

Chapter 78 - VEHICLES FOR HIRE<sup>[1]</sup>

Footnotes:

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**Cross reference**— *Businesses, ch. 18; streets and sidewalks, ch. 62; traffic and vehicles, ch. 70.*

## ARTICLE I. - IN GENERAL

## Sec. 78-1. - Definitions.

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

*Compensation* means payment by a passenger of a vehicle for hire or contract vehicle for hire which may be in the form of a fare, a gratuity, or any other form of consideration.

*Contract* means a written agreement between a passenger and the contract vehicle for hire that originates with the passenger at least 24 hours in advance of the service and states: (i) the time of origin of the contact; (ii) the names of specific passengers to be transported; (iii) the schedule of transportation; and (iv) the contact person, address, and phone number of the passenger or group that is paying the compensation. A contract will not be considered valid unless signed by both a passenger or passenger group representative and the contract vehicle for hire company representative. A reasonable change in time or itinerary due to weather or other delays does not invalidate a contract.

*Contract vehicle for hire (C.V.H.)* means any van with seating capacity of up to 14 persons, other than the driver, engaged in the transportation of such persons and their accompanying baggage, if any, for compensation over the public streets of the city and not operating on a fixed route. A contract vehicle for hire shall not include vehicles owned by the city, passenger vehicles for hire, sightseeing vehicles as defined in section 78-231, limousines as defined in section 78-4, or motorized entertainment vehicles as defined in section 6-116. A contract vehicle for hire has neither a taximeter installed nor undertakes any transportation on demand or in response to a street hail.

**Editor's note**— Ord. No. 09-23, adopted Dec. 3, 2009, deleted § 78-231 and provided for definitions of sightseeing vehicles in this section.

*Cruising* means the driving of a passenger vehicle for hire on the streets, alleys or public rights-of-way in search of or soliciting prospective passengers for hire.

*Dispatch system* means a communication system which receives requests for service and transmits this information to licensed passenger vehicles for hire.

*Manifest* means a daily record prepared by a driver of all trips made by such driver showing the time and place of origin, the destination, the number of passengers, and the amount of fare of each trip.

*Passenger* means a person who is not permitted to drive, but may only ride within any vehicle.

*Passenger vehicle for hire* means any vehicle for hire engaged in the transportation of persons and their accompanying baggage, if any, for compensation over the public streets, not operated on a fixed route, and not including vehicles owned by the city, contract vehicles for hire, sightseeing motor vehicles as defined in section 78-231, or motorized entertainment vehicles as defined in section 6-116.

**Editor's note**— Ord. No. 09-23, adopted Dec. 3, 2009, deleted § 78-231 and provided for definitions of sightseeing vehicles in this section.

*Passenger vehicle for hire driver permit (P.V.H. driver permit)* means the authorization granted by the city to a stated person to operate any duly licensed passenger vehicle for hire for a period of one calendar year from the date of issuance, which authorization shall be reflected in a document issued by the city identifying the permittee and the expiration date thereof.

*Passenger vehicle for hire vehicle license (P.V.H. vehicle license)* means the authorization granted by the city to a stated person to operate a specific vehicle as a passenger vehicle for hire. This authorization shall be reflected in a document issued by the city identifying the vehicle, the licensee, and the expiration date thereof.

*Prearranged transportation* means transportation for compensation on the public right-of-way by a contract vehicle for hire arranged at least 24 hours in advance of the service. Prearranged transportation shall be by contract with the specific passenger.

*Seating capacity* means the maximum number of passengers allowed in a vehicle for hire, which shall be as determined by the manufacturer of the vehicle.

*Sightseeing motor vehicles operated pursuant to business license* means and includes every motor vehicle designed primarily for the purpose of carrying passengers for sightseeing for hire, operated on a scheduled route, and operated pursuant to article IV of this chapter.

*Sightseeing motor vehicles operated pursuant to franchise* means and includes every motor vehicle designed primarily for the purpose of carrying passengers for sightseeing for hire or shuttle transportation, including vehicles operated for amphibious tours, and operating under a franchise ordinance granted by the city pursuant to article V of this chapter.

*Standing by* and *stand by* mean the parking, waiting or standing of a contract vehicle for hire in front of any business or along any public right-of-way for the purpose of soliciting or inducing passengers without a prearranged contract.

*Stop, with respect to sightseeing vehicles*, shall mean a location utilized solely for the loading and unloading of passengers. A stop shall not be utilized for the purpose of waiting, soliciting or inducing passengers who have not previously purchased a ticket for transport.

*Taximeter* means an electronic or mechanical device attached to a vehicle for hire which measures the distance driven and the waiting time upon which the fare is based.

*Vehicle* means any wheeled device by which any person or property may be transported or drawn upon any public road, and which is propelled wholly or in part by a motor or engine.

*Vehicle for hire* means any vehicle offered for rent or lease, or within which space is offered for rent or lease including, but not limited to, passenger vehicles for hire, contract vehicles for hire, sightseeing motor vehicles operated pursuant to business license, and sightseeing motor vehicles operated pursuant to franchise.

*Waiting time* means the elapsed period between the moment of acceptance of a passenger and the moment of discharge of the passenger during which a passenger vehicle for hire is held motionless.

(Code 1986, § 92.01; Ord. No. 09-23, § 1, 12-3-2009)

**Cross reference—** Definitions generally, § 1-2.

Sec. 78-2. - Private vans excluded.

A van owned by a business entity and used exclusively for its customers and charging no compensation for services, gratuities excluded, is not deemed to be a contract vehicle for hire or a passenger vehicle for hire.

(Code 1986, § 92.40)

Sec. 78-3. - Taxicab stands.

The city manager is authorized to establish up to seven taxicab stands at locations and with restricted hours in the city, in consultation with the passenger vehicle for hire license holders. Taxicab stands shall not be used by contract vehicle for hire license holders.

(Code 1986, § 92.41)

Sec. 78-4. - Limousines.

- (a) For purposes of this chapter, the term "limousine" shall be defined as follows: a luxury automobile sedan having four or more doors, over 20 feet in length, providing eight seats or less exclusive of the driver, not having a meter, not having business advertising on the exterior, rented or hired by appointment only at least two hours in advance, rented on a time basis rather than a per-mile basis, and intended for limited use and special ceremonies, and not including vans. For special ceremonies only, including but not limited to weddings, a Rolls Royce and a Bentley shall constitute a limousine.
  - (b) Limousines shall be exempt from requirements contained in the following sections: 78-62, 78-95(a)(5), 78-128(a)(3) and (5), 78-129(a)(2)–(6) and (13), 78-131, 78-161, 78-163 and 78-164. Otherwise, they shall be subject to all provisions of sections 78-1, 78-31, 78-32, 78-61 through 78-63, and divisions 3 and 4 of article II of this chapter.
  - (c) Operation of a vehicle meeting the definition of limousine set forth in subsection (a) of this section on other than a by-appointment-only, two-hours-in-advance basis shall constitute a violation of this chapter and shall subject the licensee to the penalties set forth in section 78-32.
  - (d) The passenger vehicle for hire vehicle license granted to a limousine will so designate on the face of the license.
- (Code 1986, § 92.231; Ord. No. 07-01, § 1, 1-17-2007)

Sec. 78-5. - Business license or franchise required for all vehicles for hire.

