

LEE COUNTY ORDINANCE NO. 11-07

AN ORDINANCE REGULATING TAXICAB AND LIVERY COMPANIES IN LEE COUNTY, FLORIDA, REPEALING AND REPLACING LEE COUNTY ORDINANCE NO. 00-01; PROVIDING FOR TITLE, PURPOSE AND AUTHORITY; PROVIDING FOR DEFINITIONS; PROHIBITING UNLICENSED VEHICLES FOR HIRE; PROVIDING FOR CERTIFICATE APPLICATION AND DRIVER IDENTIFICATION CARD, RENEWAL, AND REVOCATION; REQUIRING DISPLAY OF STICKER; PROVIDING FOR TRANSFERABILITY OF CERTIFICATE; PROVIDING FOR MINIMUM INSURANCE REQUIREMENTS AND PENALTIES; PROVIDING FOR AREAS OF ENFORCEMENT AND MEANS OF ENFORCEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS OF LAW, INCLUSION IN CODE, CODIFICATION AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida is the governing body in and for Lee County, Florida; and

WHEREAS, the Lee County Board of County Commissioners has the authority under Section 125.01, Florida Statutes, to create fees and to regulate businesses within its jurisdiction; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, previously adopted Ordinance No. 00-01, relating to the regulation of taxicab and livery companies; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, now desires to repeal and replace Lee County Ordinance No. 00-01; and

WHEREAS, it is in the intent of safety and welfare of the public to establish certain regulations for the regulation of taxicabs and liveries; and

WHEREAS, the manner, mode, type and degree of how taxicab companies are used affects the health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA THAT:

SECTION ONE: TITLE

Lee County Ordinance No. 00-01 is hereby repealed in its entirety and replaced with the provisions of this Ordinance. This Ordinance shall be known and may be cited as the "Lee County Taxicab and Livery Ordinance".

SECTION TWO: PURPOSE AND AUTHORITY

A. The purpose of this Ordinance shall be to regulate taxicab and livery companies in order to promote safety on the roads of Lee County and to ensure protection to our citizens and visitors.

B. In order to prevent fraudulent transactions, this Ordinance prohibits unlicensed taxicab and livery companies from taking customers as a vehicle for hire.

C. The County does hereby declare that the public health, safety and welfare of the citizens of the County and others require regulation of taxicab companies and liveries, as well as other vehicles for hire.

D. The County is hereby authorized to regulate all companies with vehicles for hire in the interest of safety, thus requiring certain conditions for those operating such companies.

SECTION THREE: DEFINITIONS

For purposes of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word

“shall” is always mandatory and not merely discretionary.

A. “Applicant” means an individual, firm, corporation, partnership, company, association, joint venture, or any other type of organization enterprise applying for a certificate to operate.

B. “Certificate” means a Lee County certificate to operate that grants written authority under this Ordinance to an applicant to operate a motor vehicle for hire company within Lee County. A separate certificate shall be required for each business entity operating as a public vehicle for hire company.

C. “Charter Service” means any chauffeur-driven vehicle that is engaged in prearranged transportation and the rates for such transportation are based upon a predetermined hourly, daily, weekly, monthly, or door-to-door price. Charter service vehicles shall include, but not be limited to, the following four classifications:

1. “Sedan” means a four-door, full-sized automobile capable of seating not more than five passengers, exclusive of the driver.
2. “Limousine” means a luxurious, large passenger vehicle, built or modified for use as a luxury limousine (e.g., formal or extended limousine) capable of seating not more than fourteen passengers, exclusive of the driver.
3. “Van” means a passenger vehicle recognized as either a minivan or a full size passenger van capable of seating not more than 14 passengers, exclusive of the driver.
4. “Handicap Vehicle” means a vehicle designed, constructed, reconstructed, or operated for the transportation of persons with on

emergency conditions where no medical assistance is needed or anticipated in route; or for persons who are unable to comfortably use a standard means of conveyance; or for persons who cannot enter, occupy or exit a vehicle without extensive assistance; or where specialized equipment is used for wheelchair or stretcher service; and where the chauffeur serves as both a chauffeur and attendant to assist in door-to-door or bed-to-bed service. No emergency equipment other than a fire extinguisher and first aid kit may be carried. The use of the word "ambulance" may not be used and no representations may be made that any medical service is available. The word "nonemergency" must be prominently displayed on the outside of the vehicle.

D. "County" means the designee of the Lee County Manager, except where the context logically prohibits such inclusion.

E. "Driver" means any person possessing a valid driver's license (that authorizes all respective driving privileges) and who is then employed or permitted by a certificate holder to drive or operate a permitted vehicle for hire upon the streets of the County.

