

Ellinger
Myers
Lawless
Beard
Feigel
Crosbie
McChord
Martin
Henson
Lane

SERVICES COMMITTEE

DECEMBER 7 2010

1:00 P.M.

A G E N D A

1. Itinerant Merchant Ordinance - Henson (1-6)
2. Taxicab Ordinance - Lawless (7-15)
3. Sidewalk Specifications - Feigel (16-20)
4. Golf Operations Update - McChord (21)
5. Items in Committee (22-23)

"Services Committee, to which should be referred matters relating to public safety, public works, urban county courts, and constitutional officers."

Council Rules & Procedures, Section 2.102(3)

Paul Schoninger

From: David Barberie
Sent: Wednesday, December 01, 2010 12:54 PM
To: Paul Schoninger
Cc: Peggy Henson; Marian Zeitlin
Subject: ProposedOrdinance
Attachments: Working Draft (11-22) (00281439).DOC

Paul –

The following is an initial draft of a proposed ordinance to regulate certain merchant activities in Fayette County for inclusion in the Services Committee packet for its December 7, 2010 meeting. This ordinance was drafted at the request of Councilmember Henson. Although there has been some internal feedback from divisions that may be impacted, I cannot represent that this particular draft is necessarily acceptable to all of them. I also note that the Division of Revenue is still reviewing the definitions to make sure that they do not cause any unintended consequences.

In sum, the proposed draft would regulate on a limited basis 3 types of activities – door-to-door sales, “mobile” vending and “stationary” vending. It does not create an additional licensing process.

I have highlighted the provisions that I believe need to be further discussed prior to moving forward with a final draft. Please let me know if you need any additional information on this.

This message may contain information which is confidential or privileged and should not be disseminated to the public. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy. Thank you.

David J. Barberie
Attorney Senior
Lexington-Fayette Urban County Government
Department of Law (11th floor)
200 East Main Street
P.O. Box 34028
Lexington, Kentucky 40588-4028
Telephone: (859)258-3500
Facsimile: (859)258-3538
dbarberi@lexingtonky.gov

12/02/2010

Sec. 15-___ [GENERAL REQUIREMENTS]

- (A) A door-to-door salesperson is any person who goes from house to house or from business to business in Fayette County selling or taking orders for or offering to sell or take orders for goods, wares and merchandise for present or future delivery or for services to be performed immediately or in the future whether such person has, carries or exposes a sample of such goods, wares and merchandise or not and whether he/she is collecting advance payments on such sales or not.
- (B) A mobile vendor is any person, firm, partnerships or corporation, whether as owner, agent, consignee, or employee, whether a resident of Fayette County or not, who engages in a business of selling and delivery of goods, wares, food or merchandise of any kind or description, or of services to be immediately provided, who conducts such a business outside of a permanent structure affixed to real property, who conducts business from a vehicle or other conveyance traveling upon public streets, sidewalks, alleys or right-of-ways within Fayette County.
- (C) A stationary vendor is a any person, firm, partnerships or corporation, whether as owner, agent, consignee, or employee, whether a resident of Fayette County or not, who engages in a business of selling and delivery of goods, wares, food or merchandise of any kind or description, or of services to be immediately provided, who conducts such a business outside of a permanent structure affixed to real property such as a vehicle, other conveyance or temporary stand upon privately or publicly owned property, but not from a mobile vehicle or conveyance traveling on a public street, sidewalk, alley or right-of-way within Fayette County.
- (D) Every door-to-door salesperson, mobile vendor, and stationary vendor shall obtain the necessary license(s) under chapter 13 of the code of ordinances prior to engaging in any business activity. For licensing purposes a door-to-door salesperson or a mobile vendor must obtain a peddler's license and a stationary vendor must obtain an itinerant merchant license unless otherwise exempt. No license shall be required for any member or members of a religious, charitable, health, welfare, educational, political or youth service organization selling or offering to sell goods or services to raise funds for the work of such organization and for no other purpose. The Director of Revenue may require any organization or individual claiming exemption to appear and present evidence in support of said membership and purpose.
- (E) Every door-to-door salesperson, mobile vendor, and stationary vendor shall conduct themselves in an orderly and lawful fashion and while conducting any business within Fayette County shall also carry or post their license. The license shall be presented to any government official or person with whom business is to be transacted upon request.
- (F) No door-to-door salesperson, mobile vendor, or stationary vendor shall conduct business so as to:

