CHARLOTTE

Charlotte City Council

Community Safety Committee

Meeting Summary for September 16, 2010

COMMITTEE AGENDA TOPICS

I. Subject: **Community Prosecutor Program**
Action: Directed staff to issue a follow-up report to Council.

II. Subject: **Towing Ordinance**
Action: Directed staff to bring back an updated Draft Ordinance based on the conversation.

III. Subject: **Passenger Vehicle for Hire Ordinance**
Action: Directed staff to work with the "Black Car" industry.

COMMITTEE INFORMATION

Present: Patrick Cannon, Patsy Kinsey, Andy Dulin, Edwin Peacock
Time: 12:10 pm – 1:55 pm

ATTACHMENTS

1. Agenda Package
2. Community Prosecution.ppt
3. Tow/Boot Handout from Preferred Parking

DISCUSSION HIGHLIGHTS

Chairman Cannon called the meeting to order and asked everyone in the room to introduce themselves.

I. Community Prosecutor Program

Chairman Cannon stated that this item was referred at the August 23 City Council meeting to review potential funding for a pilot Community Prosecution Program. He stated that the Committee has in front of them a revised information sheet because there were a few errors in the numbers that previously went out (copy attached). Assistant City Manager Eric Campbell said that Deputy Chief Kerr Putney will review this item with the Committee. He added that CMPD has applied for several grants and did not receive funding for those grants.

Deputy Chief Kerr Putney thanked everyone for attending to hear about Community Prosecution. He then began reviewing the "Community Prosecution" presentation (copy attached). He stated that the Community Prosecution is based on two main concepts. The first is it's geography based, which is consistent with the Chief's philosophy of neighborhood policing. The second is the problems vary greatly based on neighborhoods. Community Prosecutors can focus specifically on issues that are plaguing specific neighborhoods.

Deputy Chief Putney said that a number of large cities have successfully implemented community prosecution. CMPD feels that Community Prosecution supports two of the most critical components of their crime reduction strategy: 1) crime reduction at the neighborhood level and 2) targeting of chronic offenders. CMPD is broken into 13 different divisions, with 39 response area teams, which are led by one response area commander. He stated that the whole point of having 39 response area commanders was to have great accountability and engagement at the neighborhood level. A Community Prosecutor would work with those response area teams in the two or three divisions that would be piloted. The big plus to a Community Prosecutor is the interaction with the community folks.

The focus on chronic or repeat offenders gives the CMPD an opportunity to prioritize their resources and their partner's resources (referencing the District Attorney's office). In Community Prosecution, once the offender is arrested, the case will be presented to the Community Prosecutor and they will review it and talk about whether or not the case qualifies for enhanced sentencing. They can talk about some of the benefits and/or strengths of those cases up front. Deputy Chief Putney went on to say the Community Prosecutor would handle the case from arraignment through final disposition, while keeping the residents informed of the progress of those cases. That is a key component of this program because that is a big concern and frustration from a lot of our citizens.

Deputy Chief Putney stated that the success of the program is based on a number of things. One, are we doing our job getting the right people taken off the street? Two, do we reduce crime with those efforts? Three, do we increase the citizen's perception of safety in those neighborhoods?

Deputy Chief Putney said that initially the pilot was for three geographic areas. It has since been narrowed down to two. Those areas have not been determined as of yet, but they would be piloted in two different types of areas across the City. Council member Dulin questioned if it would be in either the east or west side of the City. Deputy Chief Putney said it would probably be determined by a section that deals with more violent crime issues and the other would be more property crime related issues.

Deputy Chief Putney said one of the things they will need to make this program work is electronic monitors. They will also need a crime analyst; someone who will stay on top of the analysis of the data. They will keep them focused on the right people, the right crime types and the specific areas that are problematic. Deputy Chief Putney then went on to discuss the cost of the program. He then asked if anyone has any questions.

Peacock: Can you tell me why you need 20 additional electronic monitors? Also, I'd like to know the number of crime analysts you employ. My question around that ties to my concerns when we were working on the Rental Property Ordinance. There is an analyst just to manage rental properties. I thought what we were paying that individual was excessive and a very generous job for someone not working on the front line.

Putney: We have 18 crime analysts currently, 11 of those are assigned specifically to patrol. We are asking for 20 electronic monitors because the number of offenders in a given division is at about that range. Our problem now is all those people don't necessarily get to the current electronic monitoring program because they are competing all across the City. This gives us the opportunity to have our equipment readily available.

Peacock: In 2008, Manager Walton utilized a good amount of money to buy more electronic monitors. These are the same type of monitors, but we are looking for more that is specific to only Community Prosecution?

Putney: Yes, that is correct. We want them to only be used within the Community Prosecution Program.

Peacock: Who monitors the other ones?

Putney: Our Electronic Monitoring Unit.

Peacock: Why do we have an Electronic Monitoring Unit that is monitoring all those other hundred plus people that are wearing one and why would we need something different?

Putney: It comes down to geography. The area that we would pilot in would not have to compete with everyone else across the City. It's a small amount of resources that we have with electronic monitors. Also, to be able to determine if the program is going to be successful, we will need to have those resources readily available.

Peacock: What are the reasons why we haven't had this up until now? What are the arguments against this program?

Putney: Our issue has been buy-in. It would cause an impact for our Prosecutor's Office because of the way they are structured. They have specialists for property crimes and violent crimes. This program would need more generalists. The two prosecutors would have to be able to manage cases that involve both persons and property crimes. The other issue is trying to make sure everyone in the justice system sees the value of having that interaction at the neighborhood level that I spoke about earlier.

Dulin: It is the prosecutor's business to have Community Prosecutors. It would seem to me that the Prosecutor's Office ought to pay for these expenses and then designate them to community resources. This is another example of an expense that taxpayers shouldn't have to pay for. Why do you think we should start pushing Charlotte to start hiring prosecutors when that's a different governmental body?

Putney: The funding source that would support it normally isn't working. We can wait on the State, but this money has already been allocated for this purpose and we are saying this would be a better use. Philosophically, I understand where you are coming from, but we are already in the game and filling a void. We just think the money can be better used to suit the needs of our neighborhoods.

Kinsey: I'm interested in the money part too. I have always said that once you take over the responsibilities of the State, they never take them back. I understand that there is some money we have set aside that this would come from, but that's a one-time set aside. Who would pick this up, if Council decided they were going to do the pilot program, if the Police Department decides they want to continue it?

Putney: Our expectation is it would be funded as all of our other prosecutors are funded.

Kinsey: So, it would go back to the State?

Putney: Yes. That would be our expectation. If we are going to fund the justice system then we want to fund a program at the neighborhood level that will help implement our strategy even better.

Barnes: When Chief Monroe made a presentation to us on this topic it talked about three divisions, Eastway, North Tryon, and Metro, being a part of the geography. Are those areas still under consideration or have the statistics changed there?

Putney: There is still a need in all three of those divisions. We are also considering the diversity of crime. Those three divisions would all still be very good pilot sites for the program.

Barnes: Also, a few years ago we received a presentation regarding the resources the City currently fund in the District Attorney's Office. I believe there were about eight investigators and maybe some others as well.

Captain Willis: There is a staff of criminal justice support that is over there and they are civilians. I believe there are also four or five that are staffed in the District Attorney's Office, one in the Trial Court Administrator's Office, and one in the Public Defender's Office.

Cannon: I'd like to highlight that we are talking about a Charlotte-Mecklenburg issue. City Government should take on this responsibility. We have to look at what it's worth right now. We recently had a meeting in Raleigh for the Coalition of Mayors and we found out that only 2.4% of the entire budget goes to public safety needs for this entire state. We have to send a message to Raleigh about additional funding needs. One, no more cuts and two, we need more

money to be able to have things like this funded. Do you know if the other programs in the nine municipalities you listed were funded by the state or by the cities?

Putney: I don't know the answer to that. I would assume it was funded by the state, but would have to double check.

Cannon: If it was done by the state, we would probably need to look at the time it was done. The economic woes were probably a lot different than now.

Dulin: If we are going to be talking to our legislative delegation that goes to Raleigh, as they crank up the long session, we might be able to get something done. It might be good to get this in front of the Governmental Affairs Committee. I'm very interested in staying in "our lane." Paying for the prosecutors is outside of "our lane" and that concerns me. I'd be glad to spend the time lobbying for this money.

Cannon: That is a good suggestion, in terms of getting something to the Governmental Affairs Committee for the future life of a program like this. This is merely a pilot program. We put sunsets on things all the time. If it doesn't work, then we can scrap it. However, if it does, then maybe we ought to continue forward.

Dulin: If we hire these prosecutors and crank them up and the program doesn't work, they don't get fired after a year. Do we hire them and say, "We'll let you know in 8 months if we will be able to keep you?"

Cannon: It would be noted in the job description and let it be understood there is no promise behind the pilot.

Putney: We do that all the time with our crime analysts. We do hire people and when we have attrition, a lot of times we have the opportunity to absorb them.

Kinsey: We wouldn't hire these people. The District Attorney's Office would be in control of them.

Putney: Yes, that's correct. I can't assure you that they don't have vacancies already.

Cannon: The money we were talking about before happens to be dealing with technology and it was supposed to be going to the District Attorney's Office. We really need to think about the community and let's try to get somewhere with this.

Barnes: I have a question for Ruffin Hall. Can you tell us what the balance is of the reserve that is left?

Hall: There is about $445,000 in the Criminal Justice Technology Reserve.

Barnes: I think it would be helpful for the full Council to get this information that we received today so they would be aware of our discussion and the nature of the dialogue.

Dulin: At that point, would we then redirect the conversation to the Governmental Affairs Committee to go for further? We do have the money to cover for one year, but I would be much more agreeable if we knew we were going to make a full effort to get state or federal funding moving forward. If we had a full Council presentation, would a motion be made to move it back to Governmental Affairs Committee?

Barnes: I'm envisioning a response to the full Council regarding Deputy Chief Putney's presentation and the ways it has changed since Chief Monroe's original presentation. At that same time, or concurrently, it might make sense to refer to them a discussion of whether or not we can pursue funding from the state or the feds for a long term commitment, but that would be up to the full Council. In order to respond to what the Council asked us to do, I think we should respond to them by giving them the information we received today in the yellow follow-up report that goes out to the Council.

Cannon: That sounds good. There is no action to be taken. Thank you to all who have given us information today. Let's move on to the next item.

II. Towing Ordinance

Chairman Cannon introduced Mark Newbold and Major Eddie Levins and stated that the Committee will continue their review of the Towing Ordinance. Mr. Campbell added that at the last regular meeting of the Community Safety Committee, the staff was directed to hold a public input session to review the proposed ordinance that had been presented to the Committee. That was held on August 19. There was also an additional meeting with industry representatives prior to that on July 13. He said that today they would quickly review the major themes and comments. There are verbatim comments in the packets (copy attached).

Major Levins stated that they have received a lot of input from the industry folks, lot owners and many other interested parties. He then began reviewing and reading through the "Towing Ordinance Input" presentation (copy attached). He described the concerns the industry folks, parking lot owners, apartment complex managers and citizens had about different sections of the proposed ordinance. At the end of the presentation Chairman Cannon asked if the Committee had questions.

Barnes: Regarding the use of credit cards, those are valid issues from both sides. The courts don't accept credit cards. If you require the car's owner to provide cash or certified funds or a cash advance off a credit card, that would seemingly allow them to pay and allow the owner to receive whatever it is due for the violation. Did you give any thought to narrowing the payment options to either cash or certified funds?

Newbold: We have. We recognize there are some pluses and minuses to every type of scenario. My personal opinion is there is not a compromise that everyone will agree on for this subject. We will just have to make a policy call on that.
Cannon: No matter where we go, a retail store or a restaurant, everyone takes that risk. The concern would be the fees that the companies would have to pay to have a credit card machine.

Barnes: The reason I would distinguish it is because if I go into a retail store and buy something, I'm getting something that I value for using the credit card. In this case, someone towed my car and I'm mad about it, I think people will be much more inclined to say they are disputing the charge.

Cannon: I understand what you are saying. Don't we also have to draw the distinction between a debit card and a credit card? Visa cards serve as your debit card and credit card. An alternative would be to not allow a true credit card, like American Express. If they are using a debit card, the money comes straight from their bank account.

Barnes: I think you can dispute debit cards. Can they go to the ATM and get a cash advance on a credit card?

Levins: Yes. I'd also like to say that this is the cost of doing business. There is a possibility that it can be disputed. Also, another big issue from the wrecker driver is their safety and the time it takes to be out there and dealing with people. If they have to take them to an ATM to get money, all that does is increase the time they are there with this angry person. Credit cards would shorten that time to just get away from them.

Dulin: Are there mobile credit card machines? If they have 15 trucks, they would have to go buy 15 different machines to put in their trucks.

Levins: Yes.

Dulin: Do you know what the cost of that is?

Citizen: It's $675 a piece, plus your annual fee.

Cannon: It depends on the merchant.

Kinsey: How difficult is it to dispute a charge? Does it take a long time? Do you have to hire a lawyer? I wonder how many people would really do it.

Shah-khan: My understanding is that if it's a debit charge, you would just call your bank and raise the issue and the bank would investigate. The bank would send you forms requesting information for you to provide to them and they will continue the process.

Cannon: They'll typically put the money back in your account as they go through their investigation.

Kinsey: So, if I were towed and tried to get my money back and they proved that I was towed, the towing company is going to get the money anyway. It just might be later.
Shah-khan: I'm not sure how they treat the payment to the merchant. It could mean money is delayed, but not necessarily denied.

Peacock: In your evaluations of the towing companies and the parking lot owners, did you all distinguish between companies that are based in the Center City versus the ones in the suburbs? Were you finding costs to be different around our region for different operators and is that reflected in this information? If you have parking lot owners that are primarily Center City type lots, they are also taking on other costs by being in the Center City, as opposed to a building owner located somewhere else.

Levins: No, and we hadn't heard any concerns about that until today when we received a note from Mr. Levine that said he felt there were differences in the cost. We looked at the City as a whole and it had not been broken down by areas.

Cannon: Regarding the process of getting a complaint number, how long does one have to wait to get that?

Levins: It's a matter of minutes.

Dulin: What number do they call?

Levins: We would create a separate number just for that, but right now they are calling 311.

(Council member Peacock left at 1:15 p.m.)

Dulin: I'll tell you my general feelings on this. I'm concerned about the cost of ramping up credit card machines in each truck. I also don't think it makes sense to have to call the building management to get an "okay" before they tow. I do like the idea of the wreckers calling and getting a number before they tow. I also like the idea of having someone at the lot two hours past the last tow. Maybe the tow truck driver who brings in the last car has to stay an extra two hours in case someone calls them. I think that is fair.

Kinsey: How would the company determine it was the last tow?

Levins: By the complaint number. It could be two hours from that time.

Kinsey: Is the company going to say we will cut off towing at 2:00 a.m. or will they send out a radio to all their trucks saying, "okay, this is the last one?"

Newbold: If the company, by policy, stops towing at midnight or 1:00 a.m. then they would stay open for an additional two hours. There were other discussions and people said, "what happens if my car is towed at 8:00 p.m. and I've been at a show and come out four hours later?" The presentation that was made to us was if a company decides they would stop trespass tows at midnight, then they would stay open two hours past that. There is a gap that could happen.

Cannon: I think were we are is to determine what we want to have a second look at or if we want to leave it as is. Mr. Dulin has already raised some issues about what he likes. I also agree that the two hour measure is a good idea.

Levins: The fees are also an item that needs to be looked at.

Barnes: With respect to the fees, what are they now for a tow? Is there a statutory base limit on the fee? Is there a limit on any penalty they would pay for being in the parking lot itself?

Newbold: Under the current ordinance, it only applies to passenger vehicles and the cap is $120 with an all inclusive fee. This year, the state law provided further guidance and said it could be a reasonable fee. It also focused on wrecker locations outside of the City limit, so they put a 10-mile limit on that. Dana Fenton was helpful in getting language in there that made sure that the statute will not preempt our ability to have our own ordinance.

Barnes: So, the car can't be towed more than 10 miles from where it was parked?

Newbold: Our ordinance says it has to be within the City limits.

Barnes: How frequently do we have to tow something with more than 4 wheels?

Newbold: I can't answer that question, as far as numbers goes.

Barnes: I recognize that there may be one instance out of a year where someone has to tow an 18-wheeler. If it only happened one time a year, then I don't know that we need to be adding that as a component to what we are doing. If you have an instance where vehicles with more than 4-wheels are being towed, on a regular basis, then perhaps we do need to consider it.

Newbold: Vehicles that are larger than a passenger vehicle could be different types of pickup trucks. The issue that came up with 18-wheelers is complaints were received from parking lots who were concerned about big trucks destroying their asphalt.

Barnes: Have we considered allowing the fee go up to $120 for any vehicle weight up to 4 tons, and any vehicle weighing more than that amount could carry a fee up to $500 or more?

Newbold: That is part of the proposal we have to you all now. Do you want to have a sliding fee depending on the weight? The current draft uses the weight definitions that the state uses.

Barnes: Okay, that's good.

Kinsey: In the past we talked about booting. Where did we leave that? Is that a separate charge?

Newbold: We weren't getting too many complaints on booting. It essentially stays the same. Some people believe that the $50 fee should be higher, which is what it is now. Under the current ordinance you either tow and charge $120, or you can boot and charge $50.

Cannon: So, on fees, is everyone okay with the $120?

Dulin: Do we set that fee or does the industry set that fee?

Newbold: Currently, you do.

Dulin: So we are regulating their business.

Newbold: Yes. It's one of the areas that Congress allowed for trespass tows.

Dulin: I'm comfortable with where that is. I don't want to double dip with a boot and tow. I'm not comfortable with a wrecker company having to put credit card machines in each of their trucks and adding that burden to them as well. I'm comfortable with calling for a tow number from us. I'm not comfortable with the companies having to crank up a 24/7 operation, but I am comfortable with the two hours after the last tow. Would we say two hours after the last pick up or would we say two hours after the last car rolls onto the lot?

Levins: I suggest we go by the complaint number.

Barnes: Will the customer have the complaint number?

Levins: If they call us and ask us we can research it and give them that number.

Barnes: If the business' stated closing time is midnight, then it should be 2:00 a.m. If the business' stated closing time is 11:00 p.m., then it should be 1:00 a.m.

Levins: I understand what you are saying.

Barnes: Let me get back to the credit card issue. If my car gets towed, do I go to the tow truck and pay the $120 or do I go to the lot and pay the money and get my car back?

Levins: You could or you would have to go to the lot where they've stored it.

Barnes: My expectation is that the credit card processing machine would be at the lot and not in the truck.

Levins: It could be at either one.

Barnes: Do most or many of the lots take credit cards now?

Levins: We don't know for sure, but most of our experiences is that it's a cash business.

Dulin: I am okay with having one credit card machine at the office. That makes sense. For the next meeting, we need to know what the credit card machine inventory is at the lots and let them know that we are leaning towards asking them to be able to accept credit and debit.

Kinsey: I certainly support the credit card machine at the company. I think we have to be very careful with the 2 hour thing because it could be misinterpreted. The company may have to say we will stop towing at a certain time.

Levins: That was a comprise that was thrown out there. Our opinion is if you operate 24 hours a day you need to stay open 24 hours a day.

Kinsey: Well, as far as I'm concerned, if they don't agree to stop at a certain time then they are operating 24/7 and they have to stay open 24/7.

Cannon: On the debit/credit card situation, when you go and do the research on who has them at their businesses, I'd like to find out what the level of disputes have been for those you do find in place at some of these companies. That will give us a balance of understanding how great they are. Secondly, I'm fine with the fees. I don't think the time is now to impose additional fees on anyone. I also like the two hour piece. I'm okay with using the complaint number as the start of the two hours.

Barnes: The question though, is how would the consumer know? That's why I'm suggesting 2:00 a.m. or two hours after the business closes, whichever is the latest.

Cannon: Let's continue to work on that piece.

Barnes: Also, with respect to the debit/credit cards issue, you may want to check with Wells Fargo and Bank of America and their card processing folks. They can tell you the number of disputes they had based upon parking.

Cannon: What about the authorization of a property manager issue? That seems to be going backwards. I think that should come out. So, let's wrap this up. Staff should get together and bring us back all the information to look at the recommendations and allow us to debate that and then we can go ahead and make a recommendation to the full Council then.

Campbell: One point that we need to check on is in the proposed ordinance we outlined sign requirements, but I understand there was some state legislation that dictated a timeframe for signage. So, we will make sure we are in line with that.

Newbold: We will double check that, but I think Dana Fenton was able to get us preempted from that.

Dulin: Speaking of signs, it's another expense for the tow truck operators to have to buy new signs. Would there be room on the newer signs to say, "open until 12:00 a.m." or something like that?

Campbell: We can check.

Cannon: Thanks so much for the presentation. We are way over time and we need to move on to the next item.

III. Passenger Vehicle for Hire Ordinance

Chairman Cannon asked that they get the quickest overview possible since they are so short on time and said this will only serve as an information session, so it will be fine to highlight the main points. Mr. Campbell said that they have met with the drivers and the companies. He said they will give a quick overview of some of their concerns and we will outline the key components of a medallion system that the drivers are saying they want. He then turned it over the Senior Assistant Attorney Mujeeb Shah-Khan.

Mr. Shah-Khan stated that he will quickly discuss the main points of the presentation and stated that the first few slides are more about the history of this item. He then began reviewing the "Passenger Vehicle for Hire Review" presentation (copy attached). He pointed out what Chapter 22 does and read through a snapshot of the industry.

Mr. Shah-Khan stated that the drivers want to replace the current driver's permit with a medallion system, similar to New York's and Chicago's system. They say they would make changes to the system, so it's not identical to New York or Chicago. The key points are they would want to have a medallion that allows them not to be affiliated with a company and they contend it would be a better system for drivers, customers and companies. Mr. Shah-Khan stated that they contacted New York and Chicago's staff to determine how their systems are set up (see chart for detail).

Mr. Shah-Khan said that some other issues the drivers have expressed concern about are the franchise fees, which can range from no fee per week to $540 per week, and that depends on the level of services offered by the company. The drivers have also stated that they feel they are being abused by the companies. They also contend that the "Black Cars" are getting an opportunity to transport hotel guest while they are prevented from picking up at hotels. The drivers would ask the Council to overhaul the entire ordinance and they contend the current version ignores their rights.

Mr. Shah-Khan stated that the company owners have a different perspective. They feel the ordinance needs to be tweaked, but not overhauled. They also agree that "Black Cars" are hurting their industry. They feel the medallions are unnecessary and contend that the medallions would be the way for the drivers to control the industry and create value where none exists. The company owners also suggest that it's too easy to become a company and there should be better barriers put into place. They also contend the PVH fees are too high and the vehicle age limit should be reviewed.

Mr. Shah-Khan read through Option 1 and Option 2 slides and requested direction from the Committee. Chairman Cannon stated that the Committee needs to determine if they want to implement a medallion system. He also said the "Black Car" issue should be looked at for further study and find out if we need to work out a level playing field.

Kinsey: I would tend to support Option 1 listed on the slide.

Cannon: I'm not sure what it means on the Option 1 slide, bullet #3, where it says "allow PVH

Unit staff to continue to work with "Black Car" companies to ensure the companies comply with the PVH Ordinance." Right now they aren't included in the same level of regulation that the cab company is regulated by.

Campbell: The intent of Option 1 was to be more of a "business as usual" concept, to not go in and redo the ordinance, but to work on the compliance piece. Option 2 is to sit down with the "Black Car" industry and work with them, as well as the other industries, to make sure that we have some options to bring them further in compliance.

Dulin: I think the options are a little confusing when talking about "Black Cars." Both options are having you meet with the "Black Car" industry.

Campbell: The key word in Option 1 is the "Black Cars" to comply with the ordinance, so there would be no changes. The key for Option 2 is to work with them to see what changes could be altered.

Shah-khan: Also in Option 1, is would be the PVH Unit staff working with them and in Option 2 it would be a staff meeting of Mr. Campbell and myself and the other representatives.

