

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 140028

Amending Chapter 76 Article II, Taxicab Code, by enacting five new sections which will allow a charitable non-profit transportation vehicle to operate within the City of Kansas City, Missouri, revising the definitions and renumbering of ordinances.

WHEREAS, there is currently a non-profit group that has expressed interest in operating charitable non-profit transportation vehicles within the city of Kansas City; and

WHEREAS, the citizens that would most benefit from the charitable non-profit transportation vehicles are those who are blind or elderly who can no longer operate a vehicle; and

WHEREAS, the ordinance currently prohibits the operation of any charitable non-profit transportation vehicles within the city of Kansas City, Missouri; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 76, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 76-32, Definitions, and enacting in lieu thereof a new section, to read as follows:

Sec. 76-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bicycle means any device upon which a person may ride, which is propelled by human power through a system of belts, chains, or gears, and may include an electric assist motor, and has wheels at least 16 inches in diameter and a frame size of at least 13 inches.

Charitable non-profit transportation vehicle means a vehicle for hire that is used by a local non-profit charitable organization affiliated with a state or national non-profit charitable organization to transport persons who are 65 years of age or older or visually impaired.

Cruising means a method of soliciting passengers for hire by continuous or repeated operation of any taxicab or other vehicle along a street or other public way for the purpose of obtaining or picking up passengers.

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Darkness means any time from one-half hour after sunset to one-half hour before sunrise and any time when visibility is not sufficient to render clearly discernible any person or vehicle on the highway at a distance of 1,000 feet.

▲ *Department* means the neighborhood and community services department of the city.

▲ *Director* means the director of neighborhood and community services or an authorized representative.

▲ *Driver's certificate* means evidence of authorization to operate vehicles in the services authorized under this article.

▲ *Group riding* means an arrangement between individuals whereby they pool their private transportation resources, either by using the personal automobile of one member of the group with the others contributing to the cost of operating such automobile, or by rotating the use of their personal automobiles with joint contributions to the cost by the other members of the group, or when any employer provides transportation for his employees, and for none other, for a charge. The term "group riding" shall not be deemed to include the operation of a taxicab, jitney or other vehicles for hire, or the commercial transportation of persons by public or private conveyances, whether on regular routes or special trips, between different localities or otherwise; and all such taxicab, jitney or other commercial operations shall continue to be subject to the existing ordinances applicable thereto.

▲ *Jitney* means any automobile, motor bus or other self-propelled or human propelled vehicle not regulated by any local, state or federal authority which is run, driven or operated upon or along any street, between definite or substantially fixed points or terminals or along a definite or substantially fixed route, whether entirely within the city or partly within and partly without the city, and carrying passengers for compensation, or furnishing passengers transportation for compensation upon or along the streets, from, to and between definite or substantially fixed localities or districts, whether such compensation is payable per trip, weekly, periodically or otherwise, directly or indirectly.

▲ *Judgment* means a final judgment by a court of competent jurisdiction of any state or of the United States, upon a claim for relief for damages, including damages for care and loss of services because of bodily injury to or death of any persons, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on any agreement or settlement for such damages arising out of the ownership, maintenance or use of any and all motor vehicles operated pursuant to the taxicab permit issued by the city.

▲ *Livery vehicle* means a public six-passenger or less motor vehicle with driver included, for hire only by written agreement for exclusive use at a charge fixed in advance.

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Motor bus means a motor vehicle designed and constructed for the general transportation of passengers for hire and possessing a manufacturer's rated seating capacity for ten or more passengers.

Multi-passenger human powered vehicle means a pedicab that is pedal driven by the passengers while the steering and braking is controlled by the driver.

Pedicab means a bicycle which is made of a solid frame that has three or more wheels, that transports or is capable of transporting passengers on seats attached to the bicycle, that is operated by human power, and that is used for transporting passengers for hire.

Person means an individual, firm, corporation, association, partnership, or cooperative unless the context requires a contrary interpretation.

Permit means an official document issued by the neighborhood and community services department authorizing operation of a licensed taxicab, livery vehicle, sightseeing vehicle or pedicab on the streets of the city.

Permit holder means the person to whom a permit has been issued.

Public way means any street and any public or private driveway or parking area open to the public.

Radio dispatch means a two-way radio system including cellular or wireless telephones capable of handling voice and/or data communications for the purpose of dispatching vehicles and receiving calls from the drivers of such vehicles.

Rate card means a card issued by the director for display in each taxicab, which contains the rate of fare then in force.

Shared ride means a nonexclusive use of a taxicab by two or more unrelated passengers having either a common point of origin or a common destination point, but traveling in the same general direction.