- (1) Violate any traffic law or ordinance now in effect or hereafter amended, or in such a manner as to cause a traffic hazard; or
- (2) Obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where vending items are being sold or offered for sale.
- (G) All door-to-door salespersons, mobile vendors, and stationary vendors must comply with any other applicable federal, state, or local laws or regulations pertaining to their operations and are solely responsible for obtaining any necessary permits, licenses, or authority.

Sec. 15-____
REQUIREMENTS]

[ADDITIONAL DOOR-TO- DOOR SALEPERSON

- (A) The provisions of this section apply to door-to-door salespersons, and are in addition to those stated in section 15-____, above.
- (B) No door-to-door salesperson shall:
 - (1) Engage or attempt to engage in the business of selling, peddling or soliciting prior to 9:00 a.m. or after 9:00 p.m.;
 - (2) Enter a home, residence, apartment complex or business under a false pretense (i.e. other than for the purpose of selling);
 - (3) Engage or attempt to engage in the business of selling, peddling or soliciting at any home, residence, apartment complex or business that prominently displays a "No Peddlers", "No Solicitors", or "No Trespassing" sign or any other similar sign that communicates the occupants' desire not to be contacted by salespersons; or
 - (4) Remain in a home, residence, apartment complex or business or on the premises thereof after the owner or occupant thereof has requested any such person to leave.
- (C) All door-to-door salespersons shall provide a purchaser with a written copy of the order taken upon request. The copy shall contain the terms of the order, any amount paid in advance, and appropriate contact information for the salesperson, including the license number, if applicable.
- (D) All door to-door salespersons shall comply with the provisions of section 15-7 of the code of ordinances.

Sec. 15-____

[ADDITIONAL MOBILE VENDOR/STATIONARY VENDOR REQUIREMENTS]

- (A) The provisions of this section are in addition to those stated in section 15-____, above. The term "vendor" or "vendors" means both mobile vendors and stationary vendors unless otherwise stated.
 - (B) All mobile vendors shall comply with the applicable provisions of section 15-7 of the code of ordinances.
 - (C) All stationary vendors shall comply with the applicable provisions of section 15-8 of the code of ordinances.
 - (D) No vendor shall engage or attempt to engage in business prior to 7:00 a.m. or after 11:00 p.m. Vendors located in the downtown area (B2, B2A and B2B zones of the zoning ordinance) may operate are exempt from this restriction. **[DO WE NEED DOWNTOWN HOURS?]**
 - (E) All vendors must ensure that their operations do not create any pedestrian access issue for any other business.
 - (F) No vendor shall locate, conduct business, or solicit within an urban county government park or parkway unless he or she also has the necessary permission of the urban county government pursuant to section 14-62 of the code of ordinances.
 - (G) No vendor shall locate, conduct business, or solicit on any public property or on any public street, sidewalk, alley or right-of-way within:
 - (1) 100 feet of any public or private school grounds during the hours of regular school session, classes, or school related events in said public or private school, except when authorized by said school; or
 - (2) 300 feet of a Lexington-Fayette Urban County Government permitted special event, or any other event sponsored by the urban county government without the written permission of the event organizers or the department or division sponsoring said event.
- All distances shall be measured at the shortest distance between the nearest point of the vending location to the closest property line or district.
- (H) Any vehicle, other conveyance, structure, or stand used in the operation of the business shall be maintained and kept in good operating order and visual appearance.
 - (I) All vendors shall provide or make available garbage receptacle(s) sufficient for customer use. At the conclusion of business activities at a given location the vendor shall clean all the property and public way surrounding the area of all debris, trash, garbage or litter generated by his or her activities.
 - (J) All vehicles, other conveyances, structures or stands shall be equipped with at least one 2A-40 BC fire extinguisher.