Dulin: I'd like to ask that staff move bullet point #2 under Option 2, and add it as the last bullet point under Option 1. Or combine the two bullets. Also, I'm not in favor of the medallion system.

Cannon: Is there any opposition to continuing to operate in the manner that we are currently operating, without the medallion system? (No opposition expressed) Hearing no opposition, we will leave that as it is and we will come back to address the other issues that has been outlined by the Committee. So, the expectation is to bring back bullets 1, 2 & 3 under Option 1 and bullet 2 under Option 2. We will reconvene on Monday, October 18 at 3:30 p.m.

(Chairman Cannon adjourned the meeting at 1:55 p.m.)

Community Safety Committee

Thursday, September 16, 2010; 12:00 – 1:30 pm
Room 280

Committee Members:	Patrick Cannon, Chair Patsy Kinsey, Vice Chair Michael Barnes Andy Dulin Edwin Peacock
Staff Resource:	Eric D. Campbell

AGENDA

I. <u>Community Prosecutor Program</u>

Staff Resource: Deputy Chief Kerr Putney

At the August 23, 2010 City Council meeting, a referral was approved for the Committee to review potential funding for a pilot Community Prosecution Program.

<u>Attachment</u>: 1. Community Prosecution Summary.doc

II. <u>Towing Ordinance</u>

Staff Resources: Mark Newbold & Major Eddie Levins

The Committee will continue its review of the City's Towing Ordinance and CMPD's towing enforcement strategies. Staff will review feedback received during the public input meeting on August 19. No decision is requested at this meeting.

<u>Attachment:</u> 2. Feedback from Public Meeting.doc
3. Public Meeting Summary.doc

III. <u>Passenger Vehicle for Hire Ordinance</u>

Staff Resources: Mujeeb Shah-Khan & Major Doug Gallant

At the June 28, 2010 City Council meeting, a referral was approved for the Committee to review the City's Passenger Vehicle for Hire Ordinance (Chapter 22). No decision is requested at this meeting.

<u>Attachment:</u> 4. PVH Review.ppt
5. PVH Ordinance.doc

<u>Next Scheduled Meeting</u>: Monday, October 18 at 3:30 pm in Room 280

Distribution:	Mayor/City Council	Curt Walton, City Manager	Leadership Team
	Mac McCarley	Stephanie Kelly	Rodney Monroe
	Jon Hannan	Kerr Putney	Mujeeb Shah-Khan
	Major Gallant		

Community Prosecution

What is Community Prosecution?

Community Prosecution is a concept under which prosecutors are assigned to a specific geographic area to work with police and residents in identifying the major crime issues and offenders in their assigned areas. The prosecutors then work with police in building cases against those offenders and taking those cases through the judicial system.

Community prosecution is based on the premise that the role of the prosecutor is much more than simply prosecuting a case in court. Community prosecutors are expected to assist in solving public safety problems, preventing crime, and improving public confidence in the justice system. To that end, prosecutors are much more engaged with citizens than under traditional prosecution models. Prosecutors attend community meetings, including meetings with business associations, and interact with citizens to hear their concerns about crime in their neighborhoods and those offenders who are creating the most harm in the area. Community prosecution recognizes that crime problems may vary widely in different areas of the city and prosecutors base their priorities on those crimes that are of greatest concern in their assigned areas. Community prosecution takes on the dimensions of community policing with prosecutors working to understand and solve problems in their assigned areas; in some jurisdictions, community prosecutors work out of offices in their assigned areas.

While community prosecutors are much more engaged with police and citizens they maintain their judicial independence by being hired and supervised by the District Attorney.

The success of community prosecution is measured by the number of chronic offenders who are taken off the streets through prosecution, as well as through crime reduction and citizen perception of safety in their assigned areas.

Where Has Community Prosecution Been Implemented?

A number of large cities have successfully implemented community prosecution. They include:

Denver, Colorado
Washington, D.C.
Indianapolis, Indiana
Minneapolis, Minnesota
Portland, Oregon
Austin, Texas
Dallas, Texas
Atlanta, Georgia
Richmond, Virginia

Why Does CMPD Support Community Prosecution?

Community Prosecution supports two of the most critical components of CMPD's crime reduction strategy-crime reduction at the neighborhood level and targeting of chronic offenders.

CMPD emphasizes crime reduction at the neighborhood level and places that responsibility on the Response Area Teams. Each of the thirteen patrol divisions is divided into three response areas. The Response Area Teams set crime reduction goals based on the crime and offender issues in their small area of the city and develop the enforcement and deployment plans to achieve them. A Community Prosecutor would work closely with Response Area Teams in his/her assigned area to identify problems and offenders that need to be addressed. The prosecutor would spend time in the neighborhood and have an opportunity to observe crime and quality of life issues firsthand. The increased interaction with citizens would give the prosecutor an enhanced perspective on the effects of crime in a neighborhood and provide an opportunity to work with police and residents in setting crime reduction and prosecutorial priorities.

CMPD has established a Priority Offender Strategic Team (POS-T) that targets chronic offenders for enforcement and arrest. Chronic offenders are individuals whose criminal behavior has a significant impact on crime and/or fear of crime in a community. Individuals who meet defined criteria are placed on a priority offender list. Officers monitor those offenders, coordinate enforcement efforts, maintain and share intelligence and develop cases against priority offenders. If a priority offender is arrested for the commission of a crime, the case would be presented to the community prosecutor for review, including whether the case would qualify for enhanced sentencing. The Community Prosecutor would then handle that case from arraignment through final disposition and keep neighborhood residents informed of the progress of the case as it goes through the criminal justice system.

CMPD Proposal

CMPD would like to implement Community Prosecution on a trial basis in two geographically diverse patrol divisions that have high rates of Part One crime. In conjunction with the Community Prosecutors, CMPD would like to have funding for 20 additional electronic monitors for each of the two patrol divisions selected for the study. Electronic monitoring provides effective and structured supervision for chronic and dangerous offenders under court supervision. The CMPD electronic monitoring program, which includes a GIS component, received the 2009 International Association of Chiefs of Police Excellence in Technology Award for large police agencies. The department would also like to add an additional Crime Analyst to focus solely on electronic monitoring. The duties for this position would include entering electronic monitoring data, completing reports, providing analytical support, and managing information on individuals on electronic monitoring.

A one-year budget for a two division trial for community prosecution is as follows:

Personnel:

Two Community Prosecutors @ $85,906		$171,812
One Electronic Monitoring Analyst		$ 36,106
	Total:	$207,918

Fringe Benefits

FICA, Retirement, Insurance, 401K	$46,832

Equipment

3 laptop computers, monitors, and docking stations	$ 4,260
Lease of 40 electronic monitors	$ 62,050

Total	**$321,060**

Feedback from Meetings on Proposed Predatory Towing Ordinance

As part of the Community Safety Committee's work on proposed changes to the towing ordinance, staff held two meetings to receive input on the changes from wrecker drivers, parking lot managers, and property managers. The first meeting, on July 13, 2010, was attended by a small group of wrecker drivers and parking lot managers who had been attending the Committee meetings where the proposed changes were discussed. Approximately 50 people attended a public meeting on August 19, 2010.

The comments received from the public input sessions have been organized by the pertinent sections of the ordinance.

Signage:

- Property owners should do a better job with signage
- Signage in shared parking lots is confusing
- No Parking signs are unfair to lots that are fee based
- Property owners have concerns about cost and aesthetics of signs

Fees for Trespass Tows

- Fees need to be increased since costs for wrecker companies have increased since the last fee adjustment
- Wrecker companies should be allowed to recover costs of fees such as getting title to a vehicle from DMV
- Vehicle storage fees should be on a sliding scale depending on how many days it takes for a vehicle owner to reclaim a vehicle
- Storage fees should increase if a vehicle such as a trailer takes up more than one space in a wrecker lot
- Wrecker companies should be allowed to charge half the cost of a tow if the car has been loaded on the wrecker when the vehicle owner returns and request that the vehicle be dropped; this is a common practice in a number of other cities
- If the wrecker company cannot collect at least half the fee, then the person who was stealing the parking space wins
- If a vehicle is booted before tow, and later dropped upon request, the wrecker company should be allowed to charge for the boot
- Some wrecker companies collect parking fines for parking lots; those fees should be over and above the towing fee
- Parking lot owners have no effective way to recover lost revenue if parking citation fees cannot be recouped when vehicle is picked up at storage facility; some drivers park illegally time and again in the same lot; drivers should be required to pay parking ticket as a condition for reclaiming their vehicles; otherwise the ordinance facilitates trespassing
- Wrecker drivers say that police officers tell them that disputes with citizens are civil

matters but the drivers feel they are not if the vehicle is being towed from private property where the driver of the vehicle has completely disregarded signage and policies established by the owners and managers of the property

Towing Process

Requirement to Take Credit Cards

- Would companies be required to take all cards or just Master Card and Visa?
- Vehicle owners call and report credit card stolen and wrecker company gets no payment
- Credit card charges can be disputed months after a charge is made
- Many wrecker companies prefer to take only cash, money orders, or certified checks
- Private citizens say that in these economic times, a credit card may be their only option to reclaim a vehicle

Owner Right to Remove Property from Vehicle

- Leads to claims of lost or stolen property
- Police Officer should retrieve property from vehicle if owner cannot
- May want to list property that can be removed-prescriptions, glasses, etc.

Vehicle Owners Must be Able to Reclaim Vehicles 24/7

- Creates safety concerns; many vehicle owners are intoxicated and/or hostile; have threatened personnel at storage lots, shot at them or tried to run over them
- 24/7 service at storage lots is unacceptable; will drive up costs by having to hire additional personnel
- 45 minutes is too short a time for a wrecker driver to get back to his lot so a car can be reclaimed; should be at least an hour or a prearranged time; if vehicle owner does not show up at prearranged time and wrecker driver must go back to lot a second time, there should be an additional charge.
- Wrecker drivers have concerns about liability if they must release a vehicle to an intoxicated driver
- An alternative to 24/7 might be requiring the lot to remain open two hours after the last tow is completed

Vehicle Not Towed from Private Lot Until Lot Manager Signs Authorization:

- Wrecker drivers feel this would effectively end “patrol” tows
- Property Managers do not want to come out to sign tow authorizations, especially in the middle of the night. They suggest that the wrecker drivers carry a copy of the property lease and instructions for towing provided by the property manager as proof of their right to tow vehicles.
- Allowing towing companies to tow illegally parked vehicles from low income

apartment complexes makes those properties safer; if vehicles don't have proper parking permits, they are trespassing and should be towed right away

- May need to be some distinctions between private commercial lots and apartment complex lots

Vehicle Not Towed until Complaint Number Obtained from CMPD

- Process takes time; can take up to 20 minutes
- Wrecker drivers feel it is dangerous to wait at the towing site, especially in some high crime areas
- Should use technology; be able to e-mail tow information

Towing Ordinance Public Meeting
August 19, 2010; 6:30 pm, Room 267

Assistant City Manager Eric Campbell thanked everyone for attending and described the purpose of the meeting. He informed the audience that they would hear recommendations and concerns from the audience and take those recommendations back to the Community Safety Committee. The Committee will then decide how they want to move forward based on the concerns staff outlines for them. The Committee will deliberate on the ordinance and develop an ordinance that they would then pass on to the full Council for consideration.

He then introduced Police Attorney Mark Newbold. Mr. Newbold said he would review the presentation and discuss the changes in the ordinance and then they would open the floor for discussion.

Mr. Newbold then began reviewing the presentation (copy attached).

Question & Answer/Comment Session

Citizen 1: I collect fees for parking companies, but it's an option for the person picking the car up, whether they want to pay or not. They have 14 days to pay or they can pay me $25 when they get the car. That is in addition to the $120 towing fee. The car owner gets 2 receipts, one for the towing and one for the violation ticket.

Newbold: What happens if they don't pay the parking ticket?

Citizen 1: That's between the parking company and them. I'm out of it at that point. It's not a condition on the lease.

Newbold: Would you be opposed to a notice at the front of your business that says you can pay the parking fee now, but it's not mandatory?

Citizen 1: It says that right on the ticket.

Newbold: I don't think that's illegal to do that.

Citizen 2: Say the car was towed and he owed $25 and refused to pay. He comes back to park in the same lot; do we have the right to tow him away because he didn't pay us?

Newbold: The way the current ordinance is written, if they don't have permission to be on that lot or if they are using space that is assigned to someone else, and you have the signs posted to begin with, you would have the ability to tow the vehicle again with another fee.

Citizen 3: In that same aspect, we also have cars that continue to do that and they never pay. When we do tow, the way it's going now, you are basically saying we have no right to get our money, if you don't allow it to be included with the tow. There are people that we tow because they have 10 tickets and they have had them for months and they just aren't going to pay them.

Newbold: How much do you charge for an administrative parking ticket?
Citizen 3: $25

Newbold: So, if I had 10 tickets, that's $250. Do you recoup that as a debt through any of the processes that we currently have?

Citizen 3: The only way to recoup it is if they pay when they pick up their car. If you have it totally voluntary, than we still have no way to collect it.

Newbold: What other remedy do you have to recoup the money?

Citizen 3: Small claims court, but we aren't going to go through all that. Either way, these people are stealing.

Newbold: The current proposal doesn't take that into consideration. We can take a look at that and put some kind of proposal as an option.

Citizen 4: Some of the cities you used to review their ordinances don't have the same crime rate as Charlotte. The drivers are at risk. We come from the DC area where crime is awful and they are required to keep the lot open 24 hours a day; however, circumstances change when they have to be open that long. It's dangerous.

Newbold: If there were something in the ordinance that said you aren't towing 24/7, but it would be open for a period that you are towing a little after, is that something that interest you all?

Citizen 4: My concern is that when you are asking lots to stay open that long, there is an additional employee that will need to be employed to keep that lot open that time of night. $120 cannot compensate that once you pay the driver and you pay for fuel.

Newbold: I understand, it's a cost and safety issue. That's why we came up with the 7-7 rule in the current ordinance, but I will tell you there are people pushing for the 24/7 rule.

Citizen 4: Then is there fee increase that can be applied if they have to stay open all night?

Newbold: One of the things we are putting forward is a discussion on the need for the fee to go up. I don't set those, but that is one thing we need information on from the towing industry.

Citizen 5: It's my understanding that the Park-It service, run by the City, is at liberty to collect past due parking fees through the tow process. Can you explain that versus the private parking?

Newbold: It's a contractual process. State law does not regulate that. State law has decided to regulate nonconsensual towing from a private lot. There are different rules for on-side parking than there are for private lots. We can't change the State law. The way we handle public parking issues is through a contract. That's why they are different.

Citizen 5: That seems skewed toward the City. The City can get its past due parking fees issued by a private operator, but a private operator, 10 feet off the street dealing with the same vehicle, can't collect his past due fees.

Campbell: We aren't here to debate. If you have another question, please ask.

Citizen 5: In property law, I pay my rent and bounce a check to my landlord. They mandate that I provide them with a money order or a certified check. A credit card is not an option because they can dispute it many months after the fact. If it's an all inclusive fee like proposed and 6 months later the grieved disputes the chargers and the credit card company comes back and requests documentation, and sides with their card holder, revokes the revenue back, then you create a huge bureaucracy of having to go back to recollect the amount. My suggestion would be cash, money order and certified check's are the only way monies should be collected.

Citizen 6: You are putting more of the tow truck operators in danger with this ordinance by saying we have to stay at the site in order to get a police number before we can tow the car. I've been on the phone with 311 for up to 20 minutes before. In some of these neighborhoods, and many officers would agree, you don't just sit around in a car. I've been shot doing my job. Why are you going to put me in danger?

Newbold: So, is your suggestion that the reporting requirement would come when you are at the lot?

Citizen 6: No, I actually agree with the 30 minute timeframe that we currently have in today's ordinance. It gives us plenty of time to get the car and get out of there and call it in, that way we are all safe.

Newbold: Do you do mostly apartment complexes?

Citizen 6: I do complexes and parking lots.

Newbold: Do you give a notice to the car that is there illegally, that has been there for a day or two, or do you have the arrangement to go ahead and pick it up?

Citizen 6: We have some lots that are tagged at 24/48/72 hours or 5-7 days. Then we have some that are in the lease when the renter signs it with the apartment complex.

Citizen 7: I'm in agreement with regulating the storage side of this ordinance. At what point in time does the public safety side of this go away when the car is in my lot for a week or two, or three months? How can we get some sort of scale where the storage goes to my regular fee that the City cannot regulate my storage after a certain point?

Newbold: So you are suggesting a sliding scale? The longer it's there, the higher the cost.

Citizen 7: Yes. The other concern is filing a fee after a certain date. Through the DMV we file within 10 days.

Citizen 8: I'm a person from the public that has been towed. My car was towed at 1:00 am on a Saturday morning in the Charlottetowne Ave. area. I had no idea, because there was no clear sign anywhere in the lot that told me I couldn't park there, what happened to my car. The signage needs to be enhanced. The contact information should be on the sign. The credit card requirement is also important to add. There are people out there, in these economic times, that don't have $120. The credit card may be their only alternative. Money orders and certified checks aren't going to be a real easy thing to get your hands on on a Sunday morning. What made me the most upset when my car was towed, was the person on the phone, rudely, told me that I could come by on Sunday between 10:00 am -12:00 pm to pick up my vehicle. That's not real customer friendly, to me. If they have people out there

towing 24/7, then I think it's important to be able to get your vehicle 24/7. You are doing the service then you need to be there. I also think the fee of $120 is completely excessive and that should be considered.

Citizen 9: I do tows, but I stop at 12:00 am. However, I also do roadside assistance. I'm working 24/7, but I'm not doing tows the whole time.

Newbold: This is talking about tow-a-ways. It may be that if that provision where to get through, there would have to be additional language in there to make sure no one confuses that. This only covers tows on a private lot that is not consensual.

Citizen 9: That helps. My other concern is that there is no drop fee. We have hooked up a car that was parking illegally and now the owner has arrived before we pull out, and we have to drop that car for nothing. We don't even know if it's the owner, it's just someone with a key to the car. My proposal is that if we have the car strapped and hooked we should get something for it.

Citizen 10: Does the city take credit cards for traffic violations?

Newbold: I don't know the answer to that I would have to find out. The state controls that.

Citizen 11: I'm a property manager and I have a problem with the wording for contemporaneous authorization. That word means at the same time. Sometimes cars are towed off my lot at 2:00 a.m. and I don't want to have to get out of my bed to go to the lot to give them permission to tow a car that they already have permission to tow.

Newbold: Are you an apartment complex manager or parking lot?

Citizen 11: Apartment complex.

Newbold: Is there anything that would change your mind to say "maybe you should do that tow in the morning?"

Citizen 11: No and the main reason we have to hire a tow company is because people are violating specific things in the lease. If the car is illegal, then we allow the tow company to put a notice on the car. We also have permitted parking, which is a safety measure for our residences in certain neighborhoods. I happen to manage a C property, which is low income, and they tend to have different issues than A and B properties when it comes to parking. Allowing the tow company to come in and tow those cars when they don't have the permits have caused my property to be safer.

Newbold: So, your issue is you have lease requirements where you would like to be able to tow right away. Is it correct that you also give a notice to the owner when a car is not in compliance with its tags and it's not towed right away?

Citizen 11: That's correct. The only time they are towed right away is if they don't have the parking permit, because they are trespassing.
Citizen 12: You have a comment in there that says a person cannot interfere with a tow, but that is exactly what they are doing when they walk up, and you say we have to release the car.

Newbold: No. Interference is defined as anything other than coming up and asking for the vehicle to be dropped. If someone gets in the car while the car is up in the air or if someone sits on the car would be an example. It's a physical action.

Citizen 12: I'm also concerned about the proposal to release 24/7. You are limiting us to 45 minutes to get to the lot to open up the gates for this person to get their car back.

Newbold: Give me another time. I put 45 minutes down because I got it from another ordinance.

Citizen 12: One hour or a prearranged time. For instance, if someone says they are going to come out there at 1:00 a.m. and they don't show up and then I go back home and they call me back an hour later and say they are out there, so now I have to go back out there again and open it up?

Newbold: If you are running 24/7, under the current proposal, yes, you have to have someone there to get that car back. If you have another suggestion on how to do it, then give it to me.

Citizen 12: I'm saying if they agree to come at a certain time and don't show up, then why shouldn't there be an extra charge? They agreed to that time.

Newbold: So, your suggestion is if you have to go back twice, the fee goes up?

Citizen 12: Yes. Also, you have an intoxicated person coming to pick up the car. They get the car and leave the lot and get into an accident. Who's liable for that? The tow company, because we released the vehicle?

Newbold: I can't answer a legal question for you, but I personally don't think you are liable for it.

Citizen 13: My concern too is releasing to intoxicated people. Where does the liability stop for the wrecker company?

Newbold: I can't represent you and that is a question you need to have with your counsel. If you have a suggestion on how to fix that problem, then let me know.

Citizen 13: If you are putting the ordinance on us, then the Police Department ought to give us some answers on where our liability stands. You are requiring us to do this.

Newbold: I disagree with you. I can tell you that if you don't think that's a wise thing to do, then your comment back to me is, I don't want a 24/7 or I want a 2-hour rule, which means there is a good chance the person won't show up if they are intoxicated. Come up with another suggestion. I will tell you that I didn't make up the 24-hour rule. That is consistent with a lot of other cities.

Citizen 13: If I were in jail and released and wanted to come down to the jail and get my personal property at 2:45 a.m., could I come in and get it?

Newbold: If you are released from jail, you get your property right then.

Citizen 13: Say it's the next day. Can I just walk in and get it whenever I want?

Campbell: It sounds like her concern is the ability to get personal property out of the car.

Newbold: If it's evidence, no.

Citizen 14: You might want to list in this ordinance the personal property that can be removed from the vehicle in the lot, like prescriptions, glasses, things like that. They probably shouldn't be allowed to get things like an IPod or laptop.

Newbold: Okay, thanks for the suggestion.

Citizen 15: There is a reference in the draft to the issuance of the CMPD complaint number. I wonder what the basis for the issuance is. Is it the fact of the owner and tow company called in and said these are the specifics of what we would like to do and then it's an automatic issuance of a complaint number? Or is there a trigger mechanism and if so, what is it?

Newbold: I think the trigger mechanism for this is we want to make sure when the vehicle is towed, that we have a complaint number, so when the person calls in 2 hours later and says "my vehicle has been stolen," the first thing that happens is the dispatcher will run it and see in fact that it has been towed. By having the complaint number there, it's easy for the dispatcher to see that it's not been stolen.

Citizen 16: I suggest you keep the current 30 minute time limit that is in the current ordinance to call the tow in. I don't agree with having to sit at the car and wait for a complaint number before you can tow it off. You should enforce the 30 minutes and charge a fee to the companies that fail to call the car in within 30 minutes.

Citizen 4: I'm trying to understand this ordinance as a property manager. The leases specifically state guidelines for parking. There are things that we tow immediately, like violation of a fire lane. Does that still come in compliance with the new ordinance when we talk about parking in a fire hazard?

Newbold: I need to go back and take a look, but I don't think it attaches to the fire lanes and those types of issues.

Citizen 4: Immediate tows would be a handicap or a fire lane or a no permit.

Citizen 3: I suggest that for tows, instead of 24 hours, possibly having a 2-hour timeframe from the last tow. Also, on the contemporaneous authorization, if I hire a tow company as an agent, is that good enough for that authorization or would you expect me to come out at 2:00 a.m.?

Newbold: That's what we currently have. The proposal is to have an owner or manager for the lot to be there. I'm hearing that circumstances on private lots are different from apartment complexes; significantly, enough that maybe there ought to be something else put in there to separate it. I understand that people don't like the contemporaneous authorization suggestion and it will be looked at.

Citizen 17: With respect to the comment about the signage from the gentlemen earlier, if the Police Department enforced the previous statute by fining them and writing a ticket, a lot of this wouldn't be an issue.