Sightseeing vehicle means a public passenger vehicle with driver furnished, for hire on regularly routed sightseeing tours, at a charge or fare per passenger or per hour fixed by agreement in advance, provided further that such sightseeing vehicles are:

- (1) Not to be used for point-to-point transportation of passengers or goods;
- (2) To be returned to a regular place of garage or point of origin of the regularly scheduled tour between hires; and
- (3) Not to cruise in search of patronage.

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Software means the object code versions of any applications, programs, operating system software, computer software languages, utilities, other computer programs and related documentation in whatever form or media, including the tangible media upon which such applications, programs, operating system software, computer software languages, utilities, other computer programs and related documentation are recorded or printed, together with all corrections.

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Taxicab means a public passenger motor vehicle with a passenger carrying capacity of six or less with driver, furnished for hire on a call or demand basis to transport persons, packages or messages, where the route traveled and trip destination are controlled by the passenger, and at a charge or fare based upon time and mileage and recorded and indicated on a taximeter.

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Taxicab company means an individual, firm, corporation, association, partnership, or cooperative that owns, controls and operates a taxicab service utilizing taxicab permits of which it is the holder.

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Taximeter means a meter instrument or device attached to a taxicab, which measures the distance driven and the waiting time upon which the fare is based.

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Taxicab stand means a place designated only for taxicabs to await passenger pick-up where the drive must remain with the vehicle at all times.

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Taxicab/livery zone means a place designated only for taxicabs to await passenger pick-up or to receive calls for service.

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Third-party transportation app means a software application available to users for download onto a smartphone or other electronic device for vehicle transportation purposes.

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Third-party transportation app company means an individual, firm, corporation, association, partnership, or cooperative that owns, controls and operates a third-party transportation app.

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Vehicle means any taxicab, livery vehicle, sightseeing vehicle, charitable non-profit transportation vehicle, and pedicab as used in this article section.

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Section 2. That Chapter 76, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by adding Sections 76-47, Charitable non-profit transportation vehicle, 76-48, Charitable non-profit transportation vehicle driver's certificates, 76-49, Charitable non-profit transportation insurance requirements, 76-50, Suspension and revocation of permit and driver's certificate, and 76-51, Hearing, to read as follows:

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Sec. 76-47. Charitable non-profit transportation vehicle.

(a) It shall be unlawful for any person to operate a non-profit transportation vehicle unless a non-profit charitable organization, as defined in this chapter, shall have first obtained a permit from the director. Application for a permit shall be made by a non-profit charitable organization on a form furnished by the director.

(b) Any local non-profit charitable organization desiring to operate non-profit transportation vehicles shall submit the following:

- (1) A written application for a permit or the renewal thereof to the director which application shall include the full identification of the applicant including its business and email address;
- (2) The past experience, if any, that the applicant has had in rendering such service to the public;
- (3) A vehicles in service form, provided by the director, to include the make, model, vehicle identification number and other information for each vehicle used to provide non-profit transportation as defined in this chapter;
- (4) Such further information as the director may reasonably require.

Sec. 76-48. Charitable non-profit transportation vehicle driver's certificates.

(a) No person shall operate a non-profit transportation vehicle upon the streets of the city, and no person who owns or controls such vehicle shall give permission for it to be so driven, and no vehicle authorized by the city under this article shall be so driven at any time for hire, unless the driver of the vehicle shall have then in force a driver's certificate issued under the provisions of this section. Every person desiring to operate a non-profit transportation vehicle shall:

- (1) Be 18 years of age or older;
- (2) Be of good moral character;
- (3) Hold an A, B or C license in the State of Kansas or an A, B or C CDL license or an E license in the State of Missouri. The applicant shall include the number of the license on the application for the driver's certificate under this article.

(b) A driver's certificate shall not be issued to any person who:

- (1) Has been found guilty of, pleaded guilty to or been convicted of a felony (federal or any state) for first degree murder, second degree murder, first degree arson, first degree assault, forcible rape, forcible sodomy,

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kidnaping, first degree robbery, voluntary manslaughter, or first degree assault of a law enforcement officer.

- (2) Has been found guilty of, pleaded guilty to or been convicted of a felony or misdemeanor (federal or any state) for sexual offenses including but not limited to first degree child molestation, second degree child molestation, sexual misconduct involving a child, first degree sexual misconduct, second degree sexual misconduct, third degree sexual misconduct, and sexual abuse.
- (3) Is now or has ever been registered as a sexual offender with any state, county or local government.