F. "Manager" means any person responsible for the day-to-day operation of the certificate holder.

G. "Motor vehicle for hire" means any motorized, self-propelled vehicle engaged in the transportation of persons upon the streets of the County with the intent to receive compensation for providing such transportation and shall include, but not be limited to, the classifications: taxicab, and charter service vehicles.

H. "Owner" means any individual, firm, corporation, partnership, company, association, joint venture, or any other type of organization enterprise owning a ten percent or greater interest in an applicant for a certificate to operate and/or a vehicle for hire company.

I. "Pick-up" means whenever a passenger/customer sits in a vehicle for hire for the purpose of being transported for a fee except successive picking-up of the same passenger during a continuous trip when the passenger departs the vehicle for a short time and the vehicle and driver wait at that location and the passenger returns and continues the trip.

J. "Taxicab" means a motor vehicle designed to accommodate not more than eight passengers, exclusive of the driver, operated for compensation at rates based upon the distance traveled and authorized by this Ordinance, and the route or destination of which is controlled by the passengers therein.

K. "Vehicle for hire company" means any individual or entity holding a Lee County certificate to operate and which holds permits for one or more vehicles for hire, under one or more categories of vehicles for hire, and either provides leased vehicles to drivers to be used or operated as vehicles for hire or which operates a central dispatch for one or more vehicles for hire.

L. "Sticker" means a color coded sticker issued annually to the current certificate holder authorizing the holder to operate for hire the motor vehicle to which the sticker is affixed. The sticker is affixed to the right side inside bottom corner of the front windshield glass. A certificate of vehicle permit shall accompany each sticker issued and shall identify the permitted vehicle and the sticker displayed on the windshield. A

legible copy of the certificate of vehicle permit shall be placed and remain in its assigned/permitted vehicle at all times until expiration of the sticker.

M. "Driver Identification Card" means the County issued photo identification card provided to a driver following the submittal and review of the annual background check by the Lee County Sheriff's Office.

SECTION FOUR: UNLICENSED VEHICLE FOR HIRE PROHIBITED

A. No person shall offer their services as a vehicle for hire within the unincorporated areas of Lee County, except for a business that fully complies with the regulations set forth in this Ordinance.

B. No person shall conduct any vehicle for hire business within the unincorporated areas of Lee County, except for a business holding a valid certificate that fully conforms with the terms of this Ordinance and operating a vehicle listed under that certificate with a sticker.

C. Exemptions

1. Any owner or transportation provider which has been designated as the community transportation operator as defined in Section 427.011, Florida Statutes, is exempt from this Ordinance; provided, however, that any such vehicle that is also used as a motor vehicle for hire other than exempted uses as specified herein shall require a certificate for such non-exempt use(s).

2. Exempt from this Ordinance are: Vehicles operated by a governmental agency; companies or organizations owning vehicles exclusively used for transportation of the employees or members of said

company or organization; vehicles seating more than 14 passengers; and transportation activities licensed by the Interstate Commerce Commission so long as such vehicles are engaged solely in interstate commerce.

3. Discharge of passengers within Lee County picked up in another county is permitted provided that the vehicle and operator were authorized to pick up the respective passenger(s) in the originating county and location of pick-up.

4. Any company with an equivalent taxicab license that is valid in Fort Myers, Cape Coral or the Lee County Port Authority (Demand Taxicab Agreement) is exempt from needing a Lee County license to operate any vehicle for hire business within the unincorporated areas of Lee County.

5. Any driver with a valid Fort Myers, Cape Coral or Lee County Port Authority (Demand Taxicab Agreement) identification card is exempt from needing a Lee County Drivers Identification Card to operate any vehicle for hire within the unincorporated areas of Lee County.

6. Sight-seeing cars or buses.

SECTION FIVE: APPLICATION FOR CERTIFICATE AND DRIVER IDENTIFICATION CARD

A. An application for obtaining a certificate pursuant to this Ordinance shall be made to the County on a form provided by the County.

B. Information to be provided by the applicant shall include, at a minimum:

1. Business location.

a. The street address from which the business will be operated;

b. If the applicant is not the owner of the property from which the

business will be operated, the applicant shall submit a notarized letter of authorization from the owner of the property to the applicant.

2. Ownership information.

a. Business owner's name, home address, local address, telephone number;

b. Manager's name, home address, local address, telephone number;

c. Mailing address at which notice of any county information pertinent to any business shall be considered received and binding upon the applicant or license holder, on the fifth day after first class mail is posted to said address.

3. Proof of Insurance.

Proof of insurance required by Section Eleven.