- (a) Before any person shall conduct or maintain a business of renting, leasing or providing any vehicle for hire within the territorial boundaries of the city as set forth in section 2.01 of the Charter, entitled "Boundaries," such person shall, as applicable make application with, and receive from, (i) the city manager for a license, or, (ii) the city commission for a franchise, to operate such business. The pickup of a passenger for compensation within the territorial boundaries of the city shall constitute conducting or maintaining such a business. The application shall conform to all applicable requirements of this chapter and shall state the exact location of the intended place of business and any intermediate or way stations. No such business shall be conducted or maintained unless such license or franchise is duly issued, upon fees paid, in conformance with this chapter, as applicable, and unless the applicant has caused to be executed and shall maintain in full force and effect a liability insurance policy for each vehicle in amounts as prescribed in this chapter, the terms of which shall provide protection for all persons or property suffering injury, damage or loss because of the negligent operation of such vehicle by any person.
- (b) The operation of a vehicle for hire within the territorial boundaries of the city is prohibited unless the vehicle is:
  - (1) Licensed as a contract vehicle for hire;
  - (2) Engaged in motor transportation of passengers which is within the stream of interstate commerce within the scope of 49 CFR 1047.45;
  - (3) Licensed as a sightseeing motor vehicle operating pursuant to a business license under article IV of this chapter, or licensed as a sightseeing motor vehicle operating pursuant to a franchise under article V of this chapter; or
  - (4) Licensed as a passenger vehicle for hire pursuant to sections 78-4, 78-31, 78-32 and 78-64 and divisions 3, 4 and 5 of article II of this chapter.
- (c) Both a passenger vehicle for hire and a contract vehicle for hire are limited to a maximum capacity of 14 passengers. Any vehicle for hire with a capacity in excess of 14 passengers is prohibited to conduct business on the city streets, unless it is a sightseeing motor vehicle operated pursuant to business license, a vehicle in the stream of interstate commerce, a city-operated bus, or a sightseeing motor vehicle operated pursuant to franchise.
- (d) Operating a vehicle for hire without a license shall be punishable pursuant to section 1-15.

(Ord. No. 09-23, § 2, 12-3-2009)

Secs. 78-6—78-30. - Reserved.

## ARTICLE II. - PASSENGER VEHICLES FOR HIRE

### DIVISION 1. - GENERALLY

Sec. 78-31. - Enforcement.

Enforcement of this article shall be by citation to the county court or code enforcement special master. Violations of any section except 78-127 may result in a civil fine of up to \$500.00.

(Code 1986, § 92.175)

Sec. 78-32. - Regulatory penalties.

- (a) Upon receipt of reasonable evidence of violation of sections 78-94 through 78-96, 78-127 and 78-129 through 78-131 by a permittee granted a valid passenger vehicle for hire driver permit or by a licensee granted a valid passenger vehicle for hire vehicle license, the city manager shall, after conforming with subsection (c) of this section, issue a written warning for any such violation.
- (b) Upon receipt of reasonable evidence of three or more violations of any section or combination of sections listed in subsection (a) of this section or of a single violation of sections 78-92, 78-93, 78-128, 78-130 and 78-161(a), the city manager may, after conforming with subsection (c) of this section, impose a determinate suspension or revocation of the permittee's or licensee's passenger vehicle for hire driver permit or passenger vehicle for hire vehicle license.
- (c) Before reaching any decision under subsection (a) or (b) of this section, the city manager shall:
  - (1) Afford the permittee or licensee a reasonable, informal opportunity to be heard;
  - (2) Consider the permittee's or licensee's past record of compliance with the sections of this Code, if any; and
  - (3) Consider any apparent risk to public peace and safety.
- (d) No licensee may transfer his license during the period commencing with a notice of violation and the completion of the suspension or revocation period.
- (e) The city manager's decision shall be rendered in writing and shall include notice to the permittee/licensee of a right to appeal the decision within ten days thereof. Appeals not filed in writing with the city clerk within the period shall be deemed waived and shall not be heard by the city commission.

(Code 1986, § 92.18)

Secs. 78-33—78-60. - Reserved.

### DIVISION 2. - BUSINESS LICENSE<sup>[2]</sup>

*Footnotes:*

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**Cross reference**— *Occupational license tax, § 66-86 et seq.*

Sec. 78-61. - Reserved.

**Editor's note**— Section 3 of Ord. No. 09-23, adopted Dec. 3, 2009, deleted § 78-61, which pertained to required business license, and derived from § 92.02 of the 1986 Code. Ord. No. 09-23 further provided for similar provisions which can be found in § 78-5.

Sec. 78-62. - Limits on passenger vehicle for hire licenses.

- (a) Excluding independent passenger vehicle for hire licenses issued pursuant to section 78-64 and contract vehicle for hire licenses issued under this chapter, there shall be a maximum of 56 passenger vehicle for hire vehicle licenses issued for the operation of one passenger vehicle for hire per license.
- (b) These licenses may be transferred upon application to the city manager. Such transfer application must include all applicable provisions of section 78-128 and section 78-129 and must include a bona fide transfer document from the transferor (seller) to the transferee (buyer).

- (c) These licenses may be renewed from year to year; however, any license not renewed by July 31 will become void and of no further use whatsoever to the license holder.
- (d) Available licenses will be distributed on a random basis by November 30 of each year, in a method approved by the city manager. However, no available license may be offered to an applicant unless applicable provisions of sections 78-128 and 78-129, including the four-vehicle requirement, can be met by the applicant.
- (e) In October of each even-numbered year beginning in 2008, the city commission shall hold a public hearing upon request regarding requests or applications under this chapter to determine whether the public interest requires the issuance of new passenger vehicle for hire licenses. At the public hearing, if the issuance of new licenses is deemed necessary, the city commission shall adopt a resolution making such finding of necessity and stating the number of passenger vehicle for hire licenses to be issued on a random basis by a method approved by the city manager. However, no available license may be offered to any applicant unless applicable provisions of sections 78-128 and 78-129, including the four- or eight-vehicle requirement, can be met by the applicant. The public hearing may be continued, deferred, rescheduled, or cancelled by the city commission. Nothing in this section shall operate to prevent an owner of jitneys to apply for licensing before 2008. In making the findings as to whether the public interest requires the issuance of new licenses, the city commission shall take into consideration the number of passenger vehicles for hire already in operation, whether existing transportation is adequate to meet the public need, demonstrated demands necessitating the need for additional services, and the probable effect of increased service on local traffic conditions.

(Code 1986, § 92.025)

Sec. 78-63. - Liability insurance.

Every insurance policy required by section 78-61 or 78-128 shall be executed by an insurance company authorized to do business in the state. Such policy shall insure the operation of each vehicle in a sum of not less than \$50,000.00 for injury or death to any one person, in a sum of not less than \$100,000.00 for injury or death to all persons caused by one accident, and in a sum of not less than \$50,000.00 for damage to property resulting from any one accident. A duly authenticated copy of every such insurance policy, covering all vehicles used in such business, shall be filed with the city clerk. All such policies shall remain in full force and effect at all times during the operation of such business.

(Code 1986, § 92.03)

Sec. 78-64. - Independent passenger vehicle for hire licenses.

- (a) There shall be a maximum of eight independent passenger vehicle for hire licenses issued for the operation of one passenger vehicle for hire per license holder. This total of eight licenses shall mean three independent licenses in effect on September 30, 1984, and an additional five independent licenses created in 1992. These eight licenses are the only independent licenses authorized for independent passenger vehicle for hire vehicles to operate in the city.
- (b) Independent passenger vehicle for hire vehicle licenses shall be issued in a random drawing, held by the city clerk, from applications received by the city manager on or before 15 working days after occurrence of a vacancy among existing licenses through failure to renew or revocation. Such drawing shall be held by a procedure approved by the city manager. They shall be issued only to individuals and not to corporations, partnerships, or other business entities unless previously issued to a corporation, partnership, or other business entity. To be eligible for the drawing, any individual must demonstrate at least five years' experience in the vehicle for hire industry as an owner, driver, or dispatcher prior to license issuance. Existing license holders shall have the right to and must renew by September 30 of every year by complying in full with each provision of section 78-128, and by providing to the city manager a signed document stating that the licensee has complied with sections 78-128 and 78-129 and other applicable sections of this Code while operating under the license being renewed. Licensees who cannot comply with sections 78-128 and 78-129 and other applicable sections may receive a renewed license subject to the regulatory penalties provided in section 78-32. Only one license shall be issued to each successful applicant. Licenses may be transferred under the following conditions:

(1)

Those three licensees who hold licenses which were effective on September 30, 1984, may hold more than one passenger vehicle for hire vehicle license only if they purchase the additional license from one of the other two of the licensees.