Newbold: Who do you write the ticket too?

Citizen 17: I don't know. You have a penalty here for a civil fine. How many people were fined for not having proper signs?

Newbold: I'm not sure.

Citizen 17: If you are going to put this out there, then enforce what you put out there.

Citizen 9: I'm also concerned about the contemporaneous authorization as well.

Citizen 5: We operate Paid Parking in Downtown Charlotte and we write tickets first before we escalate to a wheel lock or tow. That allows us to quantify the abusers. These ordinances hinder our ability to affect revenue and return for our clients. You are making us escalate. I write 100 tickets a day. If I start implementing a process of 100-150 wheel locks a day, don't you think that will increase the CMPD's call volume? Also, I get a 60% return on a parking citation, so I'm losing 40% off the top.

Newbold: How do you collect those?

Citizen 5: We go to the Better Business Bureau and they do a collections letter for us and then we go to the collection agency after that.

Newbold: So you get 60%?

Citizen 5: Yes, but with the wheel lock we get $50 instead of $25. I get it right there or they don't get their vehicle back.

Newbold: I don't think the current ordinance prohibits that.

Citizen 5: I know, but I'm trying to be customer service friendly and not escalate things up by using a wheel lock. We are trying to encourage people to park here, but we receive hindrances to the ability to affect that process.

Newbold: Where's the hindrance?

Citizen 5: In the collection of the fees on the tow, after the fact. I have a vehicle that owes $850. I tow him 3 times a month and every time he refuses the fee, pays his $120 and he's off doing it again.

Newbold: So you want to be able to recoup the fee from a chronic offender?

Citizen 5: Yes, or at least hold the individuals accountable for the misdeeds they perpetuate. It's almost like this is a trespassers Bill of Rights.

Citizen 18: Regarding the calling in for a complaint number, 311 has no clue if a vehicle is stolen or not, so that doesn't make much sense.

Citizen 12: Major Levins indicated in another meeting that they wanted the complaint number before hand to see if the car is stolen, but now people are saying 311 wouldn't be able to tell us.

Newbold: Major Levins wants some record to know that you towed the vehicle and one way to do that is to call into 311 and they give you a complaint number. Or it could be that it goes to 911. We need to

know where the car is, so that we don't generate a stolen vehicle call. The second thing I think Major Levins was talking about, regarding why we want the person to wait until we get the complaint number, is some of the vehicles that are towed may be from a drop and is part of a crime. That gives us a little more time to figure it out.

Citizen 18: It also gives the other people time to get their coffee and come back and we have to drop the tow.

Citizen 19: I'm the guy that tries every parking complaint downtown and I have no problem with them calling and getting a complaint number, but when my drivers call in and get a complaint number, I want the company to then have the fee for the tow. That is appropriate. They caught them stealing. Once we get the complaint number they are entitled to the money. I want my drivers to be safe. This is a volatile situation and I think it's a waste of time for the Police to have to come out every time there is a problem with this. I don't like to see that we've picked up a car and then we have to give it back for free when they were the ones caught stealing.

Citizen 20: I'd like to speak in defense of the tow drivers. I run a nighttime operation in the City and a lot of that deals with the night clubs. We had an instance a couple of months ago, where a promoter from a certain radio station in the City came out and stood on the back of a tow truck and said "you aren't towing this car." There were off-duty officers on the property and they looked at us and said "this is a civil matter, the tow truck has to leave because this is his car." It's not a civil matter when it's on private property and you are in complete defiance with the ownership or management of that property.

Newbold: You are correct. Under current state law, it's a misdemeanor if the signs are up, to park in that place.

Citizen 20: Many CMPD officers use that as an escape. That takes away from the safety of the individuals working at night and takes away the opportunities from the towing company.

Citizen 9: This comes down to people choosing to park and not read. As long as the City says don't do that, but nothing happens to them, they are going to keep on doing it. You stick a $200 fine on that and I bet they won't get towed anymore.

Citizen 21: The City does the same thing when there are events two times a year. They close 4 lanes to two and then tow people. You are doing the same thing.

Campbell: Thanks everyone for coming. We will be around for a few more minutes if there are more questions. The next Community Safety Committee meeting is September 16 at noon in Room 280. They will not be making a decision at that time. We will go over your comments with them. They will still have an opportunity to change it or revise it.

Meeting ended at 8:00 p.m.

CHARLOTTE

COMMUNITY SAFETY

Passenger Vehicle For Hire Review

Eric Campbell, City Manager's Office
Major Douglas Gallant, CMPD
S. Mujeeb Shah-Khan, City Attorney's Office

September 16, 2010

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CITY OF CHARLOTTE

Referral to Community Safety Committee

- At the June 28, 2010 Citizens' Forum, several taxi drivers spoke to the Council about their concerns with the industry and their work environment.
- As a result of the taxi drivers' comments, Council referred a review of the Passenger Vehicle for Hire Ordinance to the Community Safety Committee.
- This issue is not related to the Airport Taxi Service Request for Proposal heard by the Committee and Council on September 7, 2010.

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CHARLOTTE

CITY OF CHARLOTTE

City's Authority to Regulate PVH Industry

- Section 160A-304 of the General Statutes allows the City to "license and regulate all vehicles operated for hire in the city."
- City can specify what types of taxi services can operate in the City.
- Broad authority over all passenger vehicles for hire ("PVH") – any vehicle operated by a driver providing for hire services, not just taxis.

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CITY OF CHARLOTTE

History of City Regulation

- Prior to 2000, the City had a largely informal and discretionary system of PVH regulation.
- The City recognized that the system of regulation needed to be revamped.
- On May 8, 2000, Council approved a revised Chapter 22 to create a new system of PVH regulations effective July 1, 2001.
- On August 22, 2005, Council approved amendments to Chapter 22 which modified vehicle age limit and made technical revisions to the ordinance.

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CHARLOTTE

CITY OF CHARLOTTE

What Chapter 22 Does

- Purpose in regulating PVHs is to "preserve the health and welfare of citizens" and protect citizens' property.
- Creates the Passenger Vehicle for Hire Unit within CMPD (1 Manager and 4 inspectors) who is responsible (along with CMPD) for enforcement.
- Regulates all PVHs in City:
  - Taxicabs
  - Contract Vehicles
  - Shuttle Vans
  - Para-Transit Vehicles
  - Nonmetered Passenger Vehicles for Hire
  - Limousine/Limousine Sedans/SUVs (sport utility vehicles)
- 10 year age limit for most PVHs.

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CITY OF CHARLOTTE

What Chapter 22 Does

- Creates an 11 member Passenger Vehicle for Hire Board
  - Members appointed by the Mayor, City Council, and City Manager (Mayor appoints Chair)
  - Hears appeals from citations, permit revocations and permit application denials
  - Annually sets taxi rates
- Creates licensing requirements for:
  - Drivers operating PVHs
  - PVH vehicles
  - Companies operating PVHs (such as taxi companies, transportation companies, limousines)
- Requires all drivers to receive training approved by PVH Unit.

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CITY OF CHARLOTTE

Industry Snapshot

- 92 companies are licensed to operate in Charlotte
  - 15 are taxicab companies
  - 53 are limousine/town car ("Black Car") companies
- 1240 drivers are licensed to operate PVHs in Charlotte
  - 620 are taxicab drivers
- 1110 vehicles are licensed to operate as PVHs in Charlotte.
  - 605 are operated as taxis

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CITY OF CHARLOTTE

Taxi Drivers' Issues and Contentions

- Drivers want to replace the current driver's permit with a Medallion system similar to New York's.
  - Medallions will be owned by drivers, not by companies, and will cost $200 per year
  - Number of Medallions will be limited to current number of taxi drivers, with a moratorium on new drivers
  - Medallions can be transferred only with PVH Manager's approval
  - Drivers are not required to affiliate with a company before receiving a medallion – and drivers could become independent operators
  - Better system for drivers, companies, and customers

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Taxi Drivers' Issues and Contentions

- Some companies' weekly franchise fees are too high and do not allow drivers to make a living (Franchise fees range from $0 to $540 per week – depending on the level of services offered by the company).
- Drivers feel that they are being "abused" by the taxi companies
- "Black Cars" are getting opportunities to transport hotel guests while taxis are prevented from picking up at hotels
- PVH Ordinance needs to be overhauled – current version ignores their rights

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Taxi Company Owners' Issues and Contentions

- The PVH Ordinance needs to be tweaked, not overhauled
- "Black Cars" are killing the taxi industry (fees charged by Black Cars are unregulated by the City and the PVH Board)
- Medallions are unnecessary – drivers already have flexibility and freedom to move between companies
  - Medallions are the way for the drivers to control the industry and create value where none exists
- Taxis need the ability to stage at area hotels (prevented due to contracts with "Black Car" companies)
- Barriers to entry into industry need to be considered – if it's too easy to be a company, companies and public suffer
- PVH fees are too high
- Vehicle age limits should be reviewed

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OPTION 1

- No changes to PVH system to replace driver's permits or vehicle operating permits with medallion system.
- Allow changes to taxi service at Airport to serve as possible model for later changes to PVH Ordinance including issues related to franchise fees.
- Allow PVH Unit staff to continue work with "Black Car" companies to ensure the companies comply with the PVH Ordinance.

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OPTION 2

- Request to Committee for direction for areas of study.

Next Steps

- Staff will meet with representatives of the "Black Car" portion of the PVH industry to determine their concerns with PVH Ordinance in order to obtain their perspective on PVH issues.
- Staff requests that the Committee provide its input on what areas and issues related to the PVH Ordinance it would like to review further at future committee meetings.

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CHARLOTTE
COMMUNITY
SAFETY
Passenger Vehicle For Hire Review
Eric Campbell, City Manager's Office
Major Douglas Gallant, CMPD
S. Mujeeb Shah-Khan, City Attorney's Office
September 16, 2010
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CHARLOTTE

Chapter 22 - VEHICLES FOR HIRE*

Cross reference—Businesses and trades, ch. 6; licenses, ch. 13; motor vehicles and traffic, ch. 14; streets, sidewalks and other public places, ch. 19.

State law reference—Authority to regulate taxis and other vehicles for hire, G.S. 160A-304.

ARTICLE I. - IN GENERAL
ARTICLE II. - PASSENGER VEHICLES FOR HIRE

ARTICLE I. - IN GENERAL

Secs. 22-1—22-25. - Reserved.

Secs. 22-1—22-25. - Reserved.

ARTICLE II. - PASSENGER VEHICLES FOR HIRE*

Editor's note—

Ord. No. 3065-X, adopted August 22, 2005, amended article II in its entirety to read as herein set out. Formerly, article II pertained to similar subject matter and derived from the Code of 1985, §§ 22-15—22-24, 22-31—22-39, 22-42—22-47, 22-56—22-64, 22-66—22-71, 22-80—22-95, 22-101—22-103, 22-111—22-124, 22-131—22-136, 22-145—22-151, 22-160—22-162, 22-170—22-173, and Ord. No. 2447, § 12, adopted November 24, 2003.

DIVISION 1. - GENERALLY
DIVISION 2. - COMPANY OPERATING CERTIFICATE
DIVISION 3. - VEHICLE OPERATING PERMIT
DIVISION 4. - DRIVER'S PERMITS
DIVISION 5. - PASSENGER VEHICLE FOR HIRE BOARD
DIVISION 6. - OPERATION
DIVISION 7. - RATES AND CHARGES AND POSTING REQUIREMENTS
DIVISION 8. - SPECIFICATIONS AND EQUIPMENT
DIVISION 9. - INSPECTION AND MAINTENANCE OF EQUIPMENT
DIVISION 10. - AIRPORT SERVICE

DIVISION 1. - GENERALLY

Sec. 22-26. - Purpose.
Sec. 22-27. - Definitions.
Sec. 22-28. - Passenger vehicle for hire office created; manager's reports, recommendations and duties generally.
Sec. 22-29. - Limitation on number of certificates and permits.
Sec. 22-30. - Types of service.
Sec. 22-31. - Conduct of certificate holders, permit holders, drivers.
Sec. 22-32. - Taxicab stands.
Sec. 22-33. - Penalties.
Sec. 22-34. - Appeals.
Sec. 22-35. - Enforcement by police.
Secs. 22-36—22-60. - Reserved.

Sec. 22-26. - Purpose.

The purpose of this article is to regulate passenger vehicles for hire in order to preserve the health and welfare of the citizens of the city and the protection of their property.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-27. - 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:

Accessible vehicle means a taxicab which is capable of transporting passengers with disabilities or physical impairments. Specifically, an accessible vehicle shall be of the type of commercially modified minivan with a boarding ramp at the rear of the vehicle for wheelchair access and forward facing seats in the front of the vehicle for non-disabled use. The passenger vehicle for hire manager shall maintain a list of all approved commercially modified minivans for use as an accessible vehicle. Any specific vehicle that was in service prior to August 23rd, 2005 and was operated as an accessible vehicle while meeting the requirements for such at that time shall be considered an accessible vehicle.

Affiliated means a contractual or permissive arrangement usually between a company operating certificate holder and a driver that indicates an association with, or attachment to, a service provider.

Airport operating agreement means an agreement between a passenger vehicle for hire company and the city, allowing the passenger vehicle for hire company to obtain one or more airport passenger vehicle for hire permits for any passenger vehicle for hire operating at the airport and associated with that company.

Airport passenger vehicle for hire means a passenger vehicle for hire that has been issued a vehicle operating permit and an airport passenger vehicle for hire permit pursuant to an airport operating agreement.

Airport passenger vehicle for hire permit means a permit issued to a passenger vehicle for hire company to operate an airport passenger vehicle for hire at the airport pursuant to an airport operating agreement between the company and the city.

Airport passenger vehicle for hire permit fee means a fee charged annually for each vehicle issued an airport passenger vehicle for hire permit.

Call or demand means transportation arrangements made indiscriminately and instantaneously with a request for service which shall include, but shall not be limited to, the hailing of a taxicab, passenger vehicle for hire or any other oral request for a taxicab, passenger vehicle for hire service made from a public street location, airport terminal roadway or public vehicular area as the pickup. No passenger vehicle for hire, other than a taxicab, shall engage in cruising or be operated on call or demand.

Certificate means a company operating certificate as defined in this section.

Chauffeur has the same meaning as driver, as defined by this article.

Company means a passenger vehicle for hire company to which a company operating certificate has been issued.

Company operating certificate means the license, issued by the city manager or his designee, authorizing a person to operate a passenger vehicle for hire company.

Company operating certificate holder means the passenger vehicle for hire company owner and/or the supporting service provider issued a company operating certificate for the operation of a passenger vehicle for hire company.

Contract vehicle means any passenger vehicle for hire that provides contract transportation to passengers for compensation by prearrangement with the passenger vehicle for hire company, that does not accept other passengers indiscriminately between points along highways and that does not accept compensation from any passenger. No contract vehicle shall engage in cruising or be operated on call or demand.

Cruising means the movement of a passenger vehicle for hire over public streets, airport terminal roadways or public vehicular areas in search of passengers or for the purpose of attracting passengers. No passenger vehicle for hire, other than a taxicab, shall engage in cruising or be operated on call or demand.

Driver means any person who physically operates a passenger vehicle for hire.

Driver's permit means the license issued by the passenger vehicle for hire manager to any person to enable that person to operate a passenger vehicle for hire.

For hire means a transaction whereby any money, thing of value, charge tickets, surcharge, payment, pecuniary consideration or compensation, reward, donation, remuneration or profit is paid to, accepted by, or received by the driver or an employee or the company operating certificate holder operating any passenger vehicle for hire in exchange for the temporary use by or for the transportation of a person as a passenger, whether such is paid voluntarily or upon solicitation, demand, request, contract, agreement, or as a surcharge.

Habitual criminal activity means a minimum of at least three convictions of class 2 misdemeanors or higher.

Independent owner-driver means a person, self-employed, who engages in the business of operating a single passenger vehicle for hire, as its owner and driver.

Limousine means any motor vehicle that meets the manufacturer's specifications for a luxury limousine and that provides limousine service as defined in this section. Every limousine shall have a minimum of four seats or one continuous sofa-styled seating area located behind the operator of the vehicle. No limousine shall engage in cruising or be operated on call or demand.

Limousine company means any passenger vehicle for hire company issued a company operating certificate that engages in the business of operating limousines or providing limousine service as an owner or franchisor.

Limousine sedan means those vehicles that provide executive transportation services and are necessarily limited to full-sized luxury sedans. The PVH manager shall maintain a list of all the types of vehicles that will be approved to operate as a limousine sedan.

Limousine service means the service regularly rendered to the public, not over fixed routes, which furnishes transportation by limousines for hire, based on a fee determined by increments of time and contracted for by telephone or other prearrangement with a limousine company.

Manager, PVH manager, and *passenger vehicle for hire manager* mean the city employee, agent or contractor responsible for the enforcement and inspection of passenger vehicles for hire in the city and for the administration of the passenger vehicle for hire office and this article. For purposes of this article, reference to the manager, PVH manager, or the passenger vehicle for hire manager shall include any city employees, agents or contractors designated by the passenger vehicle for hire manager to assist in the enforcement and administration of this article, as provided in subsection 22-28(a).

Manifest means a daily record, prepared by the driver, of all trips made by the passenger vehicle for hire, showing the time and place of origin, the destination of each trip and the amount of the fare.

Nonmetered passenger vehicle for hire means a passenger vehicle for hire, other than a taxicab, that is not equipped with a meter and that is operated by a driver under a prearrangement for a fixed fee based on a fee schedule filed with the passenger vehicle for hire board. No nonmetered passenger vehicle for hire shall engage in cruising or be operated on call or demand.

Para-transit vehicle means any passenger vehicle for hire that provides transportation to passengers with disabilities or physical impairments for compensation by prearrangement with the passenger vehicle for hire company and that does not include the acceptance of passengers indiscriminately between points along highways. A para-transit vehicle shall not include any transportation services to passengers with disabilities or physical impairments being offered by any governmental agency as a public purpose or by medical facilities exclusively to the patients of the medical facility. No para-transit vehicle shall engage in cruising or be operated on call or demand.

Passenger vehicle for hire means any vehicle (including limousines), which is operated by a driver and provides for hire transportation services, as defined in this section. A passenger vehicle for hire shall not include motor vehicles or motor vehicle carriers as defined in G.S. 62-259—62-279 or hotel courtesy vehicles that provide transportation services solely to patrons of the hotel. No passenger vehicle for hire, other than a taxicab, shall engage in cruising or be operated on call or demand.

Passenger vehicle for hire board means a board created pursuant to division 5 of this article to carry out the responsibilities contained in this article.

Passenger vehicle for hire company means any company issued a company operating certificate that engages in the business of operating passenger vehicles for hire as an owner or franchisor.

Prearrangement means an agreement to provide transportation by registration in advance of boarding from a specific location by a nonmetered passenger vehicle for hire. Rates will be established in one-hour increments for a minimum of a one-hour period without regard to whether the trip requires less than one hour or not or by specific written contract. The key factor in determining the cost of a prearranged non-metered passenger vehicle for hire service shall be the length of time the vehicle is in use, measured in hourly increments or an agreed-upon fixed rate by written contract. Prearrangement does not include the hailing or other oral request for immediate transportation service from a public street location or public vehicular area as the pickup location.

Rate notice means the card, displayed upon and within a passenger vehicle for hire, describing the schedule of fares charged by the passenger vehicle for hire and posted in accordance with section 22-253.

Registered vehicles means the maximum number of vehicle operating permits issued to a passenger vehicle for hire company for at least eight consecutive months of a calendar year.

Shuttle van means any passenger vehicle for hire that provides shuttle transportation to passengers to or from prescribed locations such as hotels, motels, shopping centers, business or commercial buildings, factories, stadiums, coliseums or theaters by prearrangement for a fee, pursuant to a contract or agreement, and that does not accept or discharge passengers indiscriminately between prescribed locations. No shuttle van shall engage in cruising or be operated on call or demand.

Special services permit means a license issued by the passenger vehicle for hire manager, or his designee, to a company operating certificate holder, allowing the company operating certificate holder to provide taxicab service different from the service described in this article, as provided in subsection 22-30(1)d.

Sport utility vehicle (SUV) means a luxury class four door SUV with top-end accommodation for executive transportation services. This is a non-metered vehicle with low-profile vehicle markings (same as limousine sedan requirements) used to transport persons by prearrangement. The passenger vehicle for hire manager shall make the final determination whether a specific SUV meets the luxury classification, for the purposes of determining vehicle identification (lettering and logo) requirements.

Street means any road, alley, avenue, highway, terminal roadway or any other public vehicular area within the corporate limits as they may exist or may be extended.

Supporting service provider means the person who or company that satisfies, or guarantees to satisfy, the requirements of subsections 22-64(6) and 22-66(2).

Taxicab means any motor vehicle seating nine or fewer passengers and driver operated for hire upon any street on call or demand.

Vehicle decal means an annually issued, nontransferable, numbered insignia providing exterior identification that a particular passenger vehicle for hire has a valid vehicle operating permit.

Vehicle operating permit means the license, issued by the passenger vehicle for hire manager, authorizing a person to operate a passenger vehicle for hire.

Vehicle operating permit holder means the vehicle owner and/or the supporting service provider issued a vehicle operating permit for the operation of a passenger vehicle for hire.

(Ord. No. 3065-X, 8-22-2005)

Cross reference—Definitions generally, § 1-2.

Sec. 22-28. - Passenger vehicle for hire office created; manager's reports, recommendations and duties generally.

(a)

The passenger vehicle for hire office is hereby created, and it shall be administered by a passenger vehicle for hire manager, who is hereby appointed the passenger vehicle for hire inspector. The passenger vehicle for hire manager shall be appointed by the city manager, or his designee. The passenger vehicle for hire manager may appoint or designate other city employees, agents, contractors or inspectors as may be necessary to assist the passenger vehicle for hire manager in enforcing this article.

(b)

The passenger vehicle for hire manager shall advise the city manager, or his designee, on matters covered or incidentally involved in the operation or administration of this article. The passenger vehicle for hire manager shall make such reports to the city manager, or his designee, and the city council as may be required. The passenger vehicle for hire manager shall make recommendations to the city manager on whether applicants for a company operating certificate and/or vehicle operating permit meet the eligibility criteria set out in sections 22-66 and 22-106.

(c)

The passenger vehicle for hire manager is charged with the duties required of him in this article and, in general, shall be responsible for, or may contract for, the inspection of passenger vehicles for hire and the licensing of the drivers.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-29. - Limitation on number of certificates and permits.

(a)

Pursuant to subsection 22-182(c), the passenger vehicle for hire board may recommend to the city council limitations on the number of company operating certificates, vehicle operating permits or driver's permits to be issued by the city during any calendar year. The city council may impose separate limits on each type of certificate, permit, vehicle or vehicle for hire service where the public convenience so warrants. Limits imposed under this section shall be applied to initial and renewal applications for certificates or permits. The decision to limit the number of certificates and permits shall be solely within the discretion of the city council following the recommendation of the passenger vehicle for hire board. The burden of showing that public convenience requires the issuance of such permits rests with and shall be the responsibility of the certificate or permit holder.

(b)

At least once every three years, the passenger vehicle for hire board shall consider and recommend to the city council whether limits shall be imposed on the number of company operating certificates, vehicle operating permits or driver's permits to be issued by the city.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-30. - Types of service.

Passenger vehicles for hire are authorized to provide the following types of service:

(1)

Taxicabs. A taxicab may provide the following types of service:

a.

Exclusive ride. A service involving the transportation of a party by a taxicab from a single origin to a single destination for compensation;

b.

Group ride. A service involving the transportation of several passengers by a taxicab from a single origin to a single destination for compensation;

c.

Shared ride. A service involving the transportation of several passengers by a taxicab from one or more origins to one or more destinations for compensation, as described in subsection 22-31(g); and

d.

Special service. An unusual and unique service essentially different from typical taxicab services as described in subsections (1)a.—c. of this section, requiring a special service permit issued by the passenger vehicle for hire manager. Services under this subsection include, but are not limited to, fixed route service, paratransit service, geographically or time-of-day/limited service or any other innovative services. A special service permit shall be issued under the following conditions:

1.