4. Payment of an annual certificate fee of \$30.00 for county administrative processing costs as documented and amended from time to time in the Lee County External Fees Manual and payment of the Lee County Local Business Tax pursuant to Lee County Ordinance 07-02, as amended from time to time.

C. Driver Standards.

1. Each driver of a motor vehicle for hire must hold a current and valid driver's license in said driver's name issued by the State of Florida, or by any other state of the United States (if the driver operates a vehicle for hire in more than one state). The respective driver's license must authorize all

types of driving being conducted by the respective driver.

2. Every certificate holder shall be responsible for ensuring that each of their drivers' have a background check completed through the Lee County Sheriff's Office. Any driver that has been found guilty or convicted, regardless of adjudication, of the following crimes may be denied a driver identification certificate, and not permitted to operate a motor vehicle for hire:

- a. Murder, manslaughter, armed robbery, assault with a deadly weapon, aggravated assault;
- b. Any crime involving the sale or possession of any controlled substance as defined by Section 893.03, Florida Statutes, within the past five years;
- c. The Florida RICO Act, currently Sections 895.01 through 895.06, Florida Statutes;
- d. Driving while intoxicated or under the influence of drugs or any other alcohol or drug related offense within the past five years;
- e. Vehicular manslaughter;
- f. Reckless driving within the past three years.
- g. Exposure of the sexual organs or any crime defined under Chapter 796, Florida Statutes, pertaining to prostitution.
- h. Any person who is required by law to register as a sexual offender/sexual predator, career offender or convicted felon pursuant to Sections 775.13, 775.21, 775.261, 943.0435 or 944.607,

Florida Statutes.

If at any time it is determined that the driver has been convicted of any of the aforesaid crimes, the certificate holder shall not permit the driver to operate any permitted vehicle under his authority in Lee County. The certificate holder shall maintain a permanent registry containing information on the identity of each driver permitted to operate a permitted vehicle under his authority. Said permanent registry shall be available for inspection and/or copying by the County during the certificate holder's regular business hours.

Applicants who misrepresent information provided under this section shall not be issued a certificate, or if issued, may suffer suspension or a revocation of the certificate.

3. Each driver will annually submit a current passport size picture photo with the Lee County Sheriff's Office background check approval (issued within six weeks) to the County. Upon review and acceptance of the background report, the County will issue the Driver Identification Card to the driver. The processing fee charges for this will be \$5.00 in accordance with and/or modified by the Lee County External Fee Manual. The driver operating an authorized vehicle for hire will display their driver identification card in clear view for passengers, and readily available to provide for review to any authorized enforcer of this Ordinance. The Driver Identification Card can be issued at any time throughout the year and will be valid for one year.

D. Vehicle Standards.

1. All vehicles used as a vehicle for hire will be required to pass a visual inspection completed by the Lee County Sheriff's Office. The inspection shall include the following:

- a. Working lights; head lamps, tail lights, turn signals, brake lights and emergency flashers;
 - b. Properly operating doors, locks, windows, and seat belts;
 - c. Tires must have the legal minimum tread depth;
 - d. Acceptable rear view and side view mirrors; Any additional requirements as set forth in Section 316.2399, Florida Statutes.
2. All vehicles, when operating as a taxi, will be required to display the company name on each side of the vehicle with a minimum letter height of four inches.
 3. Any company with a taxicab license that is valid in Fort Myers, Cape Coral, or the Lee County Port Authority (Demand Taxicab Agreement) is exempt from the vehicle inspection in this section.

SECTION SIX: ANNUAL CERTIFICATION

Certificates shall be issued on an annual basis coinciding with the County's fiscal year, October 1, through September 30.

SECTION SEVEN: RENEWAL AND REVOATION OF CERTIFICATE

- A. Upon application, the County may renew the certificate of any applicant who:
1. Holds a valid certificate; and
 2. Has provided the County with new or updated information, documents, and fees listed in Section Five; and
 3. Pays a late processing fee in addition to the fees in Section Five, of \$25.00 for any renewal application filed after October 1.

- B. The County may revoke or deny a certificate for cause, if an applicant has given the County false or misleading information in their application.
1. The County will notify the applicant in writing of the revocation or denial and state the reason(s) for this action.
 2. Any revocation shall continue for one (1) year and the applicant may not be issued a certificate for one (1) year from the date revocation becomes effective.
 3. If subsequent to revocation, the County finds that the basis for revocation becomes corrected, the applicant shall be granted a certificate.
 4. The County shall inform the applicant in the revocation or denial letter of his right to appeal such decision to the Board of County Commissioners within 20 days of the written letter of the County Manager.
 5. The Board of County Commissioners shall hear any appeal for denial or revocation provided the applicant requests such an appeal within 60 days of the letter from the applicant requesting an appeal.

