Memorandum

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City of Lawrence

City Manager’s Office

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TO:

David Corliss, City Manager

FROM:

Brandon McGuire, Assistant to the City Manager

CC:

Toni Wheeler, Randy Larkin, Casey Toomay, Diane Stoddard, Tarik Khatib

DATE:

March 2, 2015

RE:

Proposed Revisions to Chapter 6, Article 6 of the City Code, the City Taxi Code

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Background

At its February 17, 2015 meeting, the City Commission identified concerns related to the current Taxi Code (City Code Chapter 6, Article 6). Commissioners

decided to defer current and future applications for taxi business licenses until their concerns can be addressed. The concerns centered on public safety,

insurance requirements and old language and procedures related to the business licensing process. At the Commission’s direction, city staff researched

those issues and developed revisions to the Taxi Code.

City staff organized a meeting of licensed taxi operators and current license applicants in order to present the recommended code changes and solicit feedback.

Prior to the stakeholder meeting, the taxi operators were both called and emailed by city staff, and they received copies of the current Taxi Code, the

proposed code revisions, and a table that compares and contrasts the two codes. The following memorandum details the proposed code changes and the feedback

received from local taxi operators regarding those proposed changes.

Recommended Changes

The following section details the recommended changes to City Code Chapter 6, Article 6 which establishes the regulations and business licensing requirements

for taxicabs and taxicab operators.

Licenses and Fees

Under the current Taxi Code, only taxicab vehicles are licensed. Taxicab vehicle permits currently cost $100 for the first vehicle, $50 for the second

and third vehicles, and $25 for each additional vehicle. The revised code would establish a taxicab vehicle permit and create a new taxicab business operator

license. Anyone operating a taxicab business would be required to obtain a taxicab business permit, and they would be required to obtain a taxicab vehicle

license for each taxicab they operate as part of their business. The proposed taxicab business permit fee is $100 and the proposed taxicab vehicle license

fee is $50 per vehicle.

The proposal to license taxi businesses is a response to concerns raised about the level of oversight of independent taxi operators. The taxi businesses

that operate multiple taxicabs employ multiple people to drive those cabs. Employing safe and responsible cab drivers is in the best interest of those

relatively larger companies. Currently the City does not have a mechanism to examine independent, owner-operated taxi drivers, other than verifying that

they satisfy the City’s minimum insurance requirement. The proposed Taxi Code would require that all taxi business operators obtain a taxi business license

and undergo criminal background screenings. This would address the concerns about oversight of independent owner-operated taxis.

Additionally, the proposed code would establish a $25 late fee for any renewal applications received after the date of expiration. The current code does

not explicitly address late renewals or expired licenses. For details on the proposed licensing fees, please see the attached

fee justification report.

Operating without a License

The Current code does not address unlicensed taxicab operators. As a result, the City does not have a mechanism to pursue and penalize unlicensed operators.

The City’s ability to respond to complaints and reports about unlicensed taxi operators is limited at this time. The proposed code would establish a fine

($500 minimum, $1,000 maximum) for operating a taxicab without the appropriate licensing and permitting.

Criminal Background Check

Under the current Taxi Code, applicants for a taxicab license are not required to undergo a criminal background check. The Commission may, however, revoke

a license if the owner or driver of a licensed taxicab vehicle is found to be incompetent, guilty of misconduct, or to have violated any of the provisions

of the Taxi Code or other traffic ordinances of the City.

Under the proposed Taxi Code, applicants would be required to undergo a criminal background check. Applications for new/renewal permits would be denied,

and existing permits would be revoked if the applicant has been convicted of the following within the preceding 5 years: felony, crime of dishonesty, crime

against a person, driving under the influence, or driving with a suspended driver's license. Permit revocation and denial would also result from an outstanding

arrest warrant.

Insurance Requirement

Currently, taxicab vehicles are required to be insured at the following level or higher.

· $25,000 for any injury to or death of any one person

· 50,000 for the injury or death of any number of persons in any one accident

· $10,000 for property damage in any one accident

The proposed code would establish the following minimum liability insurance requirements.

· $300,000 combined per occurrence single limit coverage for all bodily injury, death and property damage for each taxicab vehicle with a capacity of six

(6) or fewer passengers (e.g. a sedan or minivan).

· $500,000 combined per occurrence single limit coverage for all bodily injury, death and property damage for each taxicab vehicle with a capacity of seven

(7) or more passengers (e.g. a 15 passenger van or a limousine used for taxi operations).

The

attached table

provides an overview of the codified insurance requirements established in other cities in Kansas.