Application for a special service permit shall be addressed in writing to the passenger vehicle for hire manager, shall designate the proposed service in detail and shall provide

reasons why a regular vehicle operating permit is inadequate.

2.

Approval and subsequent operation under a special service permit shall be contingent upon any conditions of this article placed in the special service permit by the passenger vehicle for hire manager. Failure to carry out the conditions of the special service permit shall be grounds for revocation of the permit.

3.

Fees for the application of special service permits shall be set by the city manager, or his designee.

4.

A special service permit holder must also obtain a vehicle operating permit for the service to be provided.

5.

Unless specifically exempted in the special service permit, each service operating pursuant to a special service permit shall be subject to every section of this article.

(2)

Contract vehicle. A contract vehicle shall provide service involving the transportation of passengers for compensation by prearrangement with a passenger vehicle for hire company and which does not accept passengers indiscriminately between points along highways and does not accept compensation from any passenger. A contract vehicle shall not be operated as a taxicab by engaging in cruising or providing service on call or demand.

(3)

Shuttle van. A shuttle van shall provide service involving shuttle transportation of passengers to or from prescribed locations such as hotels, motels, shopping centers, business or commercial buildings, factories, stadiums, coliseums or theaters by prearrangement for a fee, pursuant to a contract or agreement, and which does not accept or discharge passengers indiscriminately between prescribed locations. A shuttle van shall not be operated as a taxicab by engaging in cruising or providing service on call or demand.

(4)

Para-transit vehicle. A para-transit vehicle shall provide service involving the transportation of passengers with disabilities or physical impairments for compensation by prearrangement with the passenger vehicle for hire company and which does not include the acceptance of passengers indiscriminately between points along highways. A para-transit vehicle shall not be operated as a taxicab by engaging in cruising or providing service on call or demand.

(5)

Nonmetered passenger vehicle for hire. A nonmetered passenger vehicle for hire shall provide service involving transportation of passengers on the basis of prearrangement for which passengers are charged a fixed fee not computed by a taximeter. A nonmetered passenger vehicle shall not be operated as a taxicab by engaging in cruising or providing service on call or demand.

(6)

Limousine and limousine sedan or SUV. A limousine, limousine sedan and SUV shall provide the following services:

a.

Service regularly rendered to the public, not over fixed routes, which furnishes transportation by limousines, limousine sedans, and SUVs for hire, based on a fee determined by increments of time and contracted for by telephone or other prearrangement with a passenger vehicle for hire company. No limousine, limousine sedans, or SUV shall be operated as a taxicab by engaging in cruising or providing service on call or demand.

b.

Special temporary service, which is an infrequent and unusual service requiring the pooling of foreign or unpermitted limousines and requiring a special temporary service permit to be issued by the passenger vehicle for hire manager. Special temporary services under this subsection include, but are not limited to, pooling arrangements to service the needs created by one-time citywide tourism events. The passenger vehicle for hire manager shall be authorized to issue special temporary service permits allowing duly licensed limousine companies to associate with foreign or other unpermitted passenger vehicle for hire companies to meet the demand of the special event. For purposes of this article, all foreign and unpermitted passenger vehicle for hire companies, operating under a special temporary service permit issued under this subsection, shall

be deemed a member of the company operating certificate holder's fleet. A special temporary service permit shall be issued only after compliance with the following conditions:

1.

Applications for a special temporary service permit shall be submitted by the company operating certificate holder, called the applicant, to the passenger vehicle for hire manager. All applications shall contain the following information:

i.

A description of the special event;

ii.

The requested number of passenger vehicles for hire sought;

iii.

An explanation of why the proposed service is necessary and that the existing number of permitted passenger vehicles for hire (by type) is inadequate;

iv.

The name and address of each foreign company and, if a foreign company is a corporation, a certified copy of the articles of incorporation, or if such foreign company is an association, a certified copy of the bylaws of the association;

v.

The number of passenger vehicles for hire presently operated by the applicant on the date of such application, if any;

vi.

The make, model, vehicle owner, vehicle identification number, license plate number, and passenger capacity of all passenger vehicles for hire for which application for a company operating certificate is made;

vii.

Certificates of insurance or copies of the insurance declaration page for each passenger vehicle for hire planned for use, showing policy number, coverage limits, and vehicle year, make, model and vehicle identification number;

viii.

A list of all company owners and drivers to include full name, driver's license number, social security number, and date of birth; and

ix.

The applicant shall swear that the information submitted is neither false nor misleading. Submitting, or causing to be submitted, false or misleading information is unlawful and shall be grounds for denial of a special temporary service permit and may subject the company operating certificate to revocation.

2.

The company operating certificate holder and foreign passenger vehicle for hire owner shall agree to be jointly and severally responsible for the conduct and actions of the foreign company while the foreign company provides the special temporary service and shall ensure compliance with the applicable sections of this article. Each foreign passenger vehicle for hire shall provide evidence of insurance at the limits required by the passenger vehicle for hire manager.

3.

Approval and operation under a special temporary service permit shall be contingent upon satisfaction of any condition placed on the special temporary service permit holder by the passenger vehicle for hire manager. Failure to satisfy the conditions of the special temporary service permit shall be grounds for revocation of the permit.

4.

Fees for the application of special temporary service permits shall be set by the city

manager, or his designee.

5.

A special temporary service permit shall not exceed seven days in duration. Any vehicle that operates pursuant to a special temporary service permit shall display a valid temporary service permit decal issued by the passenger vehicle for hire manager.

6.

Unless specifically exempted in the special temporary service permit, each limousine operating pursuant to a special temporary service permit shall be subject to each and every section of this article.

7.

Nothing contained in this subsection shall relieve the holder of a special temporary service permit from obtaining any and all necessary approvals as may be required to operate at the airport or from paying any fees required by the airport.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-31. - Conduct of certificate holders, permit holders, drivers.

(a)

No company operating certificate holder, vehicle operating permit holder, driver shall deceive or attempt to deceive any passenger who may ride or desire to ride in his passenger vehicle for hire in any manner, especially as to destination or the rate of fare to be charged.

(b)

No company operating certificate holder, vehicle operating permit holder, driver shall transport, or cause to be transported, any passenger to any place other than as directed by the passenger. In no event shall any company operating certificate holder or vehicle operating permit holder direct, encourage or allow any driver providing passenger vehicle for hire service to take a longer route than reasonably necessary to the requested destination, unless the driver is so requested by the passenger, except for shared ride service provided for in subsection (h). In addition, in no event shall any driver providing passenger vehicle for hire service take a longer route than reasonably necessary to the requested destination, unless the driver is so requested by the passenger, except for shared ride service provided for in subsection (g).

(c)

Drivers shall comply with all reasonable and lawful requests of the passenger as to the speed of travel and the route to be taken.

(d)

No driver shall have in his possession a lit cigarette, cigar, pipe or tobacco of any kind or incense while a passenger is being transported in his passenger vehicle for hire.

(e)

Except for duly licensed taxicabs, no company operating certificate holder or vehicle operating permit holder shall operate or allow the operation of any passenger vehicle for hire on call or demand or to engage in cruising or otherwise operate as a taxicab. No driver of any passenger vehicle for hire, except for a taxicab, shall operate a passenger vehicle for hire on call or demand, engage in cruising, or otherwise operate as a taxicab.

(f)

No driver of any taxicab shall at any time solicit passengers by any word, sign, signal (audible or otherwise) or gesture or use any word, sign, signal (audible or otherwise) or gesture to solicit patronage, annoy any person, obstruct the movement of any person or traffic or follow any person, except that within a taxicab stand, as designated in subsection 22-32(a), a driver of any taxicab located inside his vehicle or outside, but within ten feet of the taxicab, may solicit passengers by word, sign or gesture. Except as provided by this subsection, a driver of any taxicab may not solicit or have any other person solicit passengers on the driver's behalf. Nothing in this subsection shall prohibit a driver of any taxicab from alighting to the street or sidewalk for the purpose of assisting passengers into or out of his taxicab. Notwithstanding in this subsection, no driver of a passenger vehicle for hire, except taxicabs, as permitted, shall at any time solicit passengers by any word, sign, signal (audible or otherwise), gesture or by cruising.

(g)

No driver shall allow the seating capacity of his passenger vehicle for hire to exceed manufacturer's specifications.

(h)

If agreed to by the first passenger, a taxicab carrying passengers may answer other calls or pick up additional passengers, prior to taking the first passenger to his destination, provided the first passenger agrees to the amount of additional time required for the exclusive-ride trip as estimated in advance by the driver. Taxicab drivers shall specify any fare discounts authorized by the passenger vehicle for hire board to passengers participating in ridesharing. If the original passenger is a person under 18 years of age and is unaccompanied by a person 18 years of age or older, no other passengers shall be permitted in the taxicab unless permission is given in a prearranged contract by the contracting parties.

(i)

No company operating certificate holder, vehicle operating permit holder, or driver shall refuse or neglect to transport any person on the basis of race, color, religion, sex or national origin. In addition, no company operating certificate holder, vehicle operating permit holder, or driver shall refuse or neglect to transport any person on the basis of disability when such service can be provided to a person with a disability with reasonable accommodation.

(j)

No company operating certificate holder, vehicle operating permit holder, or driver shall refuse or neglect to transport any person requesting service on the basis of the time of day of the request or on the basis of the geographical area of the city to be served.

(k)

A driver may refuse or neglect to transport an orderly person upon request, only if the driver has made visual contact with the person and formed a belief that is reasonable under the circumstances that transporting such person might be unsafe for the driver, or the driver has the "off-duty" placard displayed prior to the request for service by a prospective passenger. Nothing contained in this subsection shall authorize a driver to refuse or neglect to transport any person as a pretext to the driver's noncompliance with subsections (i) and (j).

(l)

No company operating certificate holder, vehicle operating permit holder, or driver shall knowingly use, sell, handle or transport illegal or controlled substances at any time while operating a passenger vehicle for hire. In addition, no driver shall give any information to any passenger as to where or how illegal or controlled substances may be obtained.

(m)

No company operating certificate holder, vehicle operating permit holder, or driver shall maintain, use or possess a scanner or device capable of intercepting telephonic communications while operating a passenger vehicle for hire.

(n)

No company operating certificate holder, vehicle operating permit holder, or driver shall knowingly solicit, procure or give information in regard to or transport any passenger to any person for the purpose of prostitution.

(o)

All company operating certificate holders, vehicle operating permit holders, and drivers shall provide prompt, efficient service and shall be courteous at all times to the general public, to other passenger vehicle for hire drivers, to the passenger vehicle for hire manager and to any officer of the Charlotte-Mecklenburg Police Department.

(p)

No company operating certificate holder, vehicle operating permit holder, or driver shall operate or allow a vehicle to be operated in a manner which threatens, endangers or abuses a passenger or the general public.

(q)

No driver shall operate a passenger vehicle for hire while consuming, while under the influence of or while having the odor of an alcoholic beverage or controlled substance on or about his person. No company operating certificate holder or vehicle operating permit holder shall allow any driver to operate a passenger vehicle for hire while consuming, while under the influence of or while having the odor of an alcoholic beverage or controlled substance on or about his person.

(r)

Any driver charged with a criminal offense or infraction shall notify the passenger vehicle for hire manager within 24 hours and shall produce evidence of the disposition of the case as soon as it is available. Failure to do so will result in the suspension of the driver's permit.

(s)

Company operating certificate holders and vehicle operating permit holders shall be responsible for the compliance of their affiliated drivers with this section. Failure of a driver to comply with this section may result

in the issuance of citations to the passenger vehicle for hire company and/or the driver pursuant to section 22-33.

(t)

No driver shall operate a passenger vehicle for hire within the city without a valid driver's license for the type of vehicle to be operated or while his driver's license is suspended or revoked.

(u)

No company operating certificate holder, vehicle operating permit holder, or driver shall fail or refuse to surrender his company operating certificate, vehicle operating permit, vehicle decal, and/or driver's permit following a decision of the passenger vehicle for hire board not to renew or to suspend or revoke a company operating certificate, vehicle operating permit, or driver's permit pursuant to section 22-183.

(v)

No company operating certificate holder or vehicle operating permit holder shall operate or allow the operation of a passenger vehicle for hire under a company operating certificate or vehicle operating permit that is in a state of suspension or revocation.

(w)

No driver shall operate a passenger vehicle for hire while his driver's permit is in a state of suspension or revocation.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-32. - Taxicab stands.

(a)

The passenger vehicle for hire manager and the city's director of transportation, or their designees, shall jointly establish and designate taxicab stands.

(b)

Taxicabs shall enter designated taxicab stands from the rear only, and each taxicab therein must be heading in the direction of the exit. No taxicab shall stop at a taxicab stand unless there is a vacancy therein. Unless a passenger requests otherwise, taxicabs shall exit taxicab stands in the order in which they enter. Drivers shall remain in their taxicabs or within the taxicab stand so that normal operations of the taxicab stand are maintained. Taxicab drivers may leave the taxicab stand only in an emergency or to assist passengers.

(c)

No passenger vehicle for hire, except a taxicab, shall use taxicab stands in the city.

(d)

A list of all taxicab stands in the city shall be kept on file in the passenger vehicle for hire office and shall be open to inspection by the public.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-33. - Penalties.

(a)

It shall be unlawful for any person to violate any of the sections of this article.

(b)

Upon violation of any section of this article, the passenger vehicle for hire manager, or his designee, may suspend or revoke the company operating certificate, the vehicle operating permit, and/or the driver's permit held by such person.

(c)

The initial violation of any section of this article shall subject the offender to a civil penalty of up to the following:

(1)

Class A offense $200.00

(2)

Class B offense 100.00

(3)

Class C offense 50.00

Class A, class B and class C offenses shall be those offenses listed in subsection (d).

Upon the failure of an offender to pay the civil penalty or appeal the violation, such penalty may be recovered by the city in a civil action in the nature of a debt. The enforcement of this article by civil citation shall follow the procedures set out in section 2-24.

(d)

Progressive penalties may be applied for repeated violations of this article. When it is determined by the passenger vehicle for hire manager, or his designee, that the same company operating certificate holder, vehicle operating permit holder, or driver, has committed a second or a series of violations of this article within any 12-month period, progressive penalties may be imposed. If progressive penalties are imposed, progressive penalties shall be assessed by the passenger vehicle for hire manager and may be recovered by the city in a civil action in the nature of a debt. The progressive penalties shall be assessed in accordance with the following schedules:

PASSENGER VEHICLE FOR HIRE PENALTY SCHEDULES

(1)

Class A offenses.

a.

Penalties for class A offenses committed by company owners shall be as follows:

1.

Second violation of this article $ 500.00

2.

Third violation of this article 1,000.00

3.

Fourth or subsequent violation of this article 2,000.00

b.

Penalties for class A offenses committed by drivers or vehicle owners shall be as follows:

1.

Second violation of this article $300.00

2.

Third violation of this article 500.00

3.

Fourth or subsequent violation of this article 750.00

c.

A person may be charged with a class A offense by operating a passenger vehicle for hire within the city without:

1.

First having obtained a company operating certificate authorizing such operation as required by section 22-61.

2.

First having obtained a vehicle operating permit authorizing such operation as required by section 22-101.

3.

Having first obtained a passenger vehicle for hire driver's permit as required by section 22-141.

4.

A valid driver's license for the type of vehicle being operated or while his driver's license is suspended or revoked as prohibited by section 22-31(s).

5.

Owning and operating a company providing passenger vehicle for hire services without having a valid company operating certificate issued by the passenger vehicle for hire manager required by section 22-61.

(2)

Class B offenses.

a.

Penalties for class B offenses shall be as follows:

1.

Second violation of this article $200.00

2.

Third violation of this article 300.00

3.

Fourth or subsequent violation of this article 400.00

b.

A person may be charged with a class B offense by:

1.

Operating a passenger vehicle for hire within the city without displaying a passenger vehicle for hire driver's permit displayed in violation of subsection 22-146(b).

2.

Operating a passenger vehicle for hire for a company operating certificate holder other than the company operating certificate holder shown on the driver's permit in violation of subsection 22-146(c).

3.

Operating a passenger vehicle for hire within the city while the vehicle operating permit is expired in violation of section 22-107.

4.

Operating a passenger vehicle for hire within the city with an expired passenger vehicle for hire driver's permit in violation of subsection 22-146(e).

5.

Deceiving or attempting to deceive a passenger who may ride or desire to ride in a passenger vehicle for hire in any manner, especially as to destination or the rate of fare to be charged in violation of subsection 22-31(a).

6.

Transporting or causing to be transported any passenger to any place other than as directed by the passenger in violation of subsection 22-31(a).

7.

Taking a longer route to the requested destination than is reasonably necessary in violation of subsection 22-31(a).

8.

Failing to comply with all reasonable and lawful requests of the passenger as to the speed of travel and the route to be taken in violation of subsection 22-31(b).

9.

Failing to be dressed in a way so as to convey a neat and clean appearance in violation of section 22-220.

10.

Charging the passenger more than the fare shown on the taximeter or rate filed with the passenger vehicle for hire manager in violation of subsection 22-256(a).

11.

Refusing to give a passenger a receipt showing the passenger vehicle for hire vehicle operating permit number, the driver's permit number and the date and the amount of fare paid in violation of subsection 22-256(b).

12.

Operating a taxicab which is occupied by a person other than the driver without having the meter on and operating in violation of subsection 22-289(b).

13.

Transporting another passenger except the driver and any person who may be accompanying a fare-paying passenger in violation of section 22-222.

14.

Failing to report an accident involving the operation of a passenger vehicle for hire in violation of section 22-221.

(3)

Class C offenses.

a.

Penalties for class C offenses shall be as follows:

1.

Second violation of this article $100.00

2.

Third violation of this article 200.00

3.

Fourth or subsequent violation of this article 300.00

b.

A person may be charged with a class C offense by:

1.

Having in his possession a lit cigarette, cigar, pipe, tobacco of any kind or incense while any passenger is being transported in a passenger vehicle for hire in violation of subsection 22-31(c).

2.

Allowing the seating capacity of a passenger vehicle for hire to be exceeded in violation of subsection 22-31(f).

3.

Refusing or neglecting to transport any person upon request in violation of subsection 22-31(h).

4.

Failing to remain in his passenger vehicle for hire or within a taxicab stand in violation of subsection 22-32(b).

5.

Failing to operate a passenger vehicle for hire in accordance with the laws of this state and this Code and other city ordinances in violation of subsection 22-212(a).

6.

Operating a passenger vehicle for hire at a rate of speed inconsistent with existing traffic regulations, road conditions, hazards at intersections and other conditions then existing in violation of subsection 22-212(b).

7.

Operating a passenger vehicle for hire in violation of any of the remaining sections of this article.

(e)

If a person fails to pay or appeal a penalty within 30 days after the city's mailing of the notice of violation, the passenger vehicle for hire manager may suspend or revoke the person's company operating certificate, vehicle operating permit, and/or driver's permit in addition to any other action taken pursuant to this article.

(f)

A civil penalty shall be assessed against a company owner who fails to file an application to renew their company operating certificate prior to the expiration of their company operating certificate. This penalty shall be in the amount of $100.00 per day for each day beginning on the first day following the expiration of the company operating certificate when that the company owner has not applied to renew their company operating certificate.

(g)

Civil penalties may be levied against the passenger vehicle for hire company according to the total amount of civil penalties incurred during a calendar year by the passenger vehicle for hire drivers employed or contracted by or affiliated with the passenger vehicle for hire company. The amount of civil penalties shall be determined by the number of passenger vehicles for hire operated by the company and the total amount of civil penalties incurred annually by the drivers for the company, as follows:

Number of Registered Vehicles	Penalties
1—15	Annually, each $750.00 in driver penalties shall result in a civil penalty of $5,000.00
16--30	Annually, each $1,250.00 in driver penalties shall result in a civil penalty of $5,000.00
31--50	Annually, each $2,500.00 in driver penalties shall result in a civil penalty of $5,000.00
51--75	Annually, each $3,750.00 in driver penalties shall result in a civil penalty of $5,000.00
Over 75	Annually, each $5,000.00 in driver penalties shall result in a civil penalty of $5,000.00.

The passenger vehicle for hire manager shall notify the passenger vehicle for hire company of any citations issued to a driver employed, contracted by or affiliated with the passenger vehicle for hire company. The notice shall be sent to the company shown on the driver's permit.

(h)

In addition to the authority under this article to deny, suspend or revoke a certificate or permit, the city may seek enforcement of this article by instituting a civil action for injunctive relief, an abatement order or any other appropriate relief in the superior court of the county.

(i)

No company operating certificate, vehicle operating permit, and/or driver's permit shall be renewed if any civil penalty assessed under this article is unpaid or outstanding.

(j)

Any and all penalties assessed against any driver shall remain the obligation of the driver regardless of any change in his company affiliation.

(k)

This article may be enforced by one, all or a combination of the remedies authorized and prescribed by this article, section 2-21 of this Code and state law.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-34. - Appeals.

Persons found to be in violation of this article may appeal such violation directly to the chair of the passenger vehicle for hire board pursuant to section 22-151 of this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-35. - Enforcement by police.

Officers of the Charlotte-Mecklenburg Police Department shall assist in the enforcement of this article. A police officer observing a violation of this article shall take necessary enforcement action to ensure the effective regulation of passenger vehicle for hire service in the city.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-36—22-60. - Reserved.

DIVISION 2. - COMPANY OPERATING CERTIFICATE

Sec. 22-61. - Required.
Sec. 22-62. - Issuance.
Sec. 22-63. - Authorization to operate taxicab under company operating certificate.
Sec. 22-64. - Application requirements.
Sec. 22-65. - Hearing on application.
Sec. 22-66. - Issuance conditions; denial.
Sec. 22-67. - Expiration.
Sec. 22-68. - Renewal.
Sec. 22-69. - Transferability.
Sec. 22-70. - Grounds for suspension or revocation; hearing.
Sec. 22-71. - Appeal of suspension or revocation.
Sec. 22-72. - Procedure upon appeal of suspension or revocation.
Sec. 22-73. - Surrender of certificate, permit and decals after revocation.
Sec. 22-74. - Fees.
Secs. 22-75—22-100. - Reserved.

Sec. 22-61. - Required.

No person shall operate any passenger vehicle for hire in the city without first having obtained a company operating certificate authorizing the operation of such business.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-62. - Issuance.

(a)

The city council authorizes the city manager, or his designee, to issue a company operating certificate to any applicant, subject to such conditions as the city council may deem advisable or necessary in the public interest, and upon payment of a regulatory fee provided by section 22-74. A separate company operating certificate shall be required for each class of passenger vehicle for hire company, except limousines, limousine sedans, and SUVs may be operated under a single company operating certificate so long as the certificate authorizes such on its face. A company operating certificate shall be valid for a period of one year and may be renewed annually upon the approval of the city manager, or his designee, and the payment of the regulatory fees provided by section 22-74.

(b)

No company operating certificate shall be issued to or renewed by any person who shall not have fully complied with all of the requirements of this article before the commencement of the operation of the proposed service.

(c)

No company operating certificate shall be issued or renewed unless the applicant presents a financial statement to the passenger vehicle for hire manager. The financial statement shall be in the name of the passenger vehicle for hire requesting the certificate, and any bank accounts identified on the financial statement shall have been opened for at least 30 days prior to the certificate application date. In addition, the applicant shall provide a written statement verifying that the applicant is not currently a named party to any bankruptcy proceeding and that the applicant has not been a named party to any bankruptcy proceeding within seven years prior to the date of the certificate application date.

(d)

Each company operating certificate shall specify the type of passenger vehicles for hire which the company operating certificate holder is authorized to operate under that certificate. No passenger vehicle for hire company shall operate in a manner except as authorized by the company operating certificate.

(1)

In addition, no company operating certificate shall be issued to or renewed by any company that shall not have maintained and operated the following minimum number of vehicles for each type of use:

a.