SECTION EIGHT: RENEWAL AND REVOCATION OF DRIVER IDENTIFICATION CARD

Driver identification cards must be re-issued annually following Section 5-C of this Ordinance. The Lee County Sheriff's Office has the authority to immediately revoke and/or remove the Driver Identification Card for any driver who has violated any part of Section 5-C of this Ordinance and shall notify the County of such action. The County will notify the Owner/Certificate holder, in writing, of the driver identification card revocation.

SECTION NINE: DISPLAY OF CERTIFICATE

Any business offering vehicles for hire shall display its vehicle permit sticker in plain view on the lower right side of the front windshield of each of its vehicles as further described herein. The County will provide the amount of stickers as necessary by the application for a fee of \$5.00 per sticker.

SECTION TEN: TRANSFERABILITY OF CERTIFICATE

No certificate may be sold, assigned, mortgaged or otherwise transferred.

SECTION ELEVEN: MINIMUM INSURANCE REQUIREMENTS

A. No person shall operate a business covered under this Ordinance unless covered by a comprehensive general liability insurance policy insuring the public against bodily injury or property damage resulting from or incidental to the operation or use of a vehicle-for-hire. At a minimum, all certificate holders operating taxicabs shall have in full force and effect motor vehicle liability insurance for each taxicab owned by, leased to, or otherwise controlled by operating company equal to or greater than \$100,000 for bodily injury to any one person, \$300,000 for injuries to more than one person which are sustained in the same accident, and \$100,000 for property damage sustained in one accident. All certificate holders operating charter service vehicles shall have in full force and effect motor vehicle liability insurance for each charter service vehicle equal to or greater than \$100,000 for bodily injury to any one person, \$300,000 for injuries to more than one person which are sustained in the same accident, and in the amount of \$100,000 for property damage sustained in one accident. Said insurance shall inure to the benefit of any person who shall be injured or killed, or who shall sustain damage to property proximately caused by the negligence of the certificate holder, all drivers, his masters, servants and agents. Nothing in this section shall be construed to waive

applicable state or federal laws, if any, which require a higher amount of minimum insurance.

B. Evidence of said coverage is subject to acceptance and approval by Lee County Risk Management prior to issuance of this certificate.

C. Coverage shall remain in full force during the entire time that the certificate is valid and outstanding. Failure to provide such proof shall render the certificate null and void, and of no further use and effect.

SECTION TWELVE: REGULATORY PENALTIES

A. Violation of the provisions of this ordinance, or failure to comply with any of the requirements, shall constitute a misdemeanor of the second degree. Any person who violates this ordinance or fails to comply with any provision shall upon conviction thereof be fined or imprisoned, or both, as provided by law, and in addition, shall pay all costs and expenses in the case.

B. The County shall have the authority to exempt persons from the terms of this Ordinance, for a period of up to 48 consecutive hours during special programs. No person shall receive more than one such exemption for any 48 hour period.

SECTION THIRTEEN: AREA OF ENFORCEMENT

The area of enforcement of this provision shall include all of the area located within the unincorporated area of Lee County, except if under the jurisdiction of the Lee County Port Authority. Any vehicles operating at Southwest Florida International Airport or at Page Field Airport are required to obtain the applicable Lee County Port Authority permits, as well as comply with any other requirements as deemed necessary by the Lee County Port Authority.

SECTION FOURTEEN: MEANS OF ENFORCEMENT

The provisions of this ordinance shall be enforced by members of all duly authorized law enforcement agencies within Lee County.

SECTION FIFTEEN: SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any Court of competent jurisdiction, the decision of such Court shall not affect or impair any remaining provisions of this ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

SECTION SIXTEEN: CONFLICTS OF LAW

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted Lee County ordinance or Florida Statute, the more restrictive shall apply.

SECTION SEVENTEEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Manager, or the County Manager's designee, without need of public hearing, by filing a

corrected or re-codified copy of same with the Clerk of Circuit Court.

SECTION EIGHTEEN: EFFECTIVE DATE

This Ordinance, if adopted by the Board, shall take effect immediately upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Tammara Hall made a motion to adopt the foregoing Ordinance, seconded by Commissioner John E. Manning. The vote was as follows:

JOHN E. MANNING	AYE
BRIAN BIGELOW	AYE
RAY JUDAH	AYE
TAMMARA HALL	AYE
FRANK MANN	AYE

DULY PASSED AND ADOPTED this 9th day of August, 2011.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chair

APPROVED AS TO FORM:

BY: [Signature]
Office of the County Attorney