License Issuance, Denial and Appeal

Currently the City Commission reviews applications for taxicab licenses and determines whether to approve or deny those applications. Decisions to revoke

taxi licenses are also made at the discretion of the Commission. City Code 6-605, Investigation by Board, establishes the following criteria by which the

Commission shall determine whether to issue or deny a taxi license.

The Board of Commissioners shall take into consideration the systems of transportation already operating, the probable congestion of traffic with an additional

system of transportation, the question of whether or not the existing systems of transportation are rendering the services required to meet the needs of

the public and all other facts which are necessary to determine whether or not public convenience and necessity require the operation of additional taxicab

service within the corporate limits of the City. The Board of Commissioners shall likewise make such investigation as it may deem advisable as to the moral

and physical fitness of such person to operate such taxicabs.

Language regarding the review of taxi license applications was codified in 1979 and the current practice for determining whether to deny or issue taxi

licenses is not based on these criteria. The current code requirements expose the City to liabilities due to the risk for unfair treatment of applicants,

protectionism and anti-trust issues, and discrimination issues.

In order to address the Commission’s concerns for public safety and the Taxi Code’s antiquated procedural language, the proposed code would establish the

evaluation process below (6-606 of the draft code). The proposed code would also authorize the City Clerk to review and determine whether to deny or issue

a taxi license. The current Taxi Code does not provide for an appeals process in the event that an application is denied or a current license is revoked.

Relieving the City Commission of the responsibility to approve or deny applications would enable the Commission to consider appeals in the event that a

denial or revocation is made.  The proposed code would establish the following criteria and process for taxi licensing.

The City Clerk shall review each application for a Taxicab Business Permit and Taxicab License and the City shall conduct a background check of each applicant.

Within ten (10) business days of the application, the City Clerk shall approve the application and shall issue to the applicant a Taxicab Business Permit

and Taxicab License(s), unless:

(1)      The application is incomplete.

(2)      The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.

(3)      The applicant has had a Taxicab Business Permit or Taxicab License revoked by the City for any reason within the preceding two (2) years.

(4)      The applicant has been convicted, under the laws of the State of Kansas, or any other jurisdiction, of a felony, a crime of dishonesty, a crime

against a person, driving under the influence, or driving with a suspended driver's license within the preceding five (5) years.

(5)      The applicant has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or any other jurisdiction.

If any of the above criteria are met, then the City Clerk shall deny the license application. The applicant may appeal the denial to the City Commission.

If an application is denied for any reason, except for the filing of an incomplete application, the applicant would be prohibited from re-applying for

a period of one year. An applicant, whose application is denied because it is incomplete, may immediately re-apply.

License Revocation

Under the current Taxi Code (6-615, Revocation of Licenses), the City Commission is responsible for revoking existing taxi licenses. The criteria set forth

in the Code for revoking a license, and the process for appealing a revocation is paraphrased below.

The Code establishes the following criteria to be used when determining whether or not to revoke a license. The Commission shall revoke a taxi license

if the owner or driver of any licensed vehicle shall be found by the Commission to be incompetent, guilty of misconduct, or to have violated any of the

provisions of the City Taxi Code or the City Traffic Code. No revoked license shall be reissued until the applicant has made satisfactory showing and proof

of his or her fitness, or that of his or her driver, to operate such taxicab.

Under the proposed code the City Clerk would be authorized to revoke current licenses which would allow the City Commission to hear appeals in the event

of a revocation. In order to address issues of fairness and public safety, the proposed code would rescind the current language regarding revocations and

establish the criteria and process below.

The City Clerk may revoke any Taxicab Business Permit and Taxicab License for one or more of the following reasons:

(1)      Fraud, misrepresentation, or false statement contained in any application for a Taxicab Business Permit or any application for a Taxicab License;

(2)      Any violation of the provisions of this Article; or

(3)      Conducting a permitted or licensed activity in an unlawful manner, in a manner that disturbs the peace, or in a manner that is injurious to the

health, safety, or welfare of the residents of the City.

Taximeters and Taxicab Rates

Requirements regarding the use of taximeters would not change between the current and proposed Taxi Codes. Taxicabs are required to be equipped with taximeters

except for taxicabs charging a flat rate. Under the current code, taximeters are subject to inspection by the Police Department. Police would not inspect

taximeters under the proposed code. The Police Department does not currently conduct taximeter inspections.

Rate cards are required to be filed with the City Clerk under the current code. Changes to the rates cannot be implemented until after the new schedule

of fares has been on file with the City Clerk's Office for 30 days. These requirements would continue to be enforced under the proposed code.