Thirty taxicabs;

b.

One nonmetered passenger vehicle for hire;

c.

One contract vehicle;

d.

One para-transit vehicle;

e.

One shuttle van;

f.

One limousine; or

g.

Such other number equivalent to the number of vehicle operating permits requested.

(2)

However, the minimum number of taxicabs required for a company operating certificate holder to operate shall vary based on the following number of accessible vehicles owned, maintained and operated by the company operating certificate holder. Therefore, to obtain a company operating certificate to provide taxicab service, a company must have the following:

a.

A minimum of 30 taxicabs, if the company has no accessible vehicles;

b.

A minimum of 25 taxicabs, if the company has one accessible vehicles;

c.

A minimum of 20 taxicabs, if the company has two accessible vehicles;

d.

A minimum of 15 taxicabs, if the company has three accessible vehicles;

e.

A minimum of ten taxicabs, if the company has four accessible vehicles; or

f.

A minimum of five taxicabs, if the company has five accessible vehicles.

(3)

Pursuant to section 22-182 of this article and upon the recommendation of the passenger vehicle for hire board and approval by the city council, the city may impose limitations on the number of company operating certificates, vehicle operating permits or driver's and may require a minimum number of accessible vehicles for companies providing taxicab service.

(e)

When the company operating certificate has been issued for a passenger vehicle for hire company pursuant to this article and a vehicle operating permit has been authorized for a vehicle for hire pursuant to this article, and, with respect to taxicabs, upon determination by the passenger vehicle for hire manager that the color scheme for the taxicab company is sufficiently distinctive so as not to cause confusion with other taxicabs already operating, the passenger vehicle for hire manager, upon receipt of a fee for each vehicle operating permit and for each vehicle decal pursuant to section 22-74, will issue for each passenger vehicle for hire a vehicle operating permit and numbered vehicle decal.

(1)

Display requirements of vehicle decals shall be as follows:

a.

Limousines, limousine sedans, and SUVs. Limousines, limousine sedans, and SUVs shall display a numbered decal on the lower right front windshield for which the vehicle operating permit is issued. Any loss, destruction or defacement of the vehicle decal shall be reported to the passenger vehicle for hire manager.

b.

All other passenger vehicles for hire. A vehicle decal shall be affixed to the inside lower left rear window portion of the passenger vehicle for hire for which the vehicle operating permit is issued, in plain view from the rear of the passenger vehicle for hire.

(2)

No vehicle shall be operated without a vehicle decal affixed thereto and issued pursuant to this subsection unless, pursuant to this division, the vehicle's use as a passenger vehicle for hire has been authorized and the driver of the vehicle has been authorized to drive a passenger vehicle for hire for the company operating certificate holder to whom the vehicle decal was issued.

(f)

The privilege of engaging in the business of operating a passenger vehicle for hire in the city authorized in the company operating certificate is personal to the company operating certificate holder and limited to the specific type of vehicle(s) permitted therein. The rights, requirements and responsibilities which attach to the company operating certificate remain with the holder at all times that the passenger vehicle for hire is operating in the city under the authority of the company operating certificate. These rights, requirements and responsibilities which include, but are not limited to, the requirements of this article will remain unaffected by any agreement or contractual arrangement between the company operating certificate holder, vehicle operating permit holder and/or driver not authorized by this article, regardless of the form or characterization of the agreement between the company operating certificate holder, vehicle operating permit holder and/or driver.

(g)

The company operating certificate holder shall, if there is any change in the business address or telephone number, notify the passenger vehicle for hire manager in writing of such change within 48 hours prior to the effective date of the change.

(h)

Before allowing a driver to operate under a company operating certificate, the company operating certificate holder shall review the qualifications of the driver to operate a passenger vehicle for hire. No company operating certificate holder shall permit or allow any driver to operate a passenger vehicle for hire under the company operating certificate if, after reasonable inquiry by the certificate holder, it appears the driver to operate a passenger vehicle for hire fails to comply with this article.

(i)

The failure of a passenger vehicle for hire company to comply with this section shall subject the company's company operating certificate to revocation or suspension as provided in subsection 22-70(a)(1). Nothing in this section shall be construed as establishing a standard for civil liability for the evaluation of prospective or current passenger vehicle for hire drivers, and a violation of this section shall not be considered as evidence of negligence.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-63. - Authorization to operate taxicab under company operating certificate.

Nothing contained in this article shall prohibit any person from owning or operating a taxicab under a company operating certificate, provided a person shall:

(1)

Operate under the color scheme of a company operating certificate and use the company's depot or terminal, dispatcher service, radio equipment and meter;

(2)

Have a valid taxicab driver's permit issued by the passenger vehicle for hire manager, as provided in division 4 of this article;

(3)

Have a valid vehicle operating permit, as provided in division 3 of this article, and the vehicle shall display a valid vehicle decal; and

(4)

Be affiliated with a company operating certificate holder at all times.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-64. - Application requirements.

(a)

All applications for a company operating certificate are to be submitted by the company owner, called the applicant, on forms provided by the passenger vehicle for hire office, which shall contain the following:

(1)

The name and address of each applicant and, if an applicant is a corporation, attaching a certified copy of the articles of incorporation, or if the applicant is an association, attaching a certified copy of the bylaws of the association.

(2)

The number of passenger vehicles for hire, if any, presently operated by the service provider on the date of such application.

(3)

The color scheme for which the company operating certificate is desired, if the certificate is for a taxicab.

(4)

The make, type and passenger capacity of the passenger vehicle for hire for which application for a company operating certificate is made.

(5)

All court records of the applicant. If an applicant is a corporation or association, all court records of the officers, directors and supervising employees, including general manager, if any, shall be provided.

(6)

The applicant's submittal of the following conditional information:

a.

Existence of and access to a lawfully zoned depot or terminal on private property;

b.

Ability to provide radio-dispatched service throughout the corporate limits 24 hours a day, seven days a week, with centralized dispatching. This shall not apply to company operating certificate holders operating fewer than ten taxicabs and four accessible vehicles;

c.

Ability to provide adequate supervision of drivers operating under the company operating certificates;

d.

Evidence that the telephone number of the passenger vehicle for hire company will be listed in the next city telephone directory to be issued and that all advertised services will, in fact, be provided;

e.

Assurance that each passenger vehicle for hire operating under this certificate shall be kept clean, in good mechanical condition and in good physical condition at all times;

f.

Evidence that the applicant satisfies, at the time of the application, the minimum number of passenger vehicles for hire required by subsection 22-62(d); and

g.

Evidence that the applicant satisfies the insurance limits for passenger vehicles for hire required by section 22-213.

(b)

The applicant shall swear that the information submitted in subsection (a) is neither false nor misleading. Submitting, or causing to be submitted, false or misleading information is unlawful and shall be grounds for denial of a company operating certificate.

(c)

In providing information required by subsections (a)(1), (5) and (6), an applicant may simply refer to previous applications and reference previously submitted documents or information, provided there has been no material change with respect to the documents or information.

(d)

No application for a company operating certificate shall be accepted from an applicant who has criminal charges pending against them at the time of application. For purposes of this subsection, pending criminal charges shall not include traffic infractions.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-65. - Hearing on application.

The city manager, or his designee, may require a hearing with the applicant for a company operating certificate if the passenger vehicle for hire manager is not convinced that the applicant meets all eligibility criteria and has provided all necessary information to the passenger vehicle for hire manager as outlined in subsection 22-64(a).

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-66. - Issuance conditions; denial.

The passenger vehicle for hire manager shall authorize issuance to every applicant who files an application, as provided in this division, a company operating certificate subject to the conditions this article may require and provided:

(1)

The issuance of the company operating certificate would not be against the public interest based on the applicant's court record. However, no application for a company operating certificate shall be approved if the court record of the applicant would not make it in the public interest for the application to be granted. Convictions, commissions and pleas of guilty or no contest to any of the following shall create a rebuttable presumption that the approval of the applicant's application is not in the public interest:

a.

Sex offenses;

b.

Felonious drug offenses;

c.

Prostitution;

d.

Felonies involving violence or attempted violence;

e.

Gambling; and/or

f.

Habitual criminal activity.

Any applicant denied a company operating certificate under this subsection may appeal such denial to the passenger vehicle for hire board. All appeals shall be filed pursuant to section 22-71. No application for a company operating certificate that is denied pursuant to this subsection and for which the denial is affirmed by the passenger vehicle for hire board shall be accepted from the applicant within three years from the decision of the passenger vehicle for hire board.

(2)

The applicant shall have complied with all the sections of this article, including, but not limited to, the provision of:

a.

A lawfully zoned depot or terminal on private property;

b.

Radio-dispatched service, 24 hours a day, seven days a week, throughout the corporate limits with centralized dispatching. This shall not apply to company operating certificate holders operating fewer than ten taxicabs and four accessible vehicles only;

c.

Adequate supervision of drivers;

d.

Evidence that the telephone number for the passenger vehicle for hire company will be listed in the next city telephone directory issued and that all advertised services will, in fact, be provided;

e.

Assurance that each vehicle operating under this certificate shall be kept clean and in good mechanical condition and in good physical condition at all times;

f.

Evidence that the applicant satisfies, at the time of the application, the minimum number of passenger vehicles for hire required by subsection 22-62(d); and

g.

Evidence that the applicant satisfies the insurance limits for passenger vehicles for hire required by section 22-213.

(3)

The passenger vehicle for hire manager shall have determined that the applicant has sufficient funds to operate the projected and actual number of vehicles.

(4)

The issuance does not conflict with conditions placed by the city council on the issuance of company operating certificates.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-67. - Expiration.

All company operating certificates shall expire on a yearly basis on a date determined by the passenger vehicle for hire manager. The company operating certificate shall automatically expire if the conditions for issuing the permit, as provided in section 22-66, change without approval of the passenger vehicle for hire manager.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-68. - Renewal.

Upon application for renewal of a company operating certificate by the company operating certificate holder, the passenger vehicle for hire manager shall renew any company operating certificate or cause a new company operating certificate to be issued for the ensuing year, in the absence of any contrary evidence regarding the company operating certificate holder's fulfillment of the eligibility criteria provided in section 22-66 and compliance with this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-69. - Transferability.

(a)

Each company operating certificate issued pursuant to this division is separate and distinct and shall not be transferable by the company operating certificate holder to another person without prior approval of the city manager or his designee. The city manager shall not approve any transfer in conflict with any restrictions placed by the city council, as provided by subsection 22-62(a).

(b)

If the company operating certificate holder is a corporation, partnership or other legal entity other than a natural person, voluntary transfer of the majority of the ownership interest in the corporation, partnership or other legal entity shall result in the automatic revocation of any company operating certificate previously granted to the company operating certificate holder, unless the prospective owners of the new entity obtain prior approval from the city manager, or his designee, for the transfer.

(c)

If an application for transfer of a company operating certificate is made, the city manager, or his designee, shall require the same information required for the original issuance of the operating certificate, as set forth in section 22-64.

(d)

Upon approval by the city manager to transfer a company operating certificate, the passenger vehicle for hire manager, within 90 days of such approval, shall issue a new company operating certificate, provided that the applicant for transfer has complied with all the subsections of this section.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-70. - Grounds for suspension or revocation; hearing.

(a)

The passenger vehicle for hire manager may suspend or revoke a company operating certificate upon the occurrence of any one of the following:

(1)

The company operating certificate holder fails to operate his passenger vehicles for hire in compliance with all the sections of this article.

(2)

The passenger vehicle for hire manager finds that the company operating certificate holder submitted, or caused to be submitted, false or misleading information on his application for an operating certificate.

(3)

The company operating certificate holder ceases to operate any passenger vehicle for hire during a period of 30 consecutive days.

(4)

The company operating certificate holder of an operating certificate for taxicabs ceases to operate any taxicab, during a period of 30 consecutive days, for a minimum of 20 days at least eight hours a day, without obtaining permission for the cessation from the passenger vehicle for hire manager.

(5)

The company operating certificate holder commits any act with the intent to defraud his passengers.

(6)

The company operating certificate holder ceases to operate the minimum number of passenger vehicles for hire, as required by subsection 22-62(d) of this article.

(7)

The passenger vehicle for hire manager determines that, in the interest of the public safety and welfare, a company operating certificate should be suspended or revoked.

(b)

The passenger vehicle for hire manager may revoke a company operating certificate due to the acts of vehicle operating permit holders, pursuant to section 22-111, and due to acts of drivers pursuant to section 22-150.

(c)

The passenger vehicle for hire manager may revoke or refuse to renew a company operating certificate if the company operating certificate holder has failed to pay any penalty required under section 22-33 in a timely manner.

(d)

A company operating certificate may not be suspended or revoked until the passenger vehicle for hire manager has conducted a hearing on the matters at issue. The holder of the certificate shall have the right to be present at the hearing and shall be given at least 48 hours' advance notice of the hearing.

(e)

Company operating certificates may be suspended under this section for a period not to exceed six months.

(f)

A company operating certificate holder who has had a company operating certificate revoked under this section may not apply for a company operating certificate for a period of six months from the date of the revocation.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-71. - Appeal of suspension or revocation.

(a)

Upon a finding by the passenger vehicle for hire manager that a company operating certificate should be suspended or revoked, the company operating certificate holder shall be notified and informed of the manner in which the finding may be appealed.

(b)

The company operating certificate holder may appeal the suspension or revocation of a company operating certificate by filing with the passenger vehicle for hire manager, within ten days after the passenger vehicle for hire manager's decision is rendered, written notice of appeal. The notice of appeal shall set forth the reasons why the suspension or revocation is improper.

(c)

The suspension or revocation of a company operating certificate shall not become effective until ten days after the decision is rendered. If an appeal is filed within this period, the suspension or revocation shall be stayed pending the final decision of the passenger vehicle for hire board.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-72. - Procedure upon appeal of suspension or revocation.

Upon the filing of an appeal of a suspension or revocation of a company operating certificate, the passenger vehicle for hire manager shall transmit the notice of appeal to the chair of the passenger vehicle for hire board, who shall schedule a hearing as provided in section 22-183 of this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-73. - Surrender of certificate, permit and decals after revocation.

When a company operating certificate is revoked, the operation as a passenger vehicle for hire service under the company operating certificate shall cease, and the company operating certificate, vehicle operating permit and vehicle decal for all vehicles subject to the company operating certificate shall be surrendered immediately to the passenger vehicle for hire manager.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-74. - Fees.

Fees to cover the administrative costs for obtaining, renewing, duplicating, transferring and reinstating company operating certificates shall be collected. Fees shall be approved by the city manager and placed on file with the passenger vehicle for hire manager. Other fees permitted by law may also be collected.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-75—22-100. - Reserved.

DIVISION 3. - VEHICLE OPERATING PERMIT

Sec. 22-101. - Required.
Sec. 22-102. - Issuance.
Sec. 22-103. - Authorization to operate taxicab under permit.
Sec. 22-104. - Application requirements.
Sec. 22-105. - Hearing on application.
Sec. 22-106. - Issuance; denial; posting of permit and decal.
Sec. 22-107. - Expiration.
Sec. 22-108. - Renewal.
Sec. 22-109. - Transferability.
Sec. 22-110. - Retirement and replacement of passenger vehicles for hire; new permits.
Sec. 22-111. - Grounds for suspension or revocation; hearing.
Sec. 22-112. - Appeal of suspension or revocation.
Sec. 22-113. - Procedure upon appeal of suspension or revocation.
Sec. 22-114. - Surrender of permit and decal.
Sec. 22-115. - Fees.

Secs. 22-116—22-140. - Reserved.

Sec. 22-101. - Required.

No person shall operate any passenger vehicle for hire in the city without first having obtained a vehicle operating permit for each vehicle to be operated that shall reflect the following:

(1)
The vehicle is affiliated with a company operating certificate holder;

(2)
The vehicle is authorized for such operation; and

(3)
The vehicle, otherwise, meets the requirements of this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-102. - Issuance.

(a)
The passenger vehicle for hire manager is authorized to issue a vehicle operating permit to any applicant subject to such conditions contained in this article and upon payment of a regulatory fee provided by section 22-115. A separate vehicle operating permit shall be required for each passenger vehicle for hire and shall be restricted by type of service. Vehicle operating permits shall be valid for a period of one year and may be renewed annually upon the approval of the passenger vehicle for hire manager and the payment of a regulatory fee.

(b)
No vehicle operating permit shall be issued to or renewed by any person who shall not be affiliated with a company operating certificate holder and who shall not have fully complied with all of the requirements of this article before the commencement of the operation of the proposed service.

(c)
No vehicle operating permit shall be authorized unless the permit applicant presents a financial statement to the passenger vehicle for hire manager verifying that the applicant has sufficient insurance coverage, as required by this article, for the passenger vehicle for hire.

(d)
Each vehicle operating permit shall specify the type of passenger vehicle for hire authorized to operate under the vehicle operating permit and each type of service the passenger vehicle for hire shall be authorized to provide. No passenger vehicle for hire shall operate in a manner or be used to provide service except as authorized by the vehicle operating permit.

(e)
When the vehicle operating permit has been authorized for a passenger vehicle for hire pursuant to this article, the vehicle operating permit shall be kept at all times in the vehicle for which the vehicle operating permit was issued.

(f)
The vehicle operating permit holder shall, if there is any change in the business address or telephone number, notify the passenger vehicle for hire manager in writing of the change within 48 hours prior to the effective date of the change.

(g)
Before allowing a driver to operate under a vehicle operating permit, the vehicle operating permit holder shall review the qualifications of the driver to operate a passenger vehicle for hire. No vehicle operating permit holder shall permit or allow any driver to operate a passenger vehicle for hire under his vehicle operating permit if, after reasonable inquiry by the vehicle operating permit holder, it appears such driver fails to meet the requirements in this article.

(h)
The failure of a vehicle operating permit holder to comply with this section shall subject the vehicle operating permit holder's vehicle operating permit to revocation or suspension, as provided in subsection 22-111(a)(1).

(i)
Nothing in this section shall be construed as establishing a standard for civil liability for the evaluation of prospective or current passenger vehicle for hire drivers, and a violation of this section shall not be considered as

evidence of negligence.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-103. - Authorization to operate taxicab under permit.

Nothing contained in this article shall prohibit any person from owning or operating a taxicab under a vehicle operating permit, provided:

(1)

A person shall operate under the color scheme of a company operating certificate; and shall use the company's depot or terminal, dispatcher service, radio equipment and meter;

(2)

A person shall have a valid taxicab driver's permit issued by the passenger vehicle for hire manager, as provided in division 4 of this article;

(3)

A person's vehicle shall display a valid vehicle decal; and

(4)

A person shall be affiliated with the company operating certificate holder at all times.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-104. - Application requirements.

(a)

All applications for a vehicle operating permit are to be submitted by the vehicle owner and the company operating certificate holder, called the applicant, on forms provided by the passenger vehicle for hire manager, which shall contain the following:

(1)

The name and address of each applicant and, if an applicant is a corporation, attaching a certified copy of the articles of incorporation, or if the applicant is an association, attaching a certified copy of the bylaws of the association.

(2)

The color scheme for which the vehicle operating permit is desired, if the permit is for a taxicab.

(3)

The make, type and passenger capacity of the passenger vehicle for hire subject to the application for a vehicle operating permit.

(4)

All court records of the applicant. If an applicant is a corporation or association, all court records of the officers, directors and supervising employees, including the general manager, if any, shall be provided.

(5)

The applicant's submittal of the following conditional information:

a.

Existence of and access to a lawfully zoned depot or terminal on private property;

b.

Ability to provide radio-dispatched service throughout the corporate limits, 24 hours a day, seven days a week, with centralized dispatching. This shall not apply to company operating certificate holders operating fewer than ten taxicabs and four accessible vehicles;

c.

Evidence of affiliation with a company operating certificate holder and that the telephone number of the passenger vehicle for hire company will be listed in the next city telephone directory to be issued and that all advertised services will, in fact, be provided;

d.

Assurance that the passenger vehicle for hire operating under this permit shall be kept clean and in good mechanical condition and in good physical condition at all times; and

e.

Evidence that the applicant satisfies the insurance limits for passenger vehicles for hire required by section 22-213.

(b)

The applicant shall swear that the information submitted in subsection (a) is neither false nor misleading. Submitting, or causing to be submitted, false or misleading information is unlawful and shall be grounds for denial, suspension or revocation of an operating permit.

(c)

In providing information required by subsections (a)(1), (5) and (6), an applicant may simply refer to previous applications and reference previously submitted documents or information, provided there has been no change to the referenced documents or information.

(d)

No application for a vehicle operating permit shall be accepted from an applicant who has criminal charges pending against them at the time of application. For purposes of this subsection, pending criminal charges shall not include traffic infractions.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-105. - Hearing on application.

The passenger vehicle for hire manager, or his designee, may require a hearing with the vehicle operating permit applicant if the passenger vehicle for hire manager is not convinced that the applicant meets all eligibility criteria and has provided all necessary information to the passenger vehicle for hire manager as outlined in section 22-104.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-106. - Issuance; denial; posting of permit and decal.

(a)

The passenger vehicle for hire manager shall authorize issuance to every applicant who files an application, as provided in this division, a vehicle operating permit for the passenger vehicle for hire, subject to the conditions this article may require, and provided:

(1)

The vehicle for which application for a vehicle operating permit is made shall be found, after investigation by the passenger vehicle for hire manager, to be in strict compliance with this article.

(2)

The issuance of the vehicle operating permit would not be against the public interest based on the applicant's court record. However, no application for a vehicle operating permit shall be approved if the court record of the applicant would not make it in the public interest for the application to be granted. Convictions, commissions and pleas of guilty or no contest to any of the following shall create a rebuttable presumption that the approval of the applicant's application is not in the public interest:

a.

Sex offenses;

b.

Felonious drug offenses;

c.

Prostitution;

d.

Felonies involving violence or attempted violence;

e.

Gambling; and/or

f.

Habitual criminal activity.

Any applicant denied a vehicle operating permit under this subsection may appeal such denial to the passenger vehicle for hire board. All appeals shall be filed pursuant to section 22-112. No application for a vehicle operating permit that is denied pursuant to this subsection and for which the denial is affirmed by the passenger vehicle for hire board shall be accepted from the applicant within three years from the decision of the passenger vehicle for hire board.

(3)

The applicant shall have complied with all the sections of this article, including, but not limited to, the provision of the following:

a.

Existence of and access to a lawfully zoned depot or terminal on private property;

b.

Ability to provide radio-dispatched service throughout the corporate limits, 24 hours a day, seven days a week, with centralized dispatching. This shall not apply to company operating certificate holders operating fewer than ten taxicabs and four accessible vehicles only;

c.

Evidence of affiliation with a company operating certificate holder and that the telephone number of the passenger vehicle for hire company will be listed in the next city telephone directory to be issued and that all advertised services will, in fact, be provided;

d.

Assurance that the passenger vehicle for hire operating under this permit shall be kept clean and in good mechanical condition and in good physical condition at all times; and

e.

Evidence that the applicant satisfies the insurance limits for passenger vehicles for hire required by section 22-213.

(4)

The issuance does not conflict with such conditions as placed by the city council on the issuance of vehicle operating permits.

(b)

Upon issuance of the vehicle operating permit by the passenger vehicle for hire manager, the owner of the passenger vehicle for hire shall place the permit in a conspicuous location on the dashboard inside the vehicle. Once the permit has been placed on the dashboard, the passenger vehicle for hire manager shall affix the vehicle decal in the passenger vehicle for hire, as required by subsections 22-62(e)(1)a. and b.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-107. - Expiration.

All passenger vehicle for hire operating permits shall expire on a yearly basis on a date determined by the passenger vehicle for hire manager. The vehicle operating permit shall automatically expire if the conditions for issuing the permit, as provided in section 22-106, change without approval of the passenger vehicle for hire manager. No person shall operate a passenger vehicle for hire within the city while his vehicle operating permit is expired.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-108. - Renewal.