- (2) In no other case will transfer be allowed where it would result in the transferee's holding more than one license. All eight independent passenger vehicle for hire license holders may have more than one driver.
  - (c) Any independent passenger vehicle for hire vehicle license which lapses, through nonrenewal or revocation, shall be declared void. Upon a showing by the applicant of compliance with all prerequisites contained in this chapter for license issuance, such license shall be reissued to the person whose name is drawn in a random drawing held as described in subsection (b) of this section. If this person does not meet the licensing requirements within 30 days of the drawing, the city clerk shall again conduct a random drawing from the remaining applicants.
  - (d) Each independent passenger vehicle for hire vehicle license holder shall apply to the city manager for a passenger vehicle for hire license for his vehicle.
  - (e) Independent passenger vehicle for hire vehicle license holders shall be subject to the requirements contained in sections 78-31, 78-32, 78-61 through 78-63, division 3 of this article, sections 78-126 through 78-129 and 78-131 and division 5 of this article, with the exception of sections 78-128(a)(5) and (6) and 78-129(a)(4) and (13).
- (Code 1986, § 92.23)

Sec. 78-65. - Wheelchair accessible vehicles.

- (a) Irrespective of the limitation on passenger vehicle for hire licenses set out in Key West City Code of Ordinances sections 78-62 and 78-64, each operator currently operating pursuant to a validly issued passenger vehicle for hire license(s) shall be entitled to add one wheelchair accessible vehicle to its fleet in accordance with this section. A "wheelchair accessible vehicle" is defined as a vehicle that a person in a wheelchair, scooter or similar device may enter and exit independently or with assistance while seated, and which prioritizes requests for service from wheelchair, scooter or similar device users.
- (b) In order to add one wheelchair accessible vehicle, an operator must:
  - (1) Apply to the licensing division, on a form to be provided by the division, within sixty (60) days from enactment of this ordinance.
  - (2) Within one hundred eighty (180) days from date of application, the operator must place an approved wheelchair accessible vehicle into service.
  - (3) Any entity failing to meet the timelines set forth herein shall be ineligible to add a wheelchair accessible vehicle into service.

(Ord. No. 14-05, § 1, 3-18-2014)

Sec. 78-66. - Operational requirements for wheelchair accessible vehicles.

In addition to meeting the other requirements of this article, except as otherwise expressly provided in this division, an operator must:

- (a) Upon a request for wheelchair accessible service, the operator shall immediately dispatch the first available wheelchair accessible taxicab prior to responding to a request for standard service.
- (b) All requests for wheelchair accessible taxicab service shall be provided with no additional charge or deposit required.
- (c) The wheelchair accessible vehicle must be compliant with Americans with Disabilities Act standards and such certification of compliance must be submitted to the licensing division prior to placing the vehicle in service and thereafter upon request.
- (d) If a wheelchair accessible vehicle becomes inoperable for any reason for more than forty-eight (48) hours, the operator must notify the licensing division in writing. If such vehicle is inoperable for more than seven (7) days, the operator must submit a plan and schedule to the license division to put the vehicle back in operation.

Failure of the operator to meet these requirements, or failure to place the vehicle or substitute wheelchair accessible vehicle back into service within one hundred twenty (120) days of the notification shall result in revocation of the operator's ability to operate a wheelchair accessible vehicle under this division in accordance with the procedures in subsection 78-67 below.

- (e) Under no circumstances may a non-wheelchair accessible vehicle be substituted for a wheelchair accessible vehicle.

(Ord. No. 14-05, § 2, 3-18-2014)

Sec. 78-67. - Revocation of authorization to operate a wheelchair accessible vehicle.

- (a) Any operator failing to meet the requirements of section 78-66(a)–(e) may have its authorization to operate a wheelchair accessible vehicle revoked in accordance with the following provisions:

- (1) Prior to any revocation, notice and an opportunity to be heard shall be provided to the operator. All hearings required by this section shall be preceded by a minimum of ten (10) days notice. Said notice shall specify the grounds upon which the action is based. The hearing shall be scheduled before the city manager. Failure to appear at a duly noticed hearing shall be deemed a waiver of the right to hearing and an admission of the acts specified in the notice.
- (2) In order to revoke the authorization, the city manager must find:
  - A. The holder thereof has failed to comply with any provisions of this division or any lawful order of the licensing division; and
  - B. The public interest will best be served by revocation or suspension; provided, however, that good cause be shown.
- (3) Within a reasonable time after the conclusion of the hearing, the city manager shall issue a statement of findings, conclusions and recommendations. The city manager shall promptly notify all parties of his or her decision.
- (4) The city manager's decision may be appealed to the city commission within ten (10) days of the date of said decision. Such appeal shall not stay the city manager's decision. Upon such an appeal, the city commission shall consider the transcript of the hearing and all evidence produced at the hearing. No further testimony or exhibits shall be permitted. The city commission, by majority vote, may affirm, reverse or modify the city manager's decision.

(Ord. No. 14-05, § 1, 3-18-2014)

Secs. 78-68—78-90. - Reserved.

### DIVISION 3. - DRIVER'S PERMIT

Sec. 78-91. - Required.

No person shall operate a passenger vehicle for hire within the city without carrying a valid passenger vehicle for hire driver permit document reflecting the operator's legal name. Violations of this section shall be penalized as provided in section 1-15.

(Code 1986, § 92.04)

Sec. 78-92. - Requirements for issuance.

- (a) Upon application and upon expiration of a reasonable investigation period for new applicants not seeking to renew a passenger vehicle for hire driver permit issued under section 78-93, the city manager shall issue a passenger vehicle for hire driver permit only to any applicant who:

- (1) Is 21 years of age or older;
- (2) Possesses a valid class A, B, C or D license issued in the applicant's name by the state;
- (3) Is able to read and write the English language;
- (4) Has not, within the ten years preceding the date of the application, been convicted of a felony against person

or property;

- (5) Has not been convicted of more than two moving traffic violations within the one year preceding the date of the application;
  - (6) Submits at the time of application a written document, signed no more than 60 days previously by a physician licensed by the state, which document states the physician's opinion that the applicant is not addicted to the use of drugs or intoxicants, that the applicant is not carrying an infectious disease, and that the applicant has sound health, hearing and eyesight suitable for driving a motor vehicle for 12 consecutive hours;
  - (7) Within two years of the date of the application, has not had a driver license suspended or revoked:
    - a. For moving traffic or safety-related violations;
    - b. Upon recommendation of the state medical advisory board; or
    - c. Pursuant to an adjudication of mental or physical incompetency;
  - (8) Submits written acknowledgement from the chief of police that the applicant's class A, B, C or D license is current and valid;
  - (9) Submits two passport-size photographic portraits of the applicant;
  - (10) Provides all of the following information regarding the applicant on a form provided by the city manager:
    - a. Name, address, telephone number;
    - b. Age, height, weight, color of eyes and hair;
    - c. Date and place of birth;
    - d. Explanations of all felony convictions within the ten years preceding the date of application;
    - e. Descriptions of all driver's licenses previously held, including date, location, and an explanation of any suspension or revocation thereof; and
  - (11) Pays a fee of \$30.00 for the passenger vehicle for hire driver permit, which fee shall be used to defray the city's investigation and regulatory costs, and is not refundable.
- (b) Applicants who fail to comply with each requirement of this section shall not be issued a passenger vehicle for hire driver permit. Applicants who knowingly misrepresent information provided under this section shall suffer suspension or revocation of the permit in accordance with section 78-32.

