

SECTION 26. (Reserved)

ARTICLE III. DRIVER'S LICENSE

SECTION 27. REQUIRED.

(a) No person shall operate a taxicab or limousine for hire upon the streets of the City and no person who owns or controls a taxicab or limousine shall permit it to be so driven and no taxicab or limousine licensed by the City shall be so driven at any time for hire, unless the driver of such taxicab or limousine shall have first obtained and shall have then in force a driver's license issued under the provisions of state law.

SECTION 28. INVESTIGATION OF APPLICANT.

The police department shall conduct an investigation of each applicant for a certificate of public necessity and convenience/taxicab/limousine license and a report of such an investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the City Council. The reports submitted shall be only those of public record and shall not include a Social Security number or other information the dissemination of which would constitute a violation of state or federal law.

ARTICLE IV. OPERATING REGULATIONS

SECTION 29. APPLICABILITY.

The regulations in this article shall be observed in the operation and driving of every taxicab and limousine upon the public streets of the City. It shall be unlawful for any person to violate the regulations in this article.

SECTION 30. FARE TO BE STANDARD.

No taxicab owner or driver shall demand or suggest that any passenger or prospective passenger pay a fare larger than that authorized by the City Council.

SECTION 31 . REFUSAL TO PAY FARE.

It shall be unlawful for a passenger to refuse to pay the agreed or established fare and such refusal shall constitute theft of services punishable under state law.

SECTION 32 . DRIVERS NOT TO REFUSE SERVICE.

Except as provided herein, no taxicab driver shall refuse or neglect to convey any orderly person upon request, unless the driver determines the prospective passenger has no ability to pay or is under suspicious circumstances.

SECTION 33. NUMBER OF PASSENGERS.

No taxicab or limousine driver shall permit more persons to be carried in the taxicab or limousine than the number for which there is seating.

SECTION 34. MULTIPLE PASSENGERS WITH MULTIPLE DESTINATIONS.

If a taxicab is carrying two (2) or more persons to different destinations, the driver shall be the sole judge of the order in which such persons shall be delivered to their destination, and the shortest possible route shall be followed.

SECTION 35. STOPPING EN ROUTE TO ADD PASSENGERS.

No taxicab or limousine driver shall stop to pick up any additional passengers while proceeding to the destination of any passengers then occupying the taxicab or limousine without the consent of all such

passengers.

THIS ORDINANCE being necessary for the preservation of the public peace, health, safety and welfare of the inhabitants of Eureka Springs, Arkansas, this Ordinance shall be in full force and effect from and after its passage unless vetoed by the Mayor in which case it shall become effective upon the date of the veto override by the City Council.

ORDINANCE 2051 ADOPTED THIS 23rd DAY OF JULY, 2007.

APPROVED:

Attest:

Dani D. Wilson, MAYOR

Mary Jean Sell, CITY CLERK