Upon application for renewal of a vehicle operating permit by the vehicle operating permit holder, the passenger vehicle for hire manager shall renew any vehicle operating permit or cause a new vehicle operating permit to be issued for the ensuing year, in the absence of any contrary evidence regarding the vehicle operating permit holder's fulfillment of the eligibility criteria provided in section 22-106 and/or his compliance with this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-109. - Transferability.

(a)

Each vehicle operating permit issued pursuant to this division is separate and distinct and shall not be transferable by the vehicle operating permit holder to another person, vehicle or entity without prior approval of the passenger vehicle for hire manager.

(b)

If an application for transfer of a permit is made, the city manager, or his designee, shall require the same information required for the original issuance of the vehicle operating permit, as set forth in section 22-104.

(c)

Upon approval by the passenger vehicle for hire manager to transfer a vehicle operating permit, the passenger vehicle for hire manager, shall issue a new vehicle operating permit, provided the applicant for the transfer has complied with all the subsections of this section.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-110. - Retirement and replacement of passenger vehicles for hire; new permits.

If a vehicle operating permit holder permanently retires a passenger vehicle for hire with a valid vehicle operating permit, within 30 days of the retirement the vehicle operating permit holder shall make written application to the passenger vehicle for hire manager for permanent replacement of the passenger vehicle for hire. The passenger vehicle for hire manager shall issue a new vehicle operating permit for the replacement vehicle, provided the period of time between permanent retirement of the passenger vehicle for hire and the replacement of such passenger vehicle for hire does not exceed 30 days, and provided the replacement vehicle satisfies the requirements of this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-111. - Grounds for suspension or revocation; hearing.

(a)

The passenger vehicle for hire manager may suspend or revoke a vehicle operating permit upon the occurrence of any one of the following:

(1)

The vehicle operating permit holder fails to operate his passenger vehicles for hire in compliance with all sections of this article.

(2)

The manager finds that the vehicle operating permit holder submitted, or caused to be submitted, false or misleading information on his application for an operating permit.

(3)

The vehicle operating permit holder ceases to operate any passenger vehicle for hire during a period of 30 consecutive days.

(4)

The vehicle operating permit holder ceases to operate any taxicab, during a period of 30 consecutive days, for a minimum of 20 days at least eight hours a day, without obtaining permission for the cessation from the passenger vehicle for hire manager.

(5)

The vehicle operating permit holder commits any act with the intent to defraud his passengers.

(6)

The vehicle issued the vehicle operating permit fails to meet the requirements of this article.

(7)

The passenger vehicle for hire manager determines that, in the interest of the public safety and welfare, a vehicle operating permit should be suspended or revoked.

(b)

The passenger vehicle for hire manager may also revoke a vehicle operating permit due to acts of drivers, pursuant to section 22-150.

(c)

A vehicle operating permit may not be suspended or revoked until the passenger vehicle for hire manager has

conducted a hearing on the matters at issue. The holder of the permit shall have the right to be present at the hearing and shall be given at least 48 hours' advance notice of the hearing.

(d)

Vehicle operating permits may be suspended under this section for a period not to exceed six months.

(e)

The passenger vehicle for hire manager may revoke or refuse to renew a vehicle operating permit if the person issued the permit, at any time after issuance, fails to pay a penalty required under section 22-33 in a timely manner.

(f)

A vehicle operating permit holder who has had a vehicle operating permit revoked under this section may not apply for a vehicle operating permit for a period of six months from the date of revocation.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-112. - Appeal of suspension or revocation.

(a)

Upon a finding by the passenger vehicle for hire manager that a vehicle operating permit should be suspended or revoked, the vehicle operating permit holder shall be so notified and informed of the manner in which the finding may be appealed.

(b)

The vehicle operating permit holder may appeal the suspension or revocation of a vehicle operating permit by filing with the passenger vehicle for hire manager, within ten days after the passenger vehicle for hire manager's decision is rendered, written notice of appeal. The notice of appeal shall set forth the reasons why the suspension or revocation is improper.

(c)

The suspension or revocation of a vehicle operating permit shall not become effective until ten days after the decision is rendered. If an appeal is filed within this period, the suspension or revocation shall be stayed pending the final decision of the passenger vehicle for hire board.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-113. - Procedure upon appeal of suspension or revocation.

Upon the filing of an appeal of a suspension or revocation pursuant to this division, the passenger vehicle for hire manager shall transmit the notice of appeal to the chair of the passenger vehicle for hire board and shall schedule a hearing as provided in section 22-183.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-114. - Surrender of permit and decal.

When a vehicle operating permit is revoked, the operation as a passenger vehicle for hire subject to the vehicle operating permit shall cease, and the vehicle operating permit and vehicle decal for the vehicle shall be surrendered immediately to the passenger vehicle for hire manager. If any vehicle operating permit holder permanently retires any passenger vehicle for hire from service and does not replace the retired vehicle within 30 days and does not apply for a vehicle operating permit transfer as specified in section 22-109, the vehicle operating permit for each retired passenger vehicle for hire shall be considered abandoned and void. Thereafter, the vehicle operating permit holder shall immediately surrender the vehicle operating permit and vehicle decal to the passenger vehicle for hire manager for each retired vehicle. Abandoned operating permits may not be restored by any means except by application, in the same manner as for new operating permits provided in this division.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-115. - Fees.

(a)

Fees to cover the administrative costs for obtaining, renewing, duplicating, transferring and reinstating vehicle operating permits shall be collected. Also, a regulatory fee shall be collected for each vehicle decal issued to a passenger vehicle for hire. Fees shall be approved by the city manager and placed on file with the passenger vehicle for hire manager. Other fees permitted by law may also be collected.

(b)

Notwithstanding subsection (a), reduced fees may be assessed for any accessible vehicle which provides accessible transportation services to individuals with disabilities.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-116—22-140. - Reserved.

DIVISION 4. - DRIVER'S PERMITS

Sec. 22-141. - Required.
Sec. 22-142. - Application.
Sec. 22-143. - Qualifications of applicant.
Sec. 22-144. - Training of applicant.
Sec. 22-145. - Denial.
Sec. 22-146. - Issuance and display; probationary period; expiration.
Sec. 22-147. - Fees.
Sec. 22-148. - Suspension.
Sec. 22-149. - Grounds for revocation generally.
Sec. 22-150. - Revocation for acts of drivers.
Sec. 22-151. - Appeal of manager's decision.
Sec. 22-152. - Renewal.
Sec. 22-153. - Notification of criminal charges or change in driving status.
Secs. 22-154—22-180. - Reserved.

Sec. 22-141. - Required.

No person shall drive a passenger vehicle for hire within the city without first having obtained a passenger vehicle for hire driver's permit from the passenger vehicle for hire manager as authorized by G.S. 160A-304, which is herein incorporated by reference.

(Ord. No. 3065-X, 8-22-2005; Ord. No. 3464, § 1, 1-8-2007)

Sec. 22-142. - Application.

(a)

Each applicant for a passenger vehicle for hire driver's permit shall make application on forms to be provided by the passenger vehicle for hire manager. The application shall contain the following information:

(1)

The applicant's full name and address;

(2)

The applicant's physical condition, with particular reference to hearing, eyesight and use of alcoholic beverages or controlled substances;

(3)

The applicant's physical description, including age, race, height, weight and color of eyes and hair;

(4)

The length of time the applicant has resided at his present address;

(5)

The applicant's places of residence and employment for two years immediately preceding the date of the application; and

(b)

The applicant is required to provide his/her fingerprints which will be submitted to state and national criminal history checks of his/her criminal record. The passenger vehicle for hire manager of the city shall forward the applicant's fingerprints to the state bureau of investigation for a search of the state's criminal history record file and the state bureau of investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check in accordance with G.S. 160A-304. This information shall be kept privileged and confidential and shall not be a public record under G.S. ch. 132. The receipt by the city passenger vehicle for hire manager of the criminal history record check shall be used solely to determine eligibility for a permit.

(c)

The applicant shall swear that the information submitted in subsection (a) is neither false nor misleading. Submitting, or causing to be submitted, false or misleading information is unlawful and shall be grounds for denial of a driver's permit.

(Ord. No. 3065-X, 8-22-2005; Ord. No. 3464, §§ 2, 3, 1-8-2007)

Sec. 22-143. - Qualifications of applicant.

(a)

Each applicant for a passenger vehicle for hire driver's permit must:

(1)

Be at least 18 years of age;

(2)

Possess eyesight correctable to 20/20 and not suffer from epilepsy, vertigo, heart disease or any other physical or mental condition which renders him unfit for safe operation of a passenger vehicle for hire;

(3)

Be able to read, write and speak the English language and conduct financial transactions;

(4)

Be neat and clean in dress and person;

(5)

Not be addicted to the use of alcoholic beverages or controlled substances;

(6)

Produce, on forms provided by the passenger vehicle for hire manager, affidavits of his good character from two reputable persons who have known him personally and observed his conduct during the year preceding the date of the application;

(7)

Possess a valid driver's license issued to him that authorizes the applicant to lawfully operate the passenger vehicle for hire;

(8)

Have permission from the company operating certificate holder and the vehicle operating permit holder to operate a passenger vehicle for hire under the company operating certificate and/or vehicle operating permit assigned to the passenger vehicle for hire company and the vehicle owner;

(9)

Produce, at the applicant's expense, the applicant's court records, including any criminal record of the applicant in the applicant's country of origin. If the applicant has no criminal record, the applicant shall provide an affidavit indicating the lack of such record;

(10)

Produce evidence that the applicant has successfully passed a ten-panel drug test prior to employment or affiliation with a passenger vehicle for hire company. If the applicant has failed the ten-panel drug test, they are not eligible to apply for a passenger vehicle for hire driver's permit, for a one-year period following their failing the ten-panel drug test;

(11)

Produce reliable documentation evidencing the applicant's eligibility to be a passenger vehicle for hire

driver. Reliable documentation shall include, when necessary, a valid resident alien registration card, U.S. passport, certificate of naturalization or any other documents allowed under part 274(a)(2) of the Immigration and Naturalization Service Rules of the Immigration Reform and Control Act of 1986;

(12)

Have no more than eight accrued points for motor vehicle violations pursuant to G.S. 20-16 during the previous three years or any comparable provision of the law of another state; and

(13)

Be knowledgeable of city streets and local landmarks within the city.

(b)

Each applicant must also inform the passenger vehicle for hire manager, in writing, if he has been charged with any criminal offense or infraction and produce evidence of the disposition thereof upon seeking issuance or renewal of a driver's. Failure to do so will result in the suspension or refusal to issue or renew a driver's.

(c)

No application for a driver's permit shall be accepted from an applicant who has criminal charges pending against them at the time of application. For purposes of this subsection, pending criminal charges shall not include traffic infractions.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-144. - Training of applicant.

Each company operating certificate holder shall require all passenger vehicle for hire drivers operating under the company's operating certificate to enroll in and successfully complete a driver training course from an approved list of courses maintained in the passenger vehicle for hire office. All new drivers of passenger vehicles for hire shall comply with this section before the expiration of the probationary permit issued pursuant to section 22-146 of this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-145. - Denial.

(a)

The passenger vehicle for hire manager may refuse to grant or renew a passenger vehicle for hire driver's permit for any applicant:

(1)

Whose state motor vehicle driver's license upon the date of an application to the Manager has been revoked or suspended.

(2)

Who has committed, been convicted of or pled guilty or no contest to, within ten years immediately prior to the date of the application, any of the following:

a.

A felony, provided the passenger vehicle for hire manager shall not issue a driver's permit to any convicted felon who has not had his citizenship rights restored as provided by state law, regardless of when the conviction occurred;

b.

Any crime or infraction involving the operation of a motor vehicle resulting in an incapacitating class A injury to any person, as determined on the state traffic accident report, or the death of a person;

c.

A violation of any city, county, state or federal law relating to the use, possession or sale of alcoholic beverages or substances regulated by the North Carolina Controlled Substances Act, G.S. 90-86—90-113.8, or the North Carolina Toxic Vapors Act G.S. 90-113.8A—90-113.14;

d.

A violation of any city, county, state or federal law relating to prostitution or gambling;

e.

A violation of the Federal Immigration Act; or

f.

Habitual criminal activity.

(3)

Who has committed a material violation of section 22-31 in operating a passenger vehicle for hire, or a violation of section 22-141.

(4)

Who, within a period of ten years immediately prior to the date of his application, has been an habitual violator of traffic laws or an habitual user of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act or the North Carolina Toxic Vapors Act or any comparable provisions of the law of another state.

(5)

Who does not fulfill the qualifications set forth in section 22-143.

(6)

Who fails to pay a penalty required under section 22-33 within 30 days from the date of assessment by the passenger vehicle for hire manager.

(b)

Notwithstanding subsection (a), an application for a driver's permit shall not be approved if the applicant's court record or evidence regarding the applicant presented at a hearing supports a conclusion that it is not in the public interest for the application to be granted. Convictions, commissions, pleas of guilty or no contest to any of the following shall create a rebuttable presumption that the approval of the applicant's application is not in the public interest:

(1)

Murder, including first degree and second degree;

(2)

Voluntary manslaughter;

(3)

Involuntary manslaughter;

(4)

Felony death by vehicle;

(5)

Felonious assaults and/or batteries;

(6)

Robbery;

(7)

Rape and other sex offenses; and/or

(8)

Felonious drug offenses.

(c)

The passenger vehicle for hire manager shall not issue a driver's permit to any applicant with any driving while impaired ("DWI") convictions or two or more arrests (so long as the arrests were upheld by the criminal courts) for DWI within the past five years, within the state, or any comparable provision of the law of any other state, territory or possession of the United States of America;

(d)

Any applicant denied a driver's permit under this section may appeal the denial to the passenger vehicle for hire board pursuant to section 22-151. Once an application has been denied under this section and the decision is affirmed by the passenger vehicle for hire board, it shall be presumed that it is not in the public interest to grant a driver's permit to the applicant.

(e)

No application for a driver's permit that is denied pursuant to this section and the denial of which is affirmed by the passenger vehicle for hire board shall be accepted from the applicant within three years from the decision of the passenger vehicle for hire board.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-146. - Issuance and display; probationary period; expiration.

(a)

The passenger vehicle for hire manager, upon finding that an applicant has satisfactorily complied with this division, shall issue to the applicant a driver's permit, which shall show the following:

(1)

The applicant's photograph and name;

(2)

The expiration date; and

(3)

The company operating certificate holder the driver is affiliated with.

(b)

In addition to the information required in section 22-253, a copy of the driver's permit or a card must be displayed conspicuously at all times in the card frame attached to the back of the driver's seat or headrest area of the vehicle, excepting limousines, limousine sedans, and SUVs, and shall be clearly visible to a passenger seated in the rear seat of the passenger vehicle for hire. The driver's permit or the card shall contain the following:

(1)

A current photograph of the driver;

(2)

The driver's name;

(3)

The name of the company operating certificate holder;

The driver's permit shall be kept on the person of a limousine driver at all times while operating a limousine and shall be presented to passengers upon request.

(c)

A driver shall not operate any passenger vehicle for hire for any company operating certificate holder except for the company operating certificate holder shown on his driver's permit. Upon the termination of a driver's agreement to drive for such company operating certificate holder, the driver shall surrender his permit to the passenger vehicle for hire manager within 48 hours from the termination.

(d)

The manager, after interviewing an applicant and being satisfied that the applicant has complied with the requirements of this division and after checking local records and the applicant's previous employers, will issue a probationary driver's permit for a period not to exceed 60 days, pending receipt by the passenger vehicle for hire manager of the applicant's record, if any, from the Federal Bureau of Investigation.

(e)

After the applicant has satisfactorily completed his probationary period, including satisfactorily passing the Federal Bureau of Investigation's fingerprint check, the passenger vehicle for hire manager shall issue to such applicant a driver's permit, valid for one year, that will expire on the applicant's date of birth. No person shall operate a passenger vehicle for hire within the city while his driver's permit is expired.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-147. - Fees.

Fees to cover the administrative cost of the passenger vehicle for hire driver's permit shall be approved by the city manager and placed on file in the passenger vehicle for hire office.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-148. - Suspension.

The passenger vehicle for hire manager shall have the authority to suspend any driver's permit issued under this division for any of the grounds specified in section 22-149; the permit holder's violation of any section of this article; or the permit holder's being convicted of or pleading guilty or no contest to any federal, state or local law pertaining to the public welfare or morals. Such suspension shall not exceed 30 days. However, no driver's permit shall be reinstated

unless the driver satisfies section 22-143. A third suspension of a driver's permit shall result in the mandatory revocation of such driver's permit. No application for a driver's permit will be accepted from an applicant within six months of the date of revocation.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-149. - Grounds for revocation generally.

The passenger vehicle for hire manager may revoke or refuse to renew a driver's permit if the person issued the driver's permit is, at any time after issuance:

(1)

Found by the passenger vehicle for hire manager to have committed, been convicted of or pled guilty or no contest to any of the following:

a.

A violation of any federal, state or local law relating to the use, possession, manufacturer or sale of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act, G.S. 90-86 et seq., or the North Carolina Toxic Vapors Act, G.S. 90-113.8A et seq.;

b.

A violation of any federal, state or local law relating to prostitution or gambling;

c.

An accumulation, under G.S. 20-16, within a three-year period, of 12 or more points or eight or more points within the three-year period following the reinstatement of a state driver's license that has been suspended or revoked or any comparable provisions of the law in another state or has been convicted of any other violation resulting in the suspension or revocation of the state driver's license;

d.

Any felony;

e.

Any violation of a federal, state or local law designed for the protection of life;

f.

Any criminal assault involving the operation of a passenger vehicle for hire;

g.

Any sex offense or offense involving moral turpitude;

h.

Any of the offenses contained in subsection 22-145(b); and/or

i.

A material violation of section 22-31 or a violation of section 22-141.

(2)

Found by the passenger vehicle for hire manager to be a habitual user of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act, G.S. 90-86 et seq., or the North Carolina Toxic Vapors Act, G.S. 90-113.8A et seq.;

(3)

Found by the passenger vehicle for hire manager to have made or caused to be made a false statement in his application for issuance or renewal of a driver's permit;

(4)

Does not continue to meet the qualifications for a driver's permit as set forth in section 22-143;

(5)

Found by the passenger vehicle for hire manager to have had his driver's permit suspended three times in any five-year period;

(6)

Found by the passenger vehicle for hire manager to have aided or abetted in the commission of any of the acts contained in subsections (1)a., b., d., e., f., g. or h. of this section; or

(7)

Found by the passenger vehicle for hire manager to have failed to timely pay a penalty required under section 22-33.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-150. - Revocation for acts of drivers.

(a)

Upon a determination by the passenger vehicle for hire manager that a driver has committed, been convicted of or pled guilty or no contest to:

(1)

Any of the offenses specified in section 22-149;

(2)

A violation of any section of this article pertaining to the operation of passenger vehicles for hire; or

(3)

A violation of any federal, state or local law pertaining to the public health, safety, welfare or morals;

and that the offense or violation occurred while the driver was engaged in the operation of a passenger vehicle for hire or was engaged in some act related to the operation of a passenger vehicle for hire, the passenger vehicle for hire manager shall give notice of such determination to the driver and to the company operating certificate holder and vehicle operating permit holder under which the driver was operating.

(b)

Upon the occurrence of three determinations under subsection (a) against a driver in any 24-month period, the driver and the vehicle operating permit holder under which the driver was operating shall be notified that one additional determination against the driver within 12 months after the date of the notice may result in suspension or revocation of the company operating certificate.

(c)

Upon one additional determination under subsection (a) of this section by the passenger vehicle for hire manager against a driver within 12 months after the date of the notice provided for in subsection (b), the passenger vehicle for hire manager may suspend or revoke the company operating certificate and/or the vehicle operating permit under which the driver was operating, pursuant to the procedure provided in subsections 22-70(b) and 22-111(b).

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-151. - Appeal of manager's decision.

(a)

A decision by the passenger vehicle for hire manager not to grant or renew or to suspend or revoke a driver's permit, and a determination by the passenger vehicle for hire manager under section 22-150, shall be subject to appeal to the passenger vehicle for hire board.

(b)

Any person aggrieved by a decision of the passenger vehicle for hire manager and having a right to appeal may appeal by giving written notice of appeal to the passenger vehicle for hire manager. The notice of appeal shall set forth the reasons why the passenger vehicle for hire manager's decision is improper and shall be filed with the passenger vehicle for hire manager within ten days of the decision. Appeals may be taken only from the passenger vehicle for hire manager's findings of fact and application of law. The monetary amount of the civil penalty assessed by the passenger vehicle for hire manager shall not be subject to appeal.

(c)

Upon the filing of an appeal, the passenger vehicle for hire manager shall transmit the notice of appeal to the chair of the passenger vehicle for hire board and shall schedule a hearing as provided in section 22-183.

(d)

Reserved.

(e)

A decision by the passenger vehicle for hire manager to suspend or revoke a driver's permit shall not become final until ten days after the decision is rendered. If the appeal is filed within the allowed time, the passenger vehicle for hire manager's decision shall be stayed pending the final decision of the passenger vehicle for hire board, and the driver may continue to drive the passenger vehicle for hire pending the appeal unless:

(1)

The driver's permit is suspended pursuant to subsections 22-149(1)c. or (4) or the state driver's license of the driver has been revoked or suspended for a violation of any local, state or federal laws; or

(2)

The passenger vehicle for hire manager determines that continued operation of a passenger vehicle for hire by the driver would impose an immediate threat or danger to public health, safety or welfare.

(f)

If no appeal is filed within the allowed time, the holder of the driver's permit shall immediately surrender the permit to the passenger vehicle for hire manager, and the period of suspension shall not begin until the passenger vehicle for hire manager receives the permit. The passenger vehicle for hire manager, upon taking any action affording a right to appeal, shall give the driver, applicant, company operating certificate holder or vehicle operating permit holder, as appropriate, notice of the right to appeal.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-152. - Renewal.

The passenger vehicle for hire manager may renew a driver's permit from year to year by appropriate endorsement thereon. The driver applying for a renewal of his driver's permit shall make application in accordance with procedures established by the passenger vehicle for hire manager.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-153. - Notification of criminal charges or change in driving status.

A driver shall inform the passenger vehicle for hire manager in writing before the end of the next business day, if he or she has been charged with any criminal offense or infraction listed in section 22-145 of this article or if there is any change in his or her driving status. A driver shall produce, upon request, evidence of any charges or changes in driving status. Failure to comply with this section may result in the suspension or revocation of the driver's permit.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-154—22-180. - Reserved.

DIVISION 5. - PASSENGER VEHICLE FOR HIRE BOARD

Sec. 22-181. - Created; composition; terms; compensation; vacancies; quorum; removal.
Sec. 22-182. - Duties and responsibilities.
Sec. 22-183. - Hearings.
Secs. 22-184—22-210. - Reserved.

Sec. 22-181. - Created; composition; terms; compensation; vacancies; quorum; removal.

(a)

A passenger vehicle for hire board is hereby established, to be composed of 11 members, five of whom shall be appointed by the city council, three of whom shall be appointed by the mayor and three of whom shall be appointed by the city manager.

(b)

The city council's appointments shall be as follows: one shall be a company operating certificate holder, one shall be a vehicle operating permit holder, one shall be an individual user, one shall be a representative of individuals with disabilities and one shall be an individual from the hospitality/tourism industry.

(c)

The mayor's appointments shall be as follows: one shall be a company operating certificate holder, one shall be a driver or chauffeur and one shall be an individual from the hospitality/tourism industry. The mayor shall

designate one of the members as chair.

(d)

The three members appointed by the city manager shall be citizens with no financial interest in or business affiliation with either the passenger vehicle for hire, limousine or hospitality/tourism industries. A member of the Charlotte-Mecklenburg Police Department with the rank of captain or above shall serve as staff to the board.

(e)

All members of the passenger vehicle for hire board shall serve without compensation.

(f)

All terms of office shall be for three years, with no member serving more than two consecutive terms. The terms of one-third of the passenger vehicle for hire board shall expire each year. If a vacancy occurs, the original appointing body shall appoint a person to serve for the unexpired term of the vacant position.