(Code 1986, § 92.05)

#### Sec. 78-93. - Renewal.

- (a) Upon application, the city manager shall renew the passenger vehicle for hire driver permit for any applicant who:
- (1) Has provided the city with updated and current information as required by section 78-92 and continues to meet all requirements for the permit listed within the section, except that the physician's document required by section 78-92(a)(6) must have been signed by the physician within 24 months preceding the renewal application; and
  - (2) Pays a permit fee of \$30.00 for the renewed passenger vehicle for hire driver permit, which fee shall be used to defray the city's investigative and regulatory costs, and is not refundable.
- (b) Applicants for renewed permits who fail to comply with each requirement of this section shall not be issued a passenger vehicle for hire driver permit. Applicants who knowingly misrepresent information provided under terms of this section shall suffer suspension or revocation of the permit in accordance with section 78-32.

(Code 1986, § 92.06)

#### Sec. 78-94. - Display.

No person shall operate a passenger vehicle for hire in the city unless a current and valid passenger vehicle for hire driver permit, reflecting the operator's name, is at all such times displayed inside the vehicle in full view from each passenger seat. Drivers who fail to comply with this section shall suffer regulatory penalties as provided in section 78-32.



(Code 1986, § 92.07)

Sec. 78-95. - Driver actions prohibited.

(a) The following actions by any holder of a passenger vehicle for hire driver permit are prohibited:

- (1) Using obscene language, shouting, disorderly conduct, engaging in verbal or physical abuse of passengers, using illegal substances or narcotics at any time, using intoxicants while on duty or driving under their influence at any time.
- (2) Receiving or discharging passengers in any manner which causes unnecessary blocking of traffic, or discharging or receiving passengers from the left side of the vehicle on a two-way street.
- (3) Permitting any other person to occupy or ride in a passenger vehicle for hire, unless the person first employing the vehicle consents thereto or unless the posted service schedule gives clear notice of shared-ride service.
- (4) Carrying more persons than allowed by the manufacturer's rated seating capacity.
- (5) Charging in excess of the schedule of fares on file with the city clerk and posted in the vehicle.
- (6) Failing to notify the city manager immediately and in writing of all changes in the information filed pursuant to sections 78-92 and 78-93.
- (7) Cruising in such areas and at such times as may be designated by the city manager upon determination that such would cause traffic congestion or be dangerous to pedestrians and other vehicles, provided that the city manager's decisions may be appealed in writing to the city commission.
- (8) Driving a passenger vehicle for hire for more than 12 hours within any 24-hour period.
- (9) Failing to carry an accurate manifest at all times while driving a passenger vehicle for hire.
- (10) Refusing or neglecting to transport any orderly person upon request, unless previously engaged, off duty, or unable or forbidden by this Code to do so.
- (11) Willfully defacing, or using while defaced or illegible, the passenger vehicle for hire driver permit.
- (12) Failing to participate in the licensee's cleanliness program.
- (13) Knowingly taking a fare that has been dispatched to another licensee or driver.
- (14) Using or having in possession a scanner or any other device adjustable to or adjusted to the dispatch frequency assigned by the Federal Communications Commission to another passenger vehicle for hire licensee while driving a licensed passenger vehicle for hire.
- (15) Failing to maintain a daily manifest upon which is recorded the time and place of origin of each trip, together with the number of passengers so transported and the total fare charged, and making such manifests available upon request by the city manager for one full year beyond the latest date on the manifest.
- (16) Refusing legitimate service to anyone regardless of race, creed, or color, except where the driver has good reason to believe that a potential customer represents a danger to himself or is unable to pay for the fare.

(b) Permittees who violate this section shall suffer regulatory penalties prescribed by section 78-32.

(Code 1986, § 92.08)

Sec. 78-96. - Receipts.

Any holder of a passenger vehicle for hire driver permit shall, upon request by any passenger, provide the passenger with a receipt showing the amount of all charges, the name of the driver, the permit number on his passenger vehicle for hire driver permit, and the date of the transaction. Violations of this section shall be penalized as provided by section 78-32.

(Code 1986, § 92.09)

Secs. 78-97—78-125. - Reserved.

DIVISION 4. - VEHICLE LICENSE

## Sec. 78-126. - Required.

No person shall offer any passenger vehicle for hire within the city before obtaining from the city manager a passenger vehicle for hire vehicle license for each such vehicle. Violations of this section shall be penalized as provided in section 1-15.

(Code 1986, § 92.10)

## Sec. 78-127. - Display of decal; standby vehicles.

- (a) For each passenger vehicle for hire vehicle license issued, the city manager shall issue a corresponding decal which shall be affixed to the left side of the rear bumper of the vehicle for which the passenger vehicle for hire vehicle license has been issued.
- (b) A passenger vehicle for hire license holder may obtain one temporary passenger vehicle for hire license and temporary decal, if there is a need to place a standby vehicle into service when a licensed vehicle for hire becomes temporarily inoperable. The temporary passenger vehicle for hire license may be obtained and issued only if the requirements of sections 78-128 and 78-129 have been met. In no event shall the standby vehicle be placed into service unless another licensed passenger vehicle for hire has been removed from service within the territorial boundaries of the city.
- (c) Operating a vehicle for hire without a license decal or a temporary decal shall be punishable pursuant to section 1-15.

(Code 1986, § 92.105)

## Sec. 78-128. - Requirements for issuance.

- (a) Upon application, the city manager shall issue a passenger vehicle for hire vehicle license only to any applicant who:
  - (1) Provides proof of, and agrees to maintain, insurance as described in section 78-63.
  - (2) By written signed document, agrees to maintain the vehicle in sound, safe operating condition and in conformance with applicable federal, state, and local laws throughout the duration of the license and to allow inspection by the city manager upon request.
  - (3) Files with the city clerk and agrees to maintain on file an accurate, current schedule of services offered and rates charged.
  - (4) Produces a valid and appropriate commercial state vehicle registration and pays a fee of \$125.00 for each passenger vehicle for hire vehicle license issued, which license shall expire on September 30 of each year following the date of its issuance; provided that the cost of such licenses shall be annually adjusted by the city manager on or about the anniversary date of the enactment of Ordinance No. 85-7 to meet the costs to the city of administering the passenger vehicle for hire licensing requirements.
  - (5) Upon licensing, provides proof of ability to meet applicable requirements of section 78-129, including the four-vehicle requirement.
  - (6) Provides proof of a properly zoned business location with appropriate sewer and waste accounts.
  - (7) Files with the licensing division a current description of the passenger vehicle for hire logo, color scheme, and other identifiers of the business and agrees in writing not to imitate the logo or color scheme of another city-licensed passenger vehicle for hire.
- (b) An applicant who fails to comply with each requirement of this section shall not be issued a passenger vehicle for hire vehicle license. An applicant who knowingly misrepresents information required under this section shall suffer suspension or revocation of the license in accordance with section 78-32. Conviction for any offense in connection with the application for a passenger vehicle for hire vehicle license shall render an applicant ineligible for receipt of a license for one year from the date of conviction.