(c) Investigation. After a complete and fully executed application for a driver's certificate has been filed with the director, the director shall cause the application to be investigated. The director's request for the criminal background investigation shall include a review of all criminal records available including federal, all states, and the records of all counties in the State of Missouri, and in particular records regarding the registration of persons who have been found guilty of, pleaded guilty to or been convicted of sexual offenses.

(d) Fee. The driver's certificate provided for in this division shall not be issued or renewed until the fee for such certificate shall have been paid. A non-refundable application fee as determined by the director will be assessed to the applicant to defray the cost of investigation and the application process.

(e) Granting or denial; appeals.

- (1) After completing the investigation, the director shall determine whether a driver's certificate shall be granted to the applicant. Such certificate shall bear the genuine signature of the applicant.
- (2) The director's grant or denial of an application for a driver's certificate or the renewal thereof shall be based on information provided in the application as well as any report submitted by an investigator, the police department or from the results of the background investigation. In addition to the qualifications set forth, the director shall consider any cause that may exist for suspension or revocation under section 76-50 in his determination on the renewal of a driver's certificate. Within ten days after issuance of notice by the director of his intention to deny such application, the applicant may submit a written request for a hearing, which shall be held in accordance with section 76-51. Appeal of the director's decision following a hearing shall be effected pursuant to section 76-78.

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(f) Expiration. All driver's certificates shall expire on the last day of the month three years after the date of issuance. A driver's certificate may be renewed by the director upon written application on the form provided by the director.

(g) Certificate. An appropriate certificate shall be furnished to each driver by the director, showing his certificate number and the year for which the certificate is issued. Every non-profit transportation vehicle driver, while on duty as such, shall continuously wear such certificate on the outside of his shirt or coat in such manner as to make such certificate easily seen.

Sec. 76-49. Charitable non-profit transportation insurance requirements.

(a) It shall be unlawful to operate a non-profit transportation vehicle unless and until the applicant for such permit, in addition to all other requirements set forth in this code, shall file and maintain with the director, for each vehicle to be operated, a policy of liability insurance in accordance with this division.

(b) Amount; conditions.

(1) The charitable non-profit transportation provider or applicant for permits under this article shall maintain liability insurance with liability limits of at least \$25,000.00 for injury to, or death of, one person, by reason of the carelessness or negligence of the driver or operator of such vehicle, and \$50,000.00 for injury to, or death of, more than one person, resulting from a single accident, by reason of the carelessness or negligence of the driver or operator of such vehicle, and \$10,000.00 for damage to property, including property of a passenger carried in or on the vehicle, resulting from any single accident, by reason of the carelessness or negligence of the driver or operator of such vehicle, with a deductible, if any, not to exceed \$500.00 and \$25,000.00 for uninsured motorist coverage for passengers as that coverage is defined in RSMo § 379.203. All claims shall be referred to the insurance company for handling by a claims representative located in the Kansas City metropolitan area.

(2) All insurance coverage must be written by companies that have A.M. Best's rating of B+V or better, and are licensed or approved by the state to do business in the state. The liability insurance required to be maintained under the provisions of this section shall be a policy under which the insurance company obligates itself to handle claims under the coverage thereof and to indemnify the charitable non-profit transportation provider and the driver or operator of the vehicle, and pay to the claimant all amounts which the insured becomes legally obligated to pay under the policy, in excess of any applicable deductible. A certificate of insurance reflecting all endorsements shall be filed with the director, who shall have the authority to require a true copy of the insurance policy at his discretion.

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- (3) The liability insurance policy shall contain a provision for continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon.
- (4) The liability insurance policy shall contain a separate endorsement requiring the insurance company to notify the director in writing of any change in coverage, or cancellation of the policy, at least ten days prior thereto.
- (5) A valid certificate of insurance issued by a company providing the required insurance policy shall be available for inspection at the charitable non-profit transportation provider's principal place of business. The certificate shall include all of the following:
 - i. The full name of the insurer;
 - ii. The name and address of the insured;
 - iii. The insurance policy number;
 - iv. The type and limits of coverage;
 - v. The specific vehicles insured;
 - vi. The effective dates of the insurance policy; and
 - vii. The certificate issue date.

(c) Unlawful claims handling practices. It shall be unlawful for a charitable non-profit transportation provider under this article, or anyone acting on its behalf, to fail to act at all times in good faith in dealing with claimants or to commit or perform any of the following in handling of claims:

- (1) Fail to present to claimants, and those alleging injury or loss at the scene of an accident, at the earliest possible opportunity, a form approved by the director providing information about assistance in filing a claim;
- (2) Misrepresent or fail to or refuse to disclose the public liability protection provided by the charitable non-profit transportation provider pursuant to the requirements of this section.
- (3) Fail to promptly acknowledge all written and oral communications with respect to claims; and

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(4) Fail to adopt and implement standards for the prompt investigation of claims.