(g)

Six members shall constitute a quorum in order to conduct business or hearings. Any member who fails to meet attendance requirements specified by city council policy shall be automatically removed from the board. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section. Notwithstanding this subsection, if a vacancy occurs in the chair position, the mayor shall designate a new chair who shall meet the requirements set out in this section.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-182. - Duties and responsibilities.

(a)

The passenger vehicle for hire board shall hear the following:

(1)

Appeals from suspensions or revocations of company operating certificates under section 22-70;

(2)

Appeals from suspensions or revocations of vehicle operating permits under section 22-111;

(3)

Appeals from decisions of the passenger vehicle for hire manager not to grant or renew driver's permits under section 22-145;

(4)

Appeals from decisions of the passenger vehicle for hire manager to revoke driver's permits under section 22-149;

(5)

Appeals from decisions of the passenger vehicle for hire manager to suspend driver's permits under section 22-148;

(6)

Appeals from determinations of the passenger vehicle for hire manager under section 22-150;

(7)

Appeals from arbitrations of fare disputes by the passenger vehicle for hire manager under section 22-252; and

(8)

Appeals by citizens from the decision of the passenger vehicle for hire manager regarding the disposition of a complaint alleging a material violation of this article.

(b)

The passenger vehicle for hire board shall also establish standard rate schedules, fare zones and standard charges for waiting time, additional passengers or luggage which shall apply to all taxicabs. The passenger vehicle for hire board shall meet annually to establish the rate schedules, fare zones and charges. A company operating certificate holder may petition the passenger vehicle for hire board for a midyear change to taxicab rate schedules, fare zones and charges upon a showing that such changes are required by acts of God, substantial and unexpected increases in fuel costs or events beyond the control of the applicant. A petition for a midyear change in rates shall be heard by the passenger vehicle for hire board only upon a three-fourths vote of the membership of the passenger vehicle for hire board. Prior to establishing any rate schedules, fare zones or other charges, the passenger vehicle for hire board shall hold a public hearing on the matter. The passenger vehicle for hire board shall notify all company operating certificate holders of taxicabs of all proposed rate schedules, fare zones and

other charges established by the passenger vehicle for hire board and the effective dates. A current list of all rate schedules, fare zones and other charges for all passenger vehicles for hire shall be kept on file at the office of the passenger vehicle for hire manager. The authority exercised by the passenger vehicle for hire board under this subsection shall not be subject to the review provided in section 22-183. Any rate schedules, fare zones and other charges established by this subsection may be appealed solely to the city council.

(c)

At least once every three years, the passenger vehicle for hire board shall consider whether limits should be imposed on the number of company operating certificates, vehicle operating permits or driver's permits to be issued by the city. Thereafter, the passenger vehicle for hire board may recommend to the city council that the number of company operating certificates, vehicle operating permits or driver's permits to be issued by the city during any given calendar year should be limited. The passenger vehicle for hire board may recommend that specific limitations be imposed on each type of certificate, permit, vehicle or vehicle for hire service where the public convenience so warrants. Upon approval by the city council, limits recommended under this subsection shall be applied to initial and renewal applications for certificates or permits. The decision to limit the number of certificates and permits shall be solely within the discretion of the city council. The burden of showing that public convenience requires the issuance of the certificates or permits is the responsibility of the certificate or permit holder.

(d)

The passenger vehicle for hire board shall assess the number of accessible vehicles being operated in the city under company operating certificates for taxicabs, and, upon determining the number of accessible vehicles needed in the city to accommodate the needs of individuals with disabilities, the passenger vehicle for hire board may make recommendations to the city council based on its findings. Upon reviewing the recommendation of the passenger vehicle for hire board, the city council may mandate a minimum number of accessible vehicles for each company operating certificate holder providing taxicab service in the city.

(e)

The passenger vehicle for hire board shall promulgate rules and procedures to carry out its responsibilities under this division and shall keep such rules and procedures on file with the city clerk.

(f)

The passenger vehicle for hire board may have any other responsibilities as assigned by the city manager or city council.

(g)

The passenger vehicle for hire board shall prepare an annual report of its actions for each preceding year to the city council.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-183. - Hearings.

(a)

The passenger vehicle for hire manager shall, within 24 hours of receipt, forward any appeal provided in subsection 22-182(a) to the chair of the passenger vehicle for hire board. Appeals shall be on a form and in a manner approved by the passenger vehicle for hire board. The chair of the passenger vehicle for hire board may review the appeals to determine if the required information is submitted. If the appeal is from the passenger vehicle for hire manager's findings of fact or application of law, any review shall be completed within 24 hours following the receipt of the notice of appeal, unless otherwise extended for good cause by the chair of the passenger vehicle for hire board for a period of three business days. If the information submitted is insufficient, the chair may return the appeal to the applicant for additional information without regard to subsection (b). If a decision on the appeal cannot be made from the findings of fact or application of law, the chair of the passenger vehicle for hire board may elect to dismiss the appeal, without prejudice, for resubmittal at a later time.

(b)

If a hearing is determined to be warranted, the appeal shall be heard by the passenger vehicle for hire board at its next regularly scheduled meeting (or the next regular meeting of the board, if the passenger vehicle for hire's board meeting that the appeal would normally be held on is cancelled by the chair of the passenger vehicle for hire board) that shall not be earlier than three working days from the date the PVH manager received the appeal, unless all parties consent to hearing the matter at the next immediate meeting of the board. The board shall hold regular meetings on a monthly basis, unless the meeting is cancelled by the chair of the passenger vehicle for hire board. The PVH manager, at the direction of the chair of the passenger vehicle for hire board, shall give notice to all parties of the time and place for the hearing. If the party seeking the appeal desires a hearing on a date other

than the date set by the PVH manager pursuant to this section, the party seeking the appeal may file a written request for a change of the hearing date, setting forth the reasons for such request. The chair of the passenger vehicle for hire board is empowered to approve or disapprove the request, provided the request is received by the passenger vehicle for hire board at least seven working days prior to the date set for the hearing. For good cause, the chair of the passenger vehicle for hire board may set a hearing on a date not within the time period set forth in this subsection or may continue the hearing from time to time. The passenger vehicle for hire board shall render a decision on an appeal within five working days after the date of the hearing.

(c)

Any appealing party may appear at the hearing in person and shall have the right to representation by a person of his choice. The North Carolina Rules of Evidence, G.S. § 8C, shall not strictly apply to the hearing, but the hearing shall afford all parties an opportunity to offer evidence, cross-examine witnesses, and inspect documents. Hearsay evidence shall be considered only to the extent that the hearsay evidence would be permitted under the North Carolina Rules of Evidence G.S. § 8C. Only sworn testimony shall be accepted and the chair of the passenger vehicle for hire board, as well as any board member designated by the chair, shall have the authority to administer the oath as set forth for witnesses in a civil matter by G.S. § 11-11. The hearing shall be recorded, and the passenger vehicle for hire board's decision shall be in writing with copies provided to all parties.

(d)

Hearings before the passenger vehicle for hire board shall be de novo. Final decisions of the passenger vehicle for hire board, except decisions regarding the setting of rates pursuant to subsection 22-182(b), shall be subject to judicial review in a proceeding in the nature of certiorari instituted in the superior court of the county within 30 days after the passenger vehicle for hire board renders its decision. Final decisions of the passenger vehicle for hire board shall not be stayed during the time allowed for the initiation of judicial review, and the initiation of judicial review shall not automatically stay the passenger vehicle for hire board's decisions.

(e)

Following a hearing, the passenger vehicle for hire board shall have the power to:

(1)

Affirm the decision of the passenger vehicle for hire manager;

(2)

Reverse the decision of the passenger vehicle for hire manager;

(3)

Suspend or revoke a company operating certificate, vehicle operating permit, driver's permit;

(4)

Authorize the issuance or renewal of a company operating certificate, vehicle operating permit, driver's permit; or

(5)

Impose such other lesser penalties as it deems just and appropriate.

(f)

A decision by the passenger vehicle for hire board not to renew or to suspend or revoke a company operating certificate, vehicle operating permit, driver's permit shall become effective immediately upon receipt of the passenger vehicle for hire board's decision by the holder of the company operating certificate, vehicle operating permit, driver's permit, who shall immediately, upon receipt of the passenger vehicle for hire board's decision, surrender his company operating certificate, vehicle operating permit and vehicle decal, driver's permit to the passenger vehicle for hire manager. The period of suspension shall begin upon receipt of the surrendered company operating certificate, vehicle operating permit, driver's permit to the passenger vehicle for hire manager.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-184—22-210. - Reserved.

DIVISION 6. - OPERATION

Sec. 22-211. - Registration and all proper permits necessary.
Sec. 22-212. - Compliance with state law and ordinances; safety.
Sec. 22-213. - Financial responsibility.
Sec. 22-214. - Filing of policies of insurance.

Sec. 22-215. - Operation standards.
Sec. 22-216. - Conditions of insurance; continuing liability.
Sec. 22-217. - Contract or agreement between owner and driver.
Sec. 22-218. - Duty of certificate holder and permit holder to keep records and file reports.
Sec. 22-219. - Daily manifests.
Sec. 22-220. - Drivers' tags required; dress restrictions.
Sec. 22-221. - Report of accidents.
Sec. 22-222. - Occupants.
Sec. 22-223. - Failure to provide service; length of delay time.
Sec. 22-224. - Limitation on hours of driving.
Sec. 22-225. - Return of passenger's property.
Secs. 22-226—22-250. - Reserved.

Sec. 22-211. - Registration and all proper permits necessary.

No person shall operate a motor vehicle as a passenger vehicle for hire until such vehicle has been registered in accordance with all the requirements of this state and all proper permits have been obtained.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-212. - Compliance with state law and ordinances; safety.

(a)

Every passenger vehicle for hire shall be operated in accordance with the laws of this state and the sections of this Code and city ordinances and with due regard for the safety, comfort and convenience of passengers; for the safe and careful transportation of property; and for the safety of the general public.

(b)

A passenger vehicle for hire shall not be operated at a rate of speed inconsistent with existing traffic regulations, road conditions, hazards at intersections and any other conditions then existing or in such manner or condition to endanger or to likely endanger the safety of passengers, pedestrians, vehicles or the person and property of others.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-213. - Financial responsibility.

(a)

No person shall operate or cause to be operated any taxicab or other passenger vehicle for hire over the city streets without first furnishing proof of financial responsibility as defined in G.S. § 20-280, any superseding statute or any higher limits established by the city. Taxicabs shall fully comply with all remaining requirements of G.S. § 20-280. If the passenger vehicle for hire is owned by a person who operates under the vehicle operating permit of another owner, the other owner shall be named as an additional insured in the policy covering the passenger vehicle for hire.

(b)

Any vehicle owner or person owning or causing any passenger vehicle for hire to be operated shall, upon receipt of any notice of cancellation of the insurance required by this section, immediately notify the passenger vehicle for hire manager and the supporting service provider, if applicable, of the cancellation. Failure to notify the passenger vehicle for hire manager of a cancellation of insurance on a passenger vehicle for hire shall result in the immediate revocation of the vehicle operating permit of the vehicle for a period of 30 days.

(c)

The insurance company issuing any policy required by this section shall give the passenger vehicle for hire manager not less than 30 days' advance written notice of any cancellation, reduction in coverage or other material change in the policy.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-214. - Filing of policies of insurance.

The vehicle operating permit holder shall file with the passenger vehicle for hire manager a copy of the passenger vehicle for hire insurance policy insuring the liability of the vehicle, as a condition precedent to the operation of any such passenger vehicle for hire on the city streets. The policy filed shall, among other things, set forth a description of every passenger vehicle for hire operating under the terms of such policy.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-215. - Operation standards.

Subsequent to the receipt of a company operating certificate holder or a vehicle operating permit to operate a passenger vehicle for hire, a company operating certificate holder or a vehicle operating permit holder shall continue to meet the requirements of sections 22-64, 22-66, 22-104 and 22-106 of this article as a condition to retaining such certificate or permit.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-216. - Conditions of insurance; continuing liability.

(a)

Any policy of insurance submitted under this division shall be conditioned upon the payment of any final judgment, within limits of the policy, recovered by any person as a result of the negligent operation of any passenger vehicle for hire under this article, regardless of who operates or drives the vehicle at the time of the injury or damage.

(b)

Such insurance shall contain a provision for the continuing liability under the insurance to the full amount of the policy, notwithstanding any recovery thereon.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-217. - Contract or agreement between owner and driver.

(a)

Any passenger vehicle for hire may be operated by the company operating certificate holder and/or vehicle operating permit holder thereof or by a duly authorized agent, employee or contractor of the company operating certificate holder or vehicle operating permit holder upon satisfaction of this article.

(b)

A company operating certificate holder may enter into any contract, lease agreement or understanding with any driver, as an independent contractor, by the terms of which such driver pays to the company operating certificate holder a fixed or determinable sum per day for the use of the passenger vehicle for hire and is entitled to all or a portion of the proceeds of operation over and above the fixed or determinable sum; provided, however, that the vehicle owner provides and maintains insurance on any leased passenger vehicle for hire as required by the city and the state.

(c)

The parties shall agree that the company operating certificate holder shall indemnify the city and hold the city harmless for any claim or cause of action against the city arising from the conduct of the driver.

(d)

The agreement must impose a condition that the driver shall comply with this article, and failure to comply may be considered by the company operating certificate holder a material breach of the contract or lease agreement.

(e)

Nothing contained in this section shall prevent any company operating certificate holder from paying a fixed fee or other compensation to another company operating certificate holder for furnishing insurance required by this article, for use of terminal facilities or for the privilege of operating under the name of the other company operating certificate holder.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-218. - Duty of certificate holder and permit holder to keep records and file reports.

(a)

Every company operating certificate holder and vehicle operating permit holder shall maintain on file with the passenger vehicle for hire manager the names of all affiliated drivers, their license numbers and addresses, and shall, within 48 hours after receiving notice of any change in such information, report the change to the passenger vehicle for hire manager.

(b)

When more than one vehicle operating permit holder operates under the same company operating certificate, the company operating certificate holder may keep the records and make the reports required by this article on behalf of all vehicle operating permit holders operating under his name, but the failure of the company operating certificate holder to comply with this section shall not relieve the other vehicle operating permit holders operating under the company operating certificate of responsibility for the records and reports with respect to the passenger vehicles for hire operated by them. It is the intent of this article to impose such responsibilities upon each vehicle operating permit holder.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-219. - Daily manifests.

(a)

Every owner and driver of a passenger vehicle for hire shall maintain a daily manifest of calls received from persons requesting transportation. Every driver of every passenger vehicle for hire shall keep a daily manifest of the trips made each day; the time, place of origin and destination of each trip; and the number of passengers and amount of fare for each trip. Manifests shall be in a form approved by the passenger vehicle for hire manager and shall be furnished by the driver to the company operating certificate holder.

(b)

Every company operating certificate holder and vehicle operating permit holder shall retain and preserve all drivers' manifests by vehicle operating permit number, in a safe place for at least 90 days, and the manifests shall be made available upon demand for inspection by the passenger vehicle for hire manager or any Charlotte-Mecklenburg Police Department officer.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-220. - Drivers' tags required; dress restrictions.

(a)

Each passenger vehicle for hire driver shall wear in plain view a tag containing his name and the name of his company. The size, lettering and other features of the name tag shall be approved by the passenger vehicle for hire manager.

(b)

Each driver shall wear clean clothing consisting of shoes and socks, a collared shirt, pants, knee length skirt or dress and, when necessary, an outer winter garment while operating a passenger vehicle for hire. If a hat is worn, it shall be free of any writing or logo except the passenger vehicle for hire company's name and logo. Short pants are not permitted.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-221. - Report of accidents.

All accidents involving the operation of a passenger vehicle for hire shall be reported to the passenger vehicle for hire manager by the next business day after the accident. The company operating certificate holder, vehicle operating permit holder, and driver for the passenger vehicle for hire involved in an accident shall each be individually responsible for making the required report, which shall be on a form furnished by the passenger vehicle for hire manager. A passenger vehicle for hire involved in an accident may be ordered out of service by the passenger vehicle for hire manager and shall be repaired before being returned to service.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-222. - Occupants.

At any time a passenger vehicle for hire is occupied by a fare-paying passenger, the passenger vehicle for hire shall not be occupied by any other person except the driver and any person who may be accompanying a fare-paying passenger. This section shall not apply during authorized driver training.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-223. - Failure to provide service; length of delay time.

(a)

Except as provided in subsection 22-31(j), no driver shall refuse, fail or neglect to provide passenger vehicle for hire service to any person following any call, demand or prearrangement.

(b)

At the time an individual requests passenger vehicle for hire service, he or she shall be advised of the probable time of delay, if service is not expected to be available within 15 minutes of the request or prearrangement.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-224. - Limitation on hours of driving.

It shall be unlawful for any driver of any passenger vehicle for hire to continue on active passenger vehicle for hire duty for more than 16 hours, meal time included, during any 24-hour period. Each driver shall enter the time of commencing active duty and ending active duty on the manifest required in section 22-219.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-225. - Return of passenger's property.

(a)

Upon finding property left by a passenger in a passenger vehicle for hire, as the passenger leaves the vehicle, a driver shall immediately notify the passenger and return the property. If the driver has left the drop-off point, or is unable to locate the passenger, or does not know the identity of the passenger, the driver shall promptly deliver the property to his company operating certificate holder.

(b)

Upon delivery of the property to the company operating certificate holder, the driver shall provide the company operating certificate holder with any information available in regard to the property. The company operating certificate holder shall record that information, including the time, date, driver's name and vehicle number, and attach such information to the property. The company operating certificate holder shall hold the property in a secure place for three months.

(c)

If requested by the driver who discovered the property, any unclaimed property in the possession of the company operating certificate holder shall be returned to that driver within a time specified by the company operating certificate holder which shall not exceed 30 days following the required holding period.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-226—22-250. - Reserved.

DIVISION 7. - RATES AND CHARGES AND POSTING REQUIREMENTS

Sec. 22-251. - Rates and charges.
Sec. 22-252. - Disputes.
Sec. 22-253. - Posting requirements.

Sec. 22-254. - No extra charge for assisting the disabled, handling wheelchairs or walkers.
Sec. 22-255. - No extra charge for handling baggage; reasonable charge for bulky items.
Sec. 22-256. - Passenger to pay lawful fares; receipt to be furnished upon request.
Secs. 22-257—22-285. - Reserved.

Sec. 22-251. - Rates and charges.

(a)

Filing for passenger vehicles for hire, except taxicabs. Each applicant for a company operating certificate for a passenger vehicle for hire, except taxicabs, shall file all rates and charges with the passenger vehicle for hire manager at the time of the application or renewal. Rates shall be uniform for each type of passenger vehicle for hire being operated by the passenger vehicle for hire company.

(b)

Rate and fare zones for taxicabs. All rate and fare zones for taxicabs shall be established by the passenger vehicle for hire board, as set forth in subsection 22-182(b).

(c)

Amount of change. Drivers shall be required to carry a reasonable amount of change in order to conduct business.

(d)

Changing rates. Rates for passenger vehicles for hire, except taxicabs, may be changed annually by filing a new rate schedule with the passenger vehicle for hire manager at least 15 days before the effective date. Any company operating certificate holder of a passenger vehicle for hire, other than a taxicab, may petition for a midyear change in the rates which must be filed with the passenger vehicle for hire manager at least 15 days before the effective date. Changes in the rates for taxicabs shall be governed by subsection 22-182(b).

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-252. - Disputes.

All disputes arising between the passenger and the passenger vehicle for hire driver as to fares shall be arbitrated by the passenger vehicle for hire manager within 20 days of a complaint, and both the passenger and driver shall comply with the passenger vehicle for hire manager's determination. Upon the request of the passenger vehicle for hire manager, an affected limousine company shall provide to the passenger vehicle for hire manager a copy of the contract between the passenger and the limousine company. Appeal of the decision of the passenger vehicle for hire manager may be made to the passenger vehicle for hire board, as provided by division 5 of this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-253. - Posting requirements.

(a)

Each passenger vehicle for hire shall have conspicuously displayed within the interior and upon the exterior of the vehicle the rates of fare according to the rate assessment requirements of this article. The rate notice posted inside and outside the passenger compartment shall be in a typewritten notice, impressed upon a contrasting background, in at least 18-point type. The rates and the driver's permit, in addition to the information required by subsection 22-146(b), must be displayed conspicuously at all times in the card frame attached to the back of the driver's seat or headrest area of the vehicle and shall be clearly visible to a passenger seated in the rear seat of the passenger vehicle for hire. In addition, the posting shall also contain language that complaints may be filed with the passenger vehicle for hire manager and shall include the mailing address and telephone number of the passenger vehicle for hire office.

(b)

Limousines, as defined in section 22-27, are exempt from the requirements of this section, except that all limousines shall include a provision in any written contract for service that complaints may be filed with the passenger vehicle for hire manager and shall include the mailing address and telephone number of the passenger vehicle for hire office. All information required to be posted under this section shall also be displayed in Braille.

(c)

Limousine sedans and SUVs, as defined in section 22-27, are exempt from the requirements of this section, except that all limousine sedans and SUVs shall post within the passenger area of the vehicle a conspicuous

notice stating that complaints may be filed with the passenger vehicle for hire manager and shall include the telephone number for the passenger vehicle for hire office.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-254. - No extra charge for assisting the disabled, handling wheelchairs or walkers.

Under this division, no extra charge shall be made for the transportation of disabled individuals or for handling of manual wheelchairs, walkers or other equipment reasonably necessary for the mobility of persons with disabilities.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-255. - No extra charge for handling baggage; reasonable charge for bulky items.

Under this division, no extra charge shall be made for the transportation of ordinary hand baggage carried by a passenger. Large trunks and other bulky items accompanying a passenger and not ordinarily construed to be hand baggage may be charged for at the rates filed with the passenger vehicle for hire manager, as provided in subsection 22-251(a) or as approved by the passenger vehicle for hire board pursuant to subsection 22-182(b) and printed on the rate card. Trunks and packages not accompanying passengers are not governed by this article. More than three bags or parcels per person shall not be construed to be ordinary hand baggage, and a reasonable charge may be made for the excess baggage, as filed with the passenger vehicle for hire manager and as provided in subsection 22-251(a) or approved by the passenger vehicle for hire board pursuant to subsection 22-182(b).

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-256. - Passenger to pay lawful fares; receipt to be furnished upon request.

(a)

It shall be unlawful for any person owning, operating or controlling a passenger vehicle for hire in the city to charge any rate for the use of the passenger vehicle for hire exceeding the rates filed with the passenger vehicle for hire manager or as established by the passenger vehicle for hire board, as provided in section 22-251. No person shall ride in any passenger vehicle for hire and willfully refuse to pay the fare prescribed therefor by law. However, this subsection is not intended to prohibit a passenger vehicle for hire passenger from granting a gratuity to the passenger vehicle for hire driver.

(b)

When requested by a passenger, the driver of a passenger vehicle for hire shall deliver to the passenger an accurate, legible receipt showing the passenger vehicle for hire's vehicle operating permit number or taxicab number, the passenger vehicle for hire's company name, the driver's permit number, the date and the amount of fare paid. Refusal on the part of the driver to deliver such receipt upon request shall constitute a defense on behalf of a passenger charged with violating subsection (a).

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-257—22-285. - Reserved.

DIVISION 8. - SPECIFICATIONS AND EQUIPMENT

Sec. 22-286. - Conformance to article.
Sec. 22-287. - General vehicle requirements.
Sec. 22-288. - General maintenance and equipment requirements.
Sec. 22-289. - Meter maintenance and operation.
Sec. 22-290. - Color schemes.
Sec. 22-291. - Placards.
Sec. 22-292. - Radios and television sets.
Sec. 22-293. - Advertising.

Secs. 22-294—22-320. - Reserved.

Sec. 22-286. - Conformance to article.