(Code 1986, § 92.11)

## Sec. 78-129. - Requirements of licensee.

(a) Any licensee to whom a passenger vehicle for hire vehicle license has been granted must:

- (1) Permit the licensed vehicle to be operated for hire only by a permittee named on a valid passenger vehicle for hire driver permit.
- (2) Maintain on file with the city clerk an accurate current schedule of services offered and rates charged and post on the exterior of the licensed vehicle and within the licensed vehicle in view of each passenger seat a copy of the schedule, of a size approved by the city manager as being reasonable and legible, together with a current copy of the passenger vehicle for hire vehicle license.
- (3) Maintain a daily manifest upon which is recorded the time and places of origin and destination of each trip, together with the number of passengers so transported and the total fare charged, and make such manifests available upon request by the city manager for one full year beyond the latest date on the manifest.
- (4) Maintain or participate with other licensees in a dispatch system offering service on a 24-hour, 365 days-per-year basis in accordance with Federal Communications Commission regulations and maintain at least four duly licensed passenger vehicles for hire in the city, three of which must be in service at all times. However, this requirement shall not apply to any licensee whose license was in effect on September 30, 1984, and who on September 30, 1984, was licensed to operate only one passenger vehicle for hire or to any person issued an independent passenger vehicle for hire driver permit pursuant to section 78-64. Further, if 28 or more duly licensed passenger for hire vehicles participate in a single dispatch system, eight vehicles must be maintained in the city, of which six must be in service at all times. Licensees are temporarily excused from performing in accordance with this subsection at times of street flooding, hurricane or other natural disaster.
- (5) Maintain a sign attached to, or painted upon, each licensed vehicle, with the term "taxicab," "taxi," "cab," or "for hire" thereon, of a size and design approved by the city manager as being reasonable, durable and legible.
- (6) Charge fares which are equal to or below, but not higher than, the rate schedule on file with the city clerk and posted in and on the vehicle.
- (7) Notify the city manager of any change in the condition of the vehicle or of any change in information which could reasonably constitute a violation of the applicable standards contained in sections 78-1, 78-31, 78-32 and 78-61 through 78-63 and divisions 3, 4 and 5 of this article.
- (8) Not use or have in his possession a scanner or any other device adjustable to or adjusted to the dispatch frequency assigned by the Federal Communications Commission to another passenger vehicle for hire licensee.
- (9) Operate no vehicle that is, by reasonable maintenance standards, unsafe or likely to jeopardize the safety of passengers or the public at large.
- (10) Register all d/b/a business names with the city manager.
- (11) Maintain a vehicle cleanliness program that covers the interior and exterior of the vehicle.
- (12) Upon request, give all prospective customers an estimated time of arrival.
- (13) Maintain the business location as described in section 78-128(a)(6).
- (14) Operate no vehicle that imitates the logo or color scheme or any other business identifier of another city-licensed passenger vehicle for hire

(b) The holder of a passenger vehicle for hire vehicle license who fails to comply with each subsection of this section shall suffer regulatory penalties as provided in section 78-32. Nothing in this chapter shall require the holder of a passenger vehicle for hire license to provide service to a business with an exclusive contract with a contract vehicle for hire.

(Code 1986, § 92.12)

## Sec. 78-130. - Renewal.

Any licensee granted a passenger vehicle for hire vehicle license may renew the license by complying in full with each provision of section 78-128 and by furnishing to the city manager a signed document stating that the licensee has complied with section 78-129 and other applicable sections of this Code while operating under the license being renewed. A licensee who cannot comply with section 78-128 shall not be eligible for a renewed passenger vehicle for hire vehicle license. A licensee who has not fully complied with section 78-129 and other applicable sections of this chapter may receive a renewed license subject to the regulatory penalties provided in section 78-32. Any license not renewed by July 31 will become void and of no further use whatsoever to the license holder.

(Code 1986, § 92.13)

Sec. 78-131. - Advertising.

Subject to any regulations adopted by resolution of the city commission, any vehicle lawfully licensed under terms of sections 78-31 and 78-32 and divisions 3, 4 and 5 of this article may carry advertising matter, whether installed within or affixed to the exterior of the vehicle. A licensee whose vehicle is in violation of any such regulations shall be penalized as provided in section 78-32.

(Code 1986, § 92.15)

Sec. 78-132. - Provisional license.

Any applicant for a passenger vehicle for hire vehicle license, upon request and upon submitting evidence of full compliance with section 78-128(a)(3) and upon full payment in compliance with section 78-128(a)(4) for each passenger vehicle for hire vehicle license sought, shall be granted by the city manager a provisional passenger vehicle for hire vehicle license, which shall entitle the applicant to apply for any Federal Communication Commission license necessary for compliance with the terms of this Code, but which shall not entitle the applicant to operate such vehicle as a passenger vehicle for hire.

(Code 1986, § 92.21)

Secs. 78-133—78-160. - Reserved.

DIVISION 5. - RATES AND CHARGES

Sec. 78-161. - Meters; zones.

- (a) The holder of a passenger vehicle for hire vehicle license may install a taximeter in the passenger vehicle for hire fastened in front of the passengers and visible to them at all times. After sundown, the face of the taximeter shall be illuminated. The taximeter shall be operated mechanically or electronically by a mechanism of standard design and construction and shall be approved, certified, and affixed with a security seal by the state bureau of weights and measures or that department's official city designee. A passenger vehicle for hire may not be commercially operated unless the security seal is in place. If a taximeter breaks down or is inaccurate, a flat rate or estimated rate that is less than or equal to the meter rate may be offered to a passenger, provided that it is disclosed in advance of departure. Taximeters that are inaccurate or broken must be reported to the city manager and repaired and resealed within one business day. Violations of this subsection will be subject to section 78-32(b).
- (b) When there are four or more passengers and the per-person rate is disclosed in advance of departure, the passenger vehicle for hire driver may charge fares by zones. If the driver elects to charge by zones, the charge shall be on a per-person basis in accordance with the following zones:
  - (1) Zone 1, all areas west of White Street (old town zone).
  - (2) Zone 2, all areas east of White Street and west of Kennedy Drive (midtown zone).
  - (3) Zone 3, all areas east of Kennedy Drive and west of Cow Key Channel, including South Roosevelt Boulevard (uptown zone).
  - (4) Zone 4, Stock Island, Key Haven zone.
- (c) Zone fares shall be as follows:

- (1) Travel within a single zone, \$2.00 per person.
  - (2) Travel within two zones, \$2.50 per person.
  - (3) Travel within three zones, \$3.00 per person.
  - (4) Travel within four zones, \$3.50 per person.
- (d) A map delineating zones shall be posted in and on the passenger vehicle for hire. All passengers disembarking on a zone line shall be charged the lowest rate applicable in conformity with the posted schedule of services and rates. Such map shall also be attached as an exhibit to Ordinance No. 99-1, on file in the office of the city clerk.
- (Code 1986, § 92.16)

Sec. 78-162. - Airport zone fares.

The zone fare rate ceilings in this section shall apply to holders of passenger vehicle for hire vehicle licenses who are authorized to operate from the Key West International Airport and may be charged only when picking up passengers from the airport or discharging passengers to the airport. The zone designations shall be those described in section 78-161(b). The city manager may adjust the zone fare ceilings in section 78-161 and this section upon request and upon provision of substantial and competent documentation that an adjustment is warranted. The first such request shall occur not before January 1, 2002, and not more frequently than once every four years. The zone fare rate ceilings shall be as follows:

- (1) Zone 1, \$7.00 per person, including all accompanying baggage.
- (2) Zone 2, \$6.00 per person, including all accompanying baggage.
- (3) Zone 3, \$5.00 per person, including all accompanying baggage.
- (4) Zone 4, \$6.00 per person, including all accompanying baggage.

(Code 1986, § 92.161)

Sec. 78-163. - Rate ceilings.