(d) Claim records. The charitable non-profit transportation provider shall maintain records of all claims for bodily injury or property damage, which shall include:

- (1) The name and address of the claimant
- (2) The date the charitable non-profit transportation provider was notified of the claim;
- (3) The date of the incident giving rise to the claim;
- (4) The location of the incident;
- (5) The current status of the claim.

Such records shall be made available for inspection by the director or his representative during regular business hours in the office of the charitable non-profit transportation provider for a period of one year after final disposition of each claim.

Sec. 76-50. Suspension and revocation of permit and driver's certificate.

(a) *Suspension.* The director may suspend the driver's certificate issued under this article for a period not to exceed 90 days if, following a hearing held in accordance with section 76-51, he finds that:

- (1) A permit holder or the holder of a driver's certificate issued under this article has violated any provision of this code or any regulation properly issued by the director of this code; or
- (2) A permit holder under this article has failed to satisfy, within 30 days, any final judgment upon which execution has been lawfully issued against such person for damages on account of bodily injury, including death, or damage to property resulting from the ownership, maintenance, use or operation of any vehicle licensed pursuant to section 40-292; or
- (3) A permit holder under this article has employed or permitted an agent or employee to hire or employ or contract with any person not holding a valid driver's certificate issued under the provisions of this code and has permitted such person to operate a non-profit transportation vehicle for hire upon the streets of the city; or
- (4) The holder of a driver's certificate issued under this article has been convicted of a violation of any municipal ordinance or state law prohibiting hit and run, driving under the influence of alcoholic beverages

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or drugs or reckless or careless driving, or of any offense whereby his or her acts or omissions caused bodily injury to his or her passengers or the public in the operation of a vehicle pursuant to this code.

(b) *Revocation.* The director may revoke any or all permits or the certificate of the permit or certificate holder if, following a hearing held in accordance with section 76-51, he finds that:

- (1) A permit holder or the holder of a driver's certificate issued under this article has committed three or more acts constituting grounds for suspension in accordance with subsections (a)(1) through (4) of this section within a 12-month period or has operated or allowed another to operate under his or her suspended permit or certificate; or
- (2) A driver's certificate or one or more permits were obtained by misrepresentation or fraud, including knowingly providing false information concerning matters covered in section 76-48 on the application therefor; or
- (3) The holder of a driver's certificate issued under this article has been convicted of committing a felony or any crime against a passenger of a vehicle operated pursuant to this code.

(c) *Issuance of new permits after suspension or revocation.* No new permits will be issued to a permit holder while any of his permits are under suspension. No new permits will be issued to a permit holder for a 12-month period following revocation of one or more of his permits.

Sec. 76-51. Hearing.

(a) Whenever the director has knowledge of any action or condition which would constitute grounds for the suspension or revocation of any driver's certificate issued under this article, or other reasonable cause to believe such grounds exist, he shall hold a hearing to ascertain all facts in the matter and determine whether or not the subject driver's certificate should be suspended or revoked. Not less than ten days prior written notice shall be served on the person holding such driver's certificate by personal service or mailed by certified or registered mail to him at his last known business or residence address, setting out the reason for the hearing and the conditions under which the hearing will be held. The driver's certificate holder shall have full right to be represented by counsel, to produce witnesses, and to cross examine all witnesses who may appear against him. All procedures in such hearings shall be recorded stenographically, mechanically or electronically or by a combination thereof and shall be transcribed at the expense of the party requesting the transcription. Subpoenas shall be issued by the director for any witness whose presence is desired at any hearing or proceeding before the director to suspend or revoke a permit or certificate, and such subpoenas may be served by any member of the city police department or any holder of a special officer's

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commission issued by the board of police commissioners. Such subpoenas shall be served and return thereon shall be made in the same manner provided by law in civil suits in the circuit court of this state.

(b) Witnesses may also appear voluntarily at such hearings and testify. Before any witness shall testify in any such hearing, he shall be sworn by the director to tell the truth and nothing but the truth. The director's decision and order shall be in writing and shall include, if so requested, findings of fact and conclusions of law. No suspension or revocation ordered by the director following a hearing in accordance with this section shall become effective until ten days after the order has been issued. Appeal of the director's decision can be pursued in accordance with the provisions of section 76-78.

Approved as to form and legality:

Kathy Adams
Assistant City Attorney

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