- (K) No mobile vendor shall park, stand, stop or allow a vehicle or other conveyance to remain in any place longer than is necessary to transact immediate business. Vendors located in the downtown area (B2, B2A and B2B zones of the zoning ordinance) are exempt from this restriction, but shall not locate in an area within fifty (50) feet of another business or vendor that is selling or vending the same type of merchandise and shall not remain in place for a period of time exceeding four (4) hours.
- (L) No stationary vendor shall be located or conduct business within a Residential Zone, or within a land use zone where the underlying business activity would otherwise be prohibited under the zoning ordinance.
- (M) No stationary vendor shall locate, conduct business, or solicit within 100 feet of a dwelling unit located in an area zoned as a Residential District under the Lexington-Fayette County Zoning Ordinance. Stationary vendors located in the downtown area (B2, B2A and B2B zones of the zoning ordinance) are exempt from this restriction. All distances shall be measured at the shortest distance between the nearest point of the vending location to the closest property line or district.
- (N) No stationary vendor shall locate, conduct business, or solicit on any public street, sidewalk, alley or right-of-way.
- (O) All stationary vendors must ensure that sufficient parking is available such that no traffic or parking hazards or violations occur.
- (P) No signs or signage shall be permitted other than within the area lawfully permitted for conducting the business.
- (Q) Any lighting must be located within the area lawfully permitted for conducting the business and must not cause any glare or distraction that could be considered a public safety hazard or nuisance. No flashing or strobe lights shall be permitted.
- (R) All merchandise, goods, wares or food shall only be displayed or offered for sale within the area lawfully permitted for conducting the business.

Sec. 15-___ [EXCEPTIONS]

The provisions of sections 15-___ through 15-___ of the code shall not apply to the following:

- (A) The selling of personal property at wholesale to dealers in such articles; to newspaper carriers or newspaper vendors; to merchants or their employees in delivering goods in the regular course of business; to vendors of milk and other products distributed or sold to regular customers on established routes; or to sales by farmers and gardeners of the produce of their farms and gardens.

- (B) Selling or vending activities by appropriately permitted merchants at a Lexington Fayette Urban County Government Special Event.
- (C) The selling or soliciting for the sale of goods or services at a properly licensed bazaar or sales exhibition, or on property owned or operated by the Commonwealth of Kentucky.
- (D) The selling or offering for sale or distribution from interior private pedestrian circulation areas of shopping centers or malls of products to pedestrians which are traversing such areas or patrons of retail stores. Such merchants or vendors are required to obtain a temporary mall merchant license pursuant to chapter 13 of the code of ordinances unless otherwise exempt.
- (E) Yard sales, garage sales, bake sales or other similar types of activities. These activities must be temporary in nature and must comply with all local ordinance and zoning ordinance provisions.

Sec. 15-____ [PENALTY]

Any person who violates any provision of this section shall be punished by a fine of not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00) for a first offense. Any person found guilty of a second offense of any of this section within any twelve-month period shall be subject to a fine of not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00), and any person found guilty of a third offense of any of this section within any twelve-month period shall be subject to a fine of not less than two hundred-fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000.00).



Lexington-Fayette Urban County Council

TO: Diane Lawless, Councilmember
3rd District

Jim Gray
Vice Mayor

FROM: Paul Schoninger
Staff to Council

Linda Gorton
At-Large Member

DATE: October 18, 2010

Chuck Ellinger II
At-Large Member

SUBJECT: Taxicab Ordinance

Andrea James
1st District

This memo is in response to your recent request for information about starting a new taxicab company in Lexington and the Taxicab Ordinance, 18A of the Urban County Code of Ordinances.