The meter rate ceilings in this section shall apply except as provided in sections 78-161, 78-162 and 78-164. The city manager may adjust these meter rate ceilings upon request and upon provision of substantial and competent documentation that an adjustment is warranted. The first such request shall occur not before January 1, 2002, and not more frequently than once every two years. The meter rate ceilings shall be as follows:

- (1) Meter first one-fifth mile .....\$1.75
- (2) Meter each additional one-fifth mile .....0.45
- (3) Waiting charge per 50 seconds .....0.45

(Code 1986, § 92.17)

Sec. 78-164. - Special event rate.

Sections 78-161(b) and 78-163 shall not apply during special events as defined by the city manager, including Fantasy Fest and New Year's Eve; however, the maximum charge per person per trip during special events shall be \$3.50. Special event rates shall be advertised on the exterior of the vehicle in lettering no less than three inches high reading as follows:

"FARE: \$3.50 PER PERSON."

(Code 1986, § 92.171)

Sec. 78-165. - Wrongful refusal to pay fare.

It shall be unlawful for any person to refuse to pay the legal fare of any passenger vehicle for hire after having hired, and been transported in, the vehicle. It shall be unlawful for any person to hire any passenger vehicle for hire with intent to defraud the driver or licensee of the value of such service. Violations of this section shall be subject to penalties provided in section 1-15.

(Code 1986, § 92.19)

Sec. 78-166. - Demand for prepayment.

A holder of a passenger vehicle for hire driver permit may demand payment of the legal fare in advance and may refuse employment unless so prepaid.

(Code 1986, § 92.20)

Sec. 78-167. - Clean up fee.

In the event that a taxicab passenger soils the interior of a taxicab with bodily fluids or solids, a \$50.00 clean-up fee will be added to the trip fare. Notice of this fee must be posted in a location inside the vehicle that is plainly visible to the passengers.

(Ord. No. 13-15, § 1, 9-4-2013)

Secs. 78-168—78-195. - Reserved.

ARTICLE III. - CONTRACT VEHICLES FOR HIRE

Sec. 78-196. - Penalties for violations.

- (a) Upon receipt of reasonable evidence of contract vehicle for hire violations of this chapter by a permittee granted a valid contract vehicle for hire driver permit or by a licensee granted a valid contract vehicle for hire vehicle license, the city manager shall, consistent with subsection (c) of this section, issue a written warning for any such violation.
- (b) Upon receipt of reasonable evidence of three or more violations of this chapter, the city manager shall, consistent with subsection (c) of this section, impose a determinate suspension or revocation of the permittee's or licensee's contract vehicle for hire driver permit or contract vehicle for hire vehicle license.
- (c) Before reaching any decision under subsection (a) or (b) of this section, the city manager shall:
  - (1) Afford the permittee or licensee a reasonable opportunity to be heard;
  - (2) Consider the permittee's or licensee's past record of compliance with the applicable sections of this Code, if any; and
  - (3) Consider any apparent risk to public safety and welfare.
- (d) No licensee may transfer his license during the period commencing with a notice of violation and the completion of the suspension or revocation period.
- (e) The city manager's decision shall be rendered in writing and shall include notice to the permittee or licensee of a right to appeal the decision to the city commission within ten days thereof. Appeals not filed in writing with the city clerk within this period shall be deemed waived and shall not be heard by the city commission.
- (f) Any contract vehicle for hire or passenger vehicle for hire license holder or other private party damaged by a violation of Ordinance No. 00-1 by a contract vehicle for hire license holder may seek injunctive relief against the contract vehicle for hire license holder in the circuit court. The prevailing party shall be entitled to recover attorneys' fees and costs.

(Code 1986, § 92.38)

Sec. 78-197. - Licensing.

Before any person shall conduct or maintain a business of renting, leasing, or providing any contract vehicle for hire within the territorial boundaries of the city, such person shall make application to the city as provided in section 78-128, shall conform to all applicable requirements of this chapter, and shall state the exact location of the intended

place of business and any intermediate or way stations. No such business shall be conducted or maintained unless such license is duly issued, upon fees paid in the amount set forth in section 78-128(a)(4), and unless the applicant has caused to be executed and maintains in full force and effect a liability insurance policy for each vehicle in the amounts set forth in section 78-63.

(Code 1986, § 92.33)

Sec. 78-198. - Limits on issuance of licenses.

(a) One contract vehicle for hire license shall be issued per each licensed vehicle. There shall be a cap on the number of contract vehicle for hire licenses issued. For the purposes of this section, the maximum number of contract vehicle for hire vehicles shall be based upon the number of such vehicles in operation and insured as of January 28, 1999, the date the city issued notice to van operators of its intention not to renew their business tax receipts based on F.S. § 341.102. Documentation, including proof of insurance and contracts with business entities as of January 28, 1999, and VIN numbers of such insured vehicles shall be provided to the licensing division. Upon such proof, a contract vehicle for hire license will be granted to the following entities only, so long as the potential licensees make full and proper application on or before 30 days from the effective date of the ordinance from which this section derives:

- (1) Eggs Transportation, Inc.;
- (2) GDS;
- (3) Southernmost Shuttle;
- (4) Conch Kids Commute;
- (5) ARM;
- (6) Island City Bus; and
- (7) Florida Keys Ground Transportation.

If one of the entities named in this subsection fails to obtain a license consistent with the terms of this chapter, the license shall become void and shall not be granted to the applicant or any other person.

- (b) Contract vehicle for hire licenses may be transferred upon application to the city manager. Such transfer application must include all the applicable provisions of sections 78-128 and 78-129 and must include a bona fide transfer document executed by the transferor (seller) and transferee (buyer). No transfer may be made to an existing contract vehicle for hire license holder.
- (c) Contract vehicle for hire licenses may be renewed from year to year; however, any license not renewed is void and shall neither be of further use to the license holder nor be transferred or issued to another entity.
- (d) In October of every even-numbered year commencing in 2008, the city commission shall hold a public hearing, after written request to the city manager, to determine if it is in the public interest to issue additional contract vehicle for hire licenses. If at this public hearing the issuance of new contract vehicle for hire licenses is deemed necessary, the city commission shall adopt a resolution making such finding of necessity and stating the number of licenses to be issued on a random basis by a method approved by the city manager. In making findings as to whether the public interest requires the issuance of new licenses, the city commission shall take into consideration the number of contract vehicle for hire and passenger vehicle for hire vehicles already in operation, whether existing transportation is adequate to meet public need, demonstrated demands necessitating additional services, and the probable effect of increased service on local traffic conditions.
- (e) Contract vehicle for hire contracts in existence as of the January 4, 2000 which do not require 24-hour advance booking may remain in effect.

(Code 1986, § 92.34; Res. No. 06-292, § 1, 9-6-2006)

Sec. 78-199. - General regulations.

(a) Contract vehicle for hire vehicles and drivers shall be subject to section 78-63, division 3 of article II of this chapter

and sections 78-126 through 78-130, as they pertain to contract vehicles for hire and their drivers.

- (b) A contract vehicle for hire license holder may only transport passengers who are under contract. A contract vehicle for hire vehicle shall not cruise the streets or stand by. The driver of the contract vehicle for hire vehicle shall maintain in his possession a copy of the contract that governs the transaction with the passenger.
- (c) A contract vehicle for hire vehicle shall not imitate a passenger vehicle for hire vehicle, including but not limited to the use of existing passenger vehicle for hire company color schemes; the carrying of advertising material; the use of roof lights and signage, checkers, top lights; and the posting of rates. No contract vehicle for hire vehicle shall carry the term "taxi," "livery," "jitney," "shuttle" or any other term that could be construed as on-demand transportation.

(Code 1986, § 92.35)

Sec. 78-200. - Advertising prohibited.

Contract vehicle for hire vehicles shall not carry any exterior advertising except for the name, address and phone number of the contract vehicle for hire business. A licensee whose vehicle is in violation of this section shall be subject to the penalties set forth in section 78-196.