No passenger vehicle for hire shall be granted a vehicle operating permit unless it conforms with all the provisions of this article.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-287. - General vehicle requirements.

(a)

All passenger vehicles for hire shall satisfy the vehicle age requirements contained in this section. Except as permitted in subsection 22-30(1)d. and as herein stated, on July 1st, 2006 and thereafter, it shall be unlawful to place or keep in passenger vehicle for hire service any previously owned or used vehicle, unless the previously owned or used vehicle has been approved by the passenger vehicle for hire manager for passenger vehicle for hire service, and provided:

(1)

The vehicle, excepting limousines and para-transit vehicles, is no older than ten years;

(2)

The passenger vehicle for hire manager is satisfied with the condition of the passenger vehicle for hire;

(3)

Once the vehicle exceeds ten years in age, it shall be removed immediately from passenger vehicle for hire service; and

(4)

The passenger vehicle for hire manager is permitted to waive the age limit of ten years for unique vehicles.

(b)

All passenger vehicles for hire shall be clean, operable and in good repair. Trunks in all passenger vehicles for hire shall be clean and empty except for one spare tire and necessary emergency equipment.

(c)

Each taxicab must have a minimum of three doors, two doors allowing entry to the driver's compartment of the vehicle and one door allowing entry to the passenger's compartment of the vehicle. Notwithstanding this subdivision, all doors of passenger vehicles for hire shall be operable from the inside and outside of the vehicle and constructed with a double or safety lock on each door.

(d)

All upholstery covering or interior lining in any passenger vehicle for hire shall be substantially free of cuts or tears.

(e)

Floor mats of rubber or other material shall be provided and shall at all times be removable. No passenger vehicle for hire shall have on the floor of the vehicle any footrest bracket or other fixture extending above the top of the floor mat.

(f)

Seat belts shall be provided for each passenger of a passenger vehicle for hire to the extent required as original equipment by the federal government.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-288. - General maintenance and equipment requirements.

The PVH manager shall have the authority to inspect vehicles according to the following provisions. For the purposes of this section the term "PVH manager" shall also include any designee of the PVH manager.

(1)

The PVH manager may inspect each passenger vehicle for hire before it is placed into service, annually thereafter, and at such other reasonable times as the Manager determines necessary for compliance with this chapter.

(2)

At all times when a passenger vehicle for hire is in service, it must be in compliance with all state safety inspection standards, and must display a valid state inspection sticker. The PVH manager may require inspections to be made and shall take any action necessary to determine compliance.

(3)

If, upon inspection of a passenger vehicle for hire, the PVH manager determines that the vehicle does not meet the requirements of this article, the PVH manager may order the vehicle to be taken out of service until the requirements are met and the vehicle is reinspected and approved by the PVH manager.

(4)

If a company operating certificate holder, vehicle operating permit holder, or a driver fails to make a passenger vehicle for hire available for inspection within 24 hours after being requested to do so, the PVH manager may order the passenger vehicle for hire removed from service until it is made available for inspection.

(5)

All passenger vehicles for hire shall comply with the following requirements, unless the PVH manager issues a written waiver with specific findings that a particular requirement is not applicable because of the design of the vehicle or the nature of its operation. Inspections shall include the following items [Note: All vehicle components and equipment shall operate properly and meet original manufacturer's specifications. All replacement components and equipment shall also meet manufacturer's original specifications]:

a.

Color scheme and logos (as required);

b.

Company name and phone number (three inches minimum) (as required);

c.

Vehicle number markings (four inches) (as required);

d.

Vehicle exterior clean, polished and well-painted;

e.

Metal taxicab or commercial vehicle for hire license plate and PVH decals (as specified by section 22-290);

f.

Current taxi rate information posted (taxicabs only);

g.

Contact information for passenger vehicle for hire manager posted. A sign or notice approved by the PVH manager containing the name, address and telephone number of the company operating certificate holder, the vehicle number, and the telephone number of the PVH manager shall be placed in each vehicle in a place visible to all passengers to assist any passenger who wishes to file a complaint (all other non-metered vehicles);

h.

Windshield wiper and defroster operable and adequate;

i.

Mirrors, rear and left side view free of cracks and defects;

j.

Windshield shall be clean and clear from both the outside and inside, free of cracks, chips, scratches or any other condition that reduces clarity of vision. All windows of the vehicle must have a light transmittance of 70 percent or more, with the exception of the uppermost six inches of the front windshield.

k.

Windows shall be intact and must open and close properly: no decals, posters, or other materials on windows, other than credit card acceptance decals and PVH decals. Window gaskets shall not have any dry rot or leak;

l.

Taxicab windows shall not be equipped with shades, curtains, film or coatings to such extent that

the occupants of the vehicle cannot be seen from the outside of the vehicle;

m.

Meter (taxicabs only). Every taxicab shall be equipped with a meter of a size and design approved by the passenger vehicle for hire manager and which conforms to National Institute of Standards and Technology (NIST) specifications (See § 22-289). All meters shall be sealed;

n.

Toplight (taxicabs only) equipped with a top light of a design approved by the passenger vehicle for hire manager. All toplights shall be equipped with a tamperproof switch and system of electrical distribution so that, when the taxicab is vacant, the vacant sign (or center section of toplight) on the taxicab will be lit; when the taxicab is occupied, the toplight will be unlit and fare indicator on the meter and tattle-tale lights will be lit;

o.

Heater and air conditioner operable. Heater must not produce smell of coolant in interior of vehicle. Air conditioner must cool interior air to sixty-five degrees (65˚) Fahrenheit at the vent face without using the interior air recycle feature;

p.

Headlights, tail lights, parking lights, turn signal lights, brake lights, back-up lights, license plate lights, side lights and emergency flashers operable. Must also be covered with undamaged lenses of appropriate type and color;

q.

Accessible vehicle equipment (for any vehicle equipped with such), including wheelchair ramps, tie-downs, safety belts and wheelchair lifts well maintained and operable;

r.

Door handles and locks. All doors shall operate easily, shall close securely from both the outside and inside of the vehicle, and shall be accessible to passengers. No devices that restrict the ability of a passenger from readily exiting the vehicle in an emergency are allowed;

s.

Braking system including emergency brake capable of holding vehicle on a 30 degree incline with gear selector in neutral;

t.

Tires, including spare (with tire jack and handle), properly inflated and having minimum tread depth of 2/32-inch and free of defects. Spare tire and jack shall be properly secured using manufacturer's equipment in designated trunk area;

u.

Vehicle wheels properly aligned, matching hubcaps or wheel covers, wheel rims of uniform type, size and color. All shall have hubcaps attached unless the wheels are of a design which do not require hubcaps;

v.

Horn operable; loud, clear sound;

w.

Interior panels properly secured, free of tears and dirt;

x.

Interior lights and driver instrument displays (speedometer, odometer, gear selection indicator, seat belt warning light, and engine warning system) operable;

y.

Floor covering. No metal showing, undamaged, clean rubber-backed floor mats;

z.

Headliner clean, completely attached to interior ceiling and along edges;

aa.

Upholstered area clean, no tears;

bb.

Seats clean, unbroken and fastened securely, no exposed springs, wires or framework;

cc.

Seat belts for driver and each passenger position clean, accessible, and operable;

dd.

Accelerator, brake, emergency brake, and clutch pedals. Rubber pads in good condition, no exposed metal;

ee.

Trunk or luggage area. Floor covering, clean, free of offensive odors, litter, and items or materials that could damage or stain the passenger's baggage and shall be free of any flammable liquids or other hazardous materials. Trunk shall contain nothing except spare tire, tire jack and handle, emergency tools, and child car seat. Spare tire and jack shall be secured in proper location using manufacturer's equipment;

ff.

Bumpers, grills, and body molding. No decals, bumper stickers or advertisements unless specifically approved by the passenger vehicle for hire manager;

gg.

All bumpers and body moldings shall be in good condition and properly attached as when manufactured;

hh.

Vehicle body shall be free from dents, rust and holes which impair its safety or appearance. Unacceptable body defects (dents, creases, blemishes, ripples, rust or holes) which impair the appearance or serviceability of the vehicle include:

1.

A body defect six linear inches or greater and where the deepest point of depression is one-quarter-inch or greater; or

2.

A body defect three inches in width or greater and three inches in height or greater and where the deepest point of depression is one-quarter-inch or greater; or

3.

Any defect which is one-half-inch at the deepest point of depression regardless of width or height (this includes any hole in the surface area); or

4.

Exterior paint which is not uniform in color, does not completely cover the vehicle, or is not in compliance with approved color scheme;

5.

Any body panel, trunk, or hood misalignment;

ii.

Steering system. No excessive play in steering column or front wheel assemblies;

jj.

Suspension system meets manufacturer's specifications, components provide steady ride without excessive bouncing;

kk.

Transmission. No slippage, proper function of each gear including "Park" position;

ll.

Exhaust system. No exhaust leaks, no missing support for tail pipe;

mm.

Two-way radio (taxicabs);

nn.

All taxicabs shall have a rigid roof and at least three doors;

oo.

Gas cap for fuel fill.

(6)

Violations that are determined to present a clear, substantial and imminent hazard to life, safety, or property shall result is an immediate suspension of the vehicle operating permit. These safety violations include, but are not limited to:

a.

Inoperable windshield wiper or defroster;

b.

Damaged or missing mirrors;

c.

Windshield with crack or defect;

d.

Inoperable door handles or locks;

e.

Inadequate brake or emergency brake;

f.

Inoperable headlight (low beam), tail light, turn signal light, or brake light;

g.

Inoperable horn;

h.

Inoperable speedometer or gear selection indicator;

i.

Seats broken or not fastened securely;

j.

Inoperable or missing seat belts;

k.

Rubber pads worn to exposed metal from accelerator, brake, emergency brake or clutch pedals;

l.

Steering system defect;

m.

Suspension system defect;

n.

Inoperable two-way radio;

o.

Missing gas cap for fuel fill;

p.

Exhaust system leak; or

q.

Bumper damaged so that it reduces protection from low speed collisions.

7.

In the event that a provision of this section imposes a different standard or requirement, than does a state inspection standard or requirement, the provision imposing the more restrictive standard or requirement shall govern.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-289. - Meter maintenance and operation.

(a)

No person shall use or permit a taxicab to be used for the provision of passenger vehicle for hire service while the meter installed in such vehicle is unsealed or its gear is not intact.

(b)

Any time a taxicab is occupied by a person other than the driver, the meter must be on and operating, regardless of the actual fare charged. It shall be the duty of the driver to call to the attention of the passenger the amount registered on the meter.

(c)

No person shall operate or cause to be operated a taxicab unless the vehicle is equipped with a meter that has been duly inspected and approved by the passenger vehicle for hire manager and, otherwise, meets all the requirements of a taxicab contained in this article. It shall be unlawful to reduce the size of wheels or tires of a taxicab or to change the gears that operate the meter.

(d)

The meter shall be mounted in such a fashion that it does not present a sight obstruction.

(e)

The meter shall be mounted in such a fashion that it does not present a hazard should a passenger riding in the right front seat be thrown against the vehicle dashboard. If the meter is not mounted so as to satisfy this requirement, the right front seat cannot be occupied by a passenger.

(f)

The meter shall meet and be operated to the standards set forth for taximeters by the National Institute of Standards and Technology (NIST) in the NIST Handbook 44 2003 Edition, § 5.54 Taximeters.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-290. - Color schemes.

(a)

Every passenger vehicle for hire company shall adopt a color scheme that is distinct from that of any other passenger vehicle for hire company for the painting of its taxicabs, and all taxicabs of a passenger vehicle for hire company using the same rate of fare schedule shall have the same color scheme. A taxicab that operates from the terminal and under the name of a company operating certificate holder shall use the same color scheme as the company operating certificate holder.

(b)

The name of the passenger vehicle for hire company, the passenger vehicle for hire number, which shall correspond with the number of the company operating certificate, and the telephone number of the passenger vehicle for hire company shall be affixed with permanent paint or permanent decals on both sides and the rear of each passenger vehicle for hire, with the letters being at least three inches high on the side and on the rear. The passenger vehicle for hire number shall be in numbers at least four inches in height. Magnetic signs, temporary signs or removable decals which display the name of the passenger vehicle for hire company or the passenger vehicle for hire number are prohibited. Limousines, limousine sedans and SUVs, as defined in section 22-27, shall be exempt from the requirements of this section. In lieu of the identification requirements for which they are exempt, limousine sedans and SUVs are required to have the following:

(1)

Permanent window decals that include the passenger vehicle for hire company and telephone number within an area that is four inches by four inches and are placed at the passenger entry doors.

(2)

A front license plate that includes the passenger vehicle for hire company name.

(3)

A rear license plate frame that includes the passenger vehicle for hire company name and telephone number.

(c)

Colors of paint used for lettering and numbering shall be of sharp contrast with the color of the surface paint to which they are applied, so as to be evenly visible at a reasonable distance, especially at night with streetlights. Lettering or numbering shall not be acceptable where it has been painted upon sheetmetal or other material which can be removed or detached from the passenger vehicle for hire.

(d)

No person shall operate a vehicle that is identified as a passenger vehicle for hire unless use of the vehicle as a passenger vehicle for hire has been authorized pursuant to this article. No person shall operate a passenger vehicle for hire containing a passenger vehicle for hire company's color scheme or identification without authorization from the company operating certificate holder unless the company operating certificate has been revoked.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-291. - Placards.

The only placards permitted shall be the "vacant" and "off-duty" placards and shall be placed on the dashboard of taxicabs only. The placard is to be made of gravoply, three inches by ten inches, with two-inch-high letters, black on white background. The "vacant" inscription shall be placed on one side and "off-duty" on the reverse, if one placard is

used. The "vacant" placard shall be used only when the taxicab driver has no passenger, but desires such, and the taxicab is unoccupied except for the driver. The "off-duty" placard shall be used only when the driver has no passenger and desires no passenger.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-292. - Radios and television sets.

No driver shall operate an AM or FM radio or a television in any taxicab while the taxicab is being used to transport passengers for hire in the city. However, this section shall not prohibit the use in any taxicab, operating under this article, from using a radio device for the purpose of receiving instructions from the office or headquarters of the person owning the taxicab.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-293. - Advertising.

(a)

No passenger vehicle for hire shall display any advertising assemblies other than specifically allowed by subsection (b).

(b)

Each passenger vehicle for hire may display one advertising assembly. The advertising assembly may only be mounted on the top of the vehicle roof. All advertising assemblies must be approved in advance by the passenger vehicle for hire manager prior to mounting on any passenger vehicle for hire. In reviewing advertising assemblies for approval, the passenger vehicle for hire manager shall approve only those advertising assemblies that:

(1)

Do not obscure any required vehicle markings, including the color scheme.

(2)

Do not add more than 18 inches to the overall height of the vehicle.

(3)

Do not extend beyond the top of the front windshield or rear window.

(4)

Are securely mounted to the top of the vehicle and are without lighting.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-294—22-320. - Reserved.

DIVISION 9. - INSPECTION AND MAINTENANCE OF EQUIPMENT

Sec. 22-321. - Inspection; right of entry; withdrawal of vehicle when not in good condition; right of reinspection.
Sec. 22-322. - Repair of unsafe vehicle.
Sec. 22-323. - Cleanliness of vehicle.
Secs. 22-324—22-350. - Reserved.

Sec. 22-321. - Inspection; right of entry; withdrawal of vehicle when not in good condition; right of reinspection.

(a)

Before a vehicle operating permit is issued or renewed for any company operating certificate holder under this article, the passenger vehicle for hire for which such vehicle operating permit is requested shall be delivered to a place designated by the passenger vehicle for hire manager, who shall ascertain whether such passenger vehicle for hire complies with this article.

(b)

The passenger vehicle for hire manager, or his designee, shall have the right, at any time, after displaying proper

identification, to enter into or upon any licensed passenger vehicle for hire for the purpose of ascertaining whether or not any of the sections of this article is being violated. It shall be unlawful for any person who owns or is in control of a passenger vehicle for hire to refuse, upon the passenger vehicle for hire manager's request, to present the passenger vehicle for hire for inspection or removal of the vehicle decal.

(c)

Any passenger vehicle for hire that is found after inspection to be unsafe for passenger vehicle for hire service or out of compliance with this article may be immediately ordered out of service by the passenger vehicle for hire manager and, before being placed back in service, shall be delivered to the passenger vehicle for hire manager at a designated point for reinspection.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-322. - Repair of unsafe vehicle.

Any passenger vehicle for hire found by the company operating certificate holder and/or vehicle operating permit holder to be unsafe for passenger vehicle for hire service shall have such repairs and alterations made, as may be required, and the certificate holder and/or permit holder shall not operate, or cause or permit to be operated, any such passenger vehicle for hire until all such repairs and alterations have been completed. All repairs and alterations to any passenger vehicle for hire removed from service pursuant to this section shall be approved by the passenger vehicle for hire manager.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-323. - Cleanliness of vehicle.

Every company operating certificate holder and vehicle operating permit holder shall ensure that the interior and exterior of each of his passenger vehicles for hire is maintained at all times in a clean condition.

(Ord. No. 3065-X, 8-22-2005)

Secs. 22-324—22-350. - Reserved.

DIVISION 10. - AIRPORT SERVICE

Sec. 22-351. - Operating agreements; permit required.
Sec. 22-352. - Drivers.
Sec. 22-353. - Adoption of regulations.
Sec. 22-354. - Execution of operating agreement.

Sec. 22-351. - Operating agreements; permit required.

(a)

No passenger vehicle for hire shall operate at the airport unless the passenger vehicle for hire company it is associated with has obtained a current airport passenger vehicle for hire permit for the vehicle as a result of entering into an airport operating agreement. Such airport operating agreements shall be entered into annually, shall require the payment of appropriate fees and shall obligate the passenger vehicle for hire company and permitted vehicle to adhere to certain standards of operation at the airport. The airport passenger vehicle for hire permit may be revoked or may not be renewed if there is a failure of the passenger vehicle for hire company to comply with the terms of the agreement.

(b)

All drivers operating at the airport pursuant to a valid airport passenger vehicle for hire permit may also engage in the provision of other passenger vehicle for hire services throughout the city and shall otherwise comply with all the sections of this article.

(c)

Any airport passenger vehicle for hire permit may be revoked or suspended upon the breach of a term or condition of the airport operating agreement. The sole remedy for any such revocation or suspension shall be a breach of contract action. Appeal rights afforded under the vehicle operating permit pursuant to section 22-71 do not apply to the suspension or revocation of an airport passenger vehicle for hire permit.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-352. - Drivers.

(a)

The aviation director, or his designee, shall have the authority to prohibit any driver from transporting passengers from the airport terminal if he finds that the person has violated any provision of the following:

(1)

This article;

(2)

The airport operating agreement between the city and the passenger vehicle for hire company authorizing the passenger vehicle for hire to operate at the airport; or

(3)

Any rule or regulation adopted by the airport for passenger vehicles for hire or limousines.

(b)

Any driver prohibited from operating a passenger vehicle for hire as provided in subsection (a) shall not transport any passenger in any passenger vehicle for hire from the airport terminal for the period prescribed in the applicable airport operating agreement between the city and the passenger vehicle for hire company or the rules and regulations made a part thereof.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-353. - Adoption of regulations.

The aviation director shall have the authority to adopt reasonable rules and regulations for the safe, courteous and orderly operation of passenger vehicles for hire or limousines at Charlotte/Douglas International Airport.

(Ord. No. 3065-X, 8-22-2005)

Sec. 22-354. - Execution of operating agreement.

The aviation director, or his designee, is authorized to execute all airport operating agreements on behalf of the city.

(Ord. No. 3065-X, 8-22-2005)

Community Prosecution

September 2010

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CITY OF CHARLOTTE

What is Community Prosecution?

- Concept under which prosecutors are assigned to a specific geographic work area to work with law enforcement and residents in identifying major crime issues and offenders in their assigned area.
- Community prosecution recognizes that crime problems may vary widely in different areas of the city and prosecutors base their priorities on those crimes that are of greatest concern in their assigned areas.

September 2010

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What is a Community Prosecutor?

- A Community Prosecutor is much more than simply a lawyer prosecuting a case in court.
  - They are Assistant District Attorneys hired and supervised by the District Attorney which maintains their judicial independence.
  - They are tasked with assisting in the solving of public safety problems, preventing crime, and improving public confidence in the justice system.
  - They attend community meetings, including meetings with business associations, and interact with citizens to hear their concerns about crime in their neighborhoods and those offenders who are creating the most harm in the area.

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Does It Work?

- A number of large cities have successfully implemented community prosecution;
  - Richmond, Virginia
  - Washington, D.C.
  - Atlanta, Georgia
  - Denver, Colorado
  - Indianapolis, Indiana
  - Minneapolis, Minnesota
  - Portland, Oregon
  - Austin, Texas
  - Dallas, Texas

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Why Does Charlotte Need This?

- Community Prosecution supports two of the most critical components of CMPD's crime reduction strategy;
  - Crime reduction at the neighborhood level.
  - Targeting of chronic offenders.

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Crime Reduction At The Neighborhood Level

- Each of CMPD's thirteen patrol divisions are divided into three Response Area Teams.
  - Response Area Teams set crime reduction goals based on the crime and offender issues in their small area of the city and develop the enforcement and deployment plans to achieve them.
    - A Community Prosecutor would work closely with Response Area Teams and citizens in their assigned area to identify major crime issues and offenders.
    - The increased interaction with citizens will give the prosecutor an enhanced perspective on the effects of crime in a neighborhood and provide an opportunity to work with police and residents in setting crime reduction and prosecutorial priorities.

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Targeting Chronic Offenders

- Priority Offender Strategy Team (POST) that targets chronic offenders for enforcement and arrest.
  - Chronic offenders are individuals whose criminal behavior has a significant impact on crime and/or fear of crime in a community.
  - When a priority offender is arrested, the case will be presented to the community prosecutor for review, including whether the case will qualify for enhanced sentencing.
  - The Community Prosecutor will then handle that case from arraignment through final disposition; all the while, keeping neighborhood residents informed of the progress through the criminal justice system.

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How To Measure Success?

- The success of community prosecution is measured by the number of chronic offenders who are taken off the streets through prosecution, as well as through crime reduction and citizen perception of safety in their assigned areas.

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CMPD's Proposal

- Implement Community Prosecution on a trial basis in two geographically diverse patrol divisions that have high rates of Part One crime.

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What Is Needed To Make This Work?

- Funding for twenty additional electronic monitors for each of the two patrol divisions selected for the trial.
  - Electronic monitoring provides effective and structured supervision for chronic and dangerous offenders under court supervision
- Funding for a Crime Analyst
  - Focused solely on electronic monitoring through the entering of electronic monitoring data, developing reports, providing analytical support, and managing information on individuals on electronic monitoring.

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CITY OF CHARLOTTE

What Will It Cost?

- One Year Budget (2 Division Trial)
  - Personnel
    - Two Community Prosecutors @ $85,906
      - $171,812
    - One Electronic Monitoring Analyst
      - $36,106
  - Fringe Benefits
    - FICA, Retirement, Insurance, 401K
      - $46,832
  - Equipment
    - Three laptops, monitors and docking stations
      - $4,260
    - Forty electronic monitors (lease)
      - $62,050
- Total $321,060

September 2010

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Preferred PARKING Service

TOW/BOOT ORDINANCE MEETING QUESTIONS

These questions are presented to representatives of the City of Charlotte at a Tow/Boot Ordinance Meeting at CMGC at 12:00PM on 9/16/2010 in room 280

1. Please explain the discrepancy between why "Park It", a privatized division of the city (parking enforcement) is allowed to hold vehicles once towed until past due parking fines are paid when other lawful parking operators are not afforded the same rights?
2. Since revisions are being discussed to the current ordinance, can the data of how many fines and/or violations have been issued since the inception of the ordinance currently in place?
3. Has the feasibility or possibility of delineation in the ordinance between "trespass tows" and tows from paid public parking lots/garages been discussed? These processes are not entirely similar and could be addressed separately in the ordinance.