Stakeholder Feedback

City staff met with local taxicab operators and current applicants for taxi licenses on February 24, 2015 to discuss the proposed revisions to the City

Taxi Code and solicit feedback. In attendance were representatives from the following taxi businesses: Jayhawk Taxi, Ground Transportation Services, First

Class Transportation, Lawrence Go Green Taxi, and OraWynema Enterprises. This section details the input received from taxi operators.

Licensing Requirements and Fees

The taxi operators provided general feedback regarding the licensing process, requirements and fees. The proposed fees are not problematic for the operators

and they expressed that they are willing to pay for enforcement of the Taxi Code. The operators support the proposal to create a taxi business license

and they feel like it addresses the need for additional oversight of independent owner-operated taxis. Operators supported the recommendation that the

City Clerk approve taxi licenses based on clear and objective criteria set forth in the City Code, so that an appeals process could be established.

Insurance

City staff originally recommended a combined single occurrence minimum policy of $500,000 as the minimum insurance requirement for taxicab vehicles. The

taxi operators suggested that this would result in cost prohibitive premiums. The operators suggested that a $350,000 combined single limit policy is a

reasonable and sufficient minimum. Upon further research staff learned that such policies could not be purchased for $350,000 in liability coverage. The

proposed code would establish the insurance minimums that are detailed under the “Insurance Requirement” heading on page 2 of this report.

The City will require that it be named as a second insured and that the City Clerk’s Office receive notification of any action or change to the insurance

policy (e.g. cancelation).

Additional Stakeholder Input

Owners of two taxicab companies, Jayhawk Taxi and Ground Transportation Services (GTS) expressed concerns about the presence of too many taxi operators

in Lawrence, particularly small owner-operated taxi businesses. They stated that their most lucrative business is the bar crowd on weekend nights. They

are concerned that small, owner-operated taxi businesses take fares during the bar rush hours. Jayhawk Taxi and GTS stated that bar rush fares subsidize

the taxi services they provide during the business week. When bar rush fares are taken by other taxi operators, their ability to meet the demand for taxi

services during the business week is inhibited. They stated that small owner-operated taxi businesses operate during the bar rush hours and do not provide

taxi services throughout the week. They stated that owner-operated taxis do not provide the level of service that Jayhawk Taxi and GTS provide and therefore

do not have the same amount of overhead expenses as Jayhawk Taxi and GTS. They stated that competition for bar rush fares will result in a situation in

which there will not be sufficient taxicabs to meet the demand for taxi services during the business week.

Jayhawk Taxi and GTS suggested establishing minimum requirements for the definition of a taxi company. Examples of the suggested minimum requirements include

requiring taxi businesses to operate a minimum number of taxicab vehicles and provide a minimum level of dispatch service. City staff researched the taxi

business licensing codes of several Kansas cities, including Overland Park, Olathe, Lenexa, Shawnee, Topeka, Emporia, Wichita, and Kansas City.  Of those

cities, only Topeka and Wichita enforce minimum requirements for taxi businesses.  To obtain a taxicab business licenses, Wichita requires a minimum of

10 taxicab vehicles and Topeka requires a minimum of 8 taxicab vehicles.  Wichita and Topeka both require taxi companies to maintain a central place of

business with 24/7 radio dispatch (24 hours per day, 7 days per week).

The smaller, owner-operated taxi businesses represented at the stakeholder meeting expressed concerns that the suggestions of Jayhawk Taxi and GTS, if

enacted, would put existing taxi companies out of business and would create barriers to market entry.

The proposed taxi code does not address market issues or minimum capacity requirements for taxi businesses.

Staff Recommendation

The recommended changes to the City Taxi Code were prepared to address concerns related to public safety, insurance, and antiquated procedural language

in the Code. The recommendations were intended to be consistent with the taxi regulations and practices of other cities in Kansas where it was practical

and logical. Local taxi operators provided supportive feedback for the proposed changes, and their recommendations for to improve the proposed changes

were incorporated to the extent that it was feasible. The proposed changes do not address the issues that Jayhawk Taxi and GTS raised about the taxi market.

Those issues appeared to be outside of the scope of the current effort to address concerns about public safety and insurance, and dated procedural language.

Staff recommends adopting

Ordinance No. 9092

which repeals the

current Taxi Code

and replaces it with the proposed Code.  If adopted, staff recommends establishing a 60 day grace period for all current licensed taxi businesses to comply

with the provisions of the new Code.

Action

Adopt on first reading, Ordinance No. 9092, pertaining to taxicabs, amending Section 6-108.17, repealing existing Chapter VI, Article 6, and enacting,

in its place, Chapter VI, Article 6 of the Code of the City of Lawrence, KS.