(Code 1986, § 92.36)

Sec. 78-201. - Fares.

Contract vehicle for hire licensees shall not use or install meters or any other electronic device to calculate fares. Fares shall be determined and set forth in the contract between the contract vehicle for hire licensee and the passenger; provided, however, that a contract vehicle for hire fare shall not be less than a passenger vehicle for hire fare (per person or group rate) for the same route. For prearranged transportation, the fare shall be provided to the passenger in writing prior to the commencement of the service. A holder of a contract vehicle for hire driver permit may demand payment of the legal fare in advance and may refuse employment unless so prepaid.

(Code 1986, § 92.37)

Sec. 78-202. - Wrongful refusal to pay fare.

It shall be unlawful for any person to refuse to pay the legal fare of any contract vehicle for hire after having hired and been transported in the vehicle. It shall be unlawful for any person to hire any contract vehicle for hire with intent to defraud the driver or licensee of the value of such service. Violations of this section shall be subject to the penalties provided in section 1-15.

(Code 1986, § 92.39)

Secs. 78-203—78-230. - Reserved.

ARTICLE IV. - SIGHTSEEING VEHICLES OPERATED PURSUANT TO BUSINESS LICENSE<sup>[3]</sup>

*Footnotes:*

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**Editor's note**—Section 4 of Ord. No. 09-23, adopted Dec. 3, 2009, amended Art. IV, *Sightseeing Vehicles*, to read as herein set out.

Sec. 78-231. - Reserved.

**Editor's note**—Section 5 of Ord. No. 09-23, adopted Dec. 3, 2009, deleted § 78-231, which pertained to definition of sightseeing motor vehicles, and derived from § 92.24 of the 1986 Code. Ord. No. 09-23 further provided for similar definitions which can be found in § 78-1.

Sec. 78-232. - Regulatory power.

The city commission is granted the right to make such other rules and regulations pertaining to the operation of the vehicles under this article as may be recommended by the chief of police and city manager.

(Code 1986, § 92.32)



Sec. 78-233. - Number authorized.

The number of sightseeing vehicles authorized and declared as a public convenience and necessity shall not exceed seven; provided, however, as the licenses are not renewed or applied for, the city commission, in its discretion, may reduce the number of licenses from time to time. Any person who has purchased such license for a sightseeing vehicle is not authorized to transfer the license except with the approval of the city commission.

(Code 1986, § 92.31)

Sec. 78-234. - Inspection.

The police department is granted the right to inspect the vehicles operated under this article at all reasonable times for safe operation. If the department determines that any such vehicle is unsafe for transportation of passengers for hire, the licensee thereof must immediately place the vehicle in a safe condition and obtain a certificate from a licensed garage certifying to the safety of such vehicle before it may be again used for such operation.

(Code 1986, § 92.27)

Sec. 78-235. - Length.

No person shall operate any sightseeing vehicle as contemplated by this article upon the city streets when the overall length exceeds the maximum length specified under state law.

(Code 1986, § 92.25)

Sec. 78-236. - Liability insurance required.

It shall be unlawful for any person to operate any sightseeing vehicle unless such person shall have first procured and filed with the city clerk and shall thereafter maintain and keep in full force and effect and on file in the office of the city clerk, at all times while such vehicle is being driven or operated, a liability insurance policy, issued by a reliable insurance company authorized to do business in the state, in the amount of \$100,000.00 for one person injured or killed and \$300,000.00 for more than one person injured or killed in any one accident, and \$50,000.00 for all property damaged or destroyed in any one accident, covering such vehicle. Such policy shall conform with section 78-63.

(Code 1986, § 92.30)

Sec. 78-237. - Seating capacity generally.

No sightseeing motor vehicle for sightseeing for hire shall exceed the passenger capacity of such vehicle as may be determined to be safe for such passengers, and such capacity must be forthwith registered with the police department and approved by it.

(Code 1986, § 92.26)

Sec. 78-238. - Passenger fare rates.

The city commission is authorized to establish rates for sightseeing motor vehicle passenger fares, upon recommendation of the city manager, and such rates shall be publicly displayed at the off-street parking area or depot and on each of the motor vehicles where the rates may be plainly seen and read by the public.

(Code 1986, § 92.28)

Sec. 78-239. - Ticket sales and solicitations restricted.

No licensee of sightseeing motor vehicles shall be permitted, either personally or through an agent, servant or employee, to solicit business for sightseeing at any public place within the city or to sell tickets for such purpose, except to persons on the off-street parking area of the depot. However, the prohibition against the sale of tickets shall not apply to any licensed ticket sales agency or to the sale of tickets on the off-street parking area of any point of interest in the city.

(Code 1986, § 92.29)

Secs. 78-240—78-249. - Reserved.

#### ARTICLE V. - SIGHTSEEING VEHICLES OPERATING PURSUANT TO FRANCHISE

##### Sec. 78-250. - [Regulatory power.]

Pursuant to applicable law, the city commission may regulate vehicles for hire, including, but not limited to, sightseeing motor vehicles operating within the Key West city limits.

Other than sightseeing motor vehicles operating pursuant to business licenses, as outlined in article IV, above, all other sightseeing motor vehicles operating within the City of Key West must operate pursuant to a franchise ordinance approved by the Key West City Commission pursuant to article 7.01(4) of the City Charter.

The commission may, from time to time, enter into franchise agreements with particular grantee(s), granting the right, privilege, and franchise to use designated streets, avenues and other public highways, together with other public property designated by the city commission in said city, for and during periods of up to ten years. Said franchise agreements shall be for the purpose of a particular grantee's operating and maintaining sightseeing motor vehicles in said city, the enjoyment and exercise of the right so granted to be at all times in conformity with, and subject to, all provisions, terms and conditions of this article. A grantee's right to use the city's streets, alleys, public ways and places for the purposes herein shall not be exclusive, and the city reserves the right to grant the use of all streets, alleys, public ways and places to any person at any time during the period of any franchise granted pursuant to this article.

This article V shall apply to any franchise issued after the effective date of this ordinance, whether a renewal of an existing franchise or otherwise.

(Ord. No. 09-23, § 6, 12-3-2009)

##### Sec. 78-251. - Franchise application process.

- (a) Any person or corporation desiring to obtain a new or renewal franchise to operate sightseeing motor vehicles pursuant to this article V shall file an application with the city manager, along with an application fee of \$5,000.00 made payable to the City of Key West to subsidize the costs of processing applications.
- (b) In order for a franchise application to be considered by the city commission, the application shall contain the following (all submitted in electronic and paper format) to the city manager:
  - (1) Proposed franchise ordinance meeting the requisites of section 78-252(a);
  - (2) If the applicant is a corporation, a letter of good standing issued by the Florida Department of State, Division of Corporations, certifying that the applicant is either a Florida corporation, or a foreign corporation, which is duly registered with the Florida Division of Corporations;
  - (3) Proposed number of vehicles to be operated under the franchise, with true and accurate color photographs of the vehicles to be used in the operation, along with accurate dimensions, fully loaded weight and turning radius of such vehicles;
  - (4) Proposed fixed route, schedules, stops and hours of the operation delineated on a Key West city map and a plan to minimize noise and traffic impacts on the residents and guests of the City of Key West; and
  - (5) Proposed script of the sightseeing tour to be given to passengers.
- (c) Upon receipt of all of the items listed in this section, the city manager shall deem an application "duly-submitted" and the city manager shall place the item as an ordinance for first reading to appear on the agenda for a regularly scheduled city commission meeting occurring within 60 days of the city manager's designation of the application as being "duly-submitted."

(Ord. No. 09-23, § 6, 12-3-2009)

##### Sec. 78-252. - City commission consideration of duly-submitted application.

The Key West City Commission has plenary authority regarding any duly-submitted franchise application.