Tom Blues
2nd District

Diane G. Lawless
3rd District

As I indicated in an earlier e mail 18A3 requires that "all persons applying for or renewing a local taxicab permit shall have a minimum of twenty-five (25) taxicabs in their fleet before a local taxicab permit shall be issued unless the applicant was previously issued a certificate of public convenience and necessity from the Kentucky Transportation Cabinet."

Julian Beard
4th District

Cheryl B. Feigel
5th District

In addition to the minimum of 25 vehicles required in 18A3, the applicant must provide the following under 18A4; name and address of the holder; experience of holder in transportation of passengers; number of vehicles operated/controlled by holder and location of terminal(s); color scheme and insignia used to designate the vehicles of holder; procedures for handling claims; proof of liability insurance or indemnity bond; and list of drivers with operator's license.

Kevin O. Stinnett
6th District

K. C. Crosbie
7th District

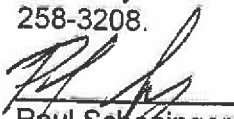
It is my understanding that when 18A was first the 25 taxicab threshold was chosen to ensure that the proposed company was serious business entity. It is also my understanding that the Administration is reviewing 18A in its entirety and will be bringing recommended changes to the Council over the next several months for Council consideration. I have attached a full copy of 18A for your review.

George G. Myers
8th District

Jay McChord
9th District

Should you need any further information please do not hesitate to contact me at 258-3208.

Doug Martin
10th District


Paul Schoninger
Staff to Council

Peggy Henson
11th District

Ed Lane
12th District

c: Diana Queen

Lexington-Fayette County, Kentucky, Code of Ordinances >> - CODE OF ORDINANCES >>
Chapter 18A - VEHICLES FOR HIRE >>

Chapter 18A - VEHICLES FOR HIRE

Editor's note—

Section 1 of Ord. No. 132-78, adopted June 15, 1978, repealed §§ 18A-11—18A-14, relating to licensing of taxicab drivers, derived from Ord. No. 284-70, §§ 2—5, adopted Dec. 24, 1970. Section 2 of Ord. No. 132-78 added a new ch. 18A, §§ 18A-1—18A-23. Section 18A-28, severability provisions, has been omitted from codification. Subsequently, Ord. No. 172-78, adopted July 27, 1978, amended ch. 18A by including §§ 18A-15—18A-24, thus superseding §§ 18A-15—18A-23 of Ord. No. 132-78.

Subsequently, Ord. No. 348-2002, § 1, adopted December 12, 2002, amended ch. 18A, §§ 18A-1—18A-24, in its entirety. At the discretion of the editor, a new provision intended for use as § 18A-1.1 was renumbered as § 18A-2, and the subsequent new provisions were renumbered accordingly. Former ch. 18A pertained to similar subject matter, and derived from Ord. No. 132-78, § 2, adopted June 15, 1978, Ord. No. 202-85, § 1, adopted October 8, 1985, and Ord. No. 22-86, §§ 1, 2, adopted February 20, 1986.

Cross reference—Horse-drawn vehicles, § 4-24 et seq.

State law reference—Motor carriers, KRS ch. 281.

- Sec. 18A-1. - Definitions.
- Sec. 18A-2. - Administration: rules and regulations.
- Sec. 18A-3. - Local taxicab permit required.
- Sec. 18A-4. - Application and renewal for a local taxicab permit.
- Sec. 18A-5. - Indemnity bond or liability insurance required.
- Sec. 18A-6. - Local taxicab permit fees.
- Sec. 18A-7. - Taxicab driver's permit.
- Sec. 18A-8. - Application for driver's permit.
- Sec. 18A-9. - Police investigation of applicant, traffic and police record.
- Sec. 18A-10. - Consideration of application.
- Sec. 18A-11. - Issuance of permit; duration; annual fee; renewal.
- Sec. 18A-12. - Display of permit.
- Sec. 18A-13. - Suspension and revocation of permit.
- Sec. 18A-14. - Failure to comply with urban county, state and