Consistent with the requirements specified in this chapter, the city commission may grant any application, deny any application, or grant any application with amendments, or conditions, upon any reason in which the city commission deems appropriate for the protection of health, safety and welfare and which advances the public convenience.

(a) Subject to the above plenary authority, the city commission shall not approve a proposed franchise ordinance hereunder unless such franchise ordinance includes:

- (1) A provision requiring: that the franchisee shall, at all times, maintain liability insurance in an amount of not less than \$10,000,000.00 per occurrence. Such insurance shall comply with the laws and regulations of the State of Florida. All insurance policies insuring said sightseeing/shuttle vehicles shall be issued by an insurance company registered to do business in the State of Florida, subject to the laws and regulations of the State of Florida. Insurers issuing the above-referenced policies must maintain an A.M. Best rating of no less than "A". The City of Key West shall be named as an additional insured on all liability policies. The policies shall contain a waiver of subrogation provision whereas the franchisee's insurer waives any claim against the City of Key West. Certificates of insurance shall be filed and maintained with the city clerk evidencing the minimum limits of insurance cited above. All policies shall provide they may not be terminated or modified without the insurer providing the city at least 30 days' advance notice. The franchisee shall immediately notify the city of any cancellation of such insurance.

At the request of the city manager, the franchisee shall meet with the city's representatives to review the extent and amount of insurance coverage provided hereunder. Should the city manager believe that the coverage provided is not sufficient to protect its interest, it may specify the increased level of insurance required. If franchisee objects to the level of coverage, city and franchisee shall enter into a binding arbitration within 15 days of the date of the dispute to resolve the issue. If city and franchisee are unable to agree on a neutral arbitrator, each party shall select an arbitrator who will then appoint a third arbitrator to resolve the matter. If an arbitrator is not selected through no fault of the city, the coverage required by the city shall be placed.

- (2) A provision requiring an annual franchise fee be paid to the City of Key West in an amount equal to the greater of (i) five percent of gross revenues it receives from all sources derived from operations pursuant to the franchise agreement, or (ii) \$7,500.00 per vehicle authorized in the franchise agreement (this amount shall be referred to as the "minimum guarantee"). The \$7,500.00 per vehicle fee shall be increased yearly in an amount equal to the increase in the United States Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics. Said five percent shall be paid at the end of each calendar month with a 15-day grace period. The yearly guaranteed minimum payment of \$7,500.00 per vehicle shall be payable at the end of each 12-month period with a ten-day grace period. Failure to pay any sum due shall result in imposition of interest at the rate of 18 percent per annum of the delinquent amount per month or such maximum amount permitted by law until paid in full.
- (3) A provision which includes, with detail and specificity, each and every location where vehicles operated pursuant to the franchise will pick up or drop off passengers (hereinafter referred to as "stop(s)").
- (4) A provision requiring that the city manager shall have the authority to disapprove any stop, which in the city manager's opinion disrupts traffic, city operations, or is otherwise unreasonably injurious to the public welfare. Should franchisee or any affected party or entity disagree with the decision of the city manager, it shall, by filing written notice with the city clerk appeal the decision to the city commission. Should franchisee disagree with the decision of the city manager, it shall, by filing written notice with the city clerk within three days of the city manager's written determination, appeal the decision to the city commission.

Upon the establishment of any proposed stop, the city manager shall mail notice to all property owners and franchisees located within 300 feet of the proposed stop. Such property owners and franchisees shall have 20 days from the mailing of the notice to appeal the decision of the city manager to the city commission in accordance with the provisions of this chapter. The city manager shall also cause notice to be mailed to all property owners and franchisees located within 300 feet of any location that the city manager has denied the franchisee an opportunity to establish a stop, and for which the franchisee has appealed, informing them of the city commission meeting at which such appeal will be considered.

The city commission shall set the matter for hearing with appropriate public notice for the next regularly scheduled commission meeting. By majority vote, the commission may affirm, reverse or modify the decision of the city manager based upon the factors considered by the city manager and those contained in subsection (b) below.

Such authorized stops shall be for the loading and unloading of passengers only. The franchisee shall not solicit persons or transact ticket sales on the city streets or sidewalks. The city manager shall have the authority to move stops and to reasonably regulate their use by the franchisee, including requiring of the sharing of stops with other franchisees. The location of stops may be marked on city streets in accordance with the City Code of Ordinances by the city for the benefit of the franchisee. The franchisee, with the consent of the city manager, may install signage at such stops subject to any applicable city regulations. If the city should lawfully decide to alter or change the grade of any street or to make any other public improvements which, in the city manager's sole discretion, requires the franchisee to relocate, modify, or otherwise alter its operations under this franchise, the city manager shall give the franchisee at least 48 hours notice of such decision and may require the franchisee to remove its signs, vehicles, or other property in order to facilitate such city project. The franchisee shall acknowledge and agree to release the city from any losses, injuries, or damages it may suffer as a result of such decision by the city. The movement or relocation of any stops on public property shall be applied equally to all operators under city franchises. The city shall not require a franchisee to relocate, temporarily or otherwise, unless the same request is made to all similarly situated franchisees.

- (5) A provision which delineates, with detail and specificity, the fixed route of the operation;
- (6) If the franchise permits shuttle operations, a provision which requires all such shuttle operations to be subject to the franchise fee provisions;
- (7) A provision including the duration and term of the franchise, which duration or term shall not exceed ten years;
- (8) A provision which, subject to due process considerations, authorizes the city, upon reasonable notice, to terminate the franchise ordinance upon a finding that the operator has defaulted under, or otherwise violated, the franchise agreement and has not corrected the default after reasonable notice;
- (9) A provision requiring the franchisee to indemnify the City of Key West for any and all claims related to the franchisee's operations;
- (10) A provision whereby the operator expressly acknowledges that the operator is prohibited from transacting ticket sales on the streets or sidewalks of the city; and
- (11) A provision requiring that all vehicles operated pursuant to the franchise agreement use propane fuel or some other environmentally sensitive alternative fuel. If a proposed vehicle presently does not utilize an environmentally sensitive fuel, the franchisee shall submit a plan specifying that such franchisee will do so within one year of the commencement of its franchise as an agreed-upon condition of continued operation.
- (12) A provision requiring the franchisee to have its gross revenues and payments to the city audited at least every three years by a certified public accounting firm pursuant to generally accepted accounting principles, and the results of said audit be promptly transmitted to the city. City shall also retain the right

to have gross revenues and payments to the city audited at its own expense by a certified public accounting firm selected by city upon 14 days' written notice to franchisee and further provided that the results of such audit be immediately transmitted to franchisee promptly upon completion. Upon 14 days' written notice to franchisee, city shall be permitted to inspect franchisee's books, records and other pertinent financial information to ensure compliance with the provisions of paragraph (2) above.

- (b) Subject to the plenary authority of the city commission regarding the issuance and renewal of franchise hereunder, factors which the city commission may take into consideration in acting upon a duly submitted franchise application include, but are not limited to, the following:
- (1) Public safety;
  - (2) Traffic impacts, including whether the grant of a franchise would unreasonably increase congestion in the historic district;
  - (3) Performance history of the applicant, if applicable;
  - (4) Financial responsibility and wherewithal of applicant;
  - (5) Consistency of vehicle aesthetics and city environment;
  - (6) Consistency between vehicle aesthetics and historical neighborhoods;
  - (7) Environmental impacts;
  - (8) Capacity and volume of noncommercial and commercial traffic;
  - (9) Public input; and
  - (10) Any other factors in which legislative bodies would normally consider in acting upon proposed ordinances.

(Ord. No. 09-23, § 6, 12-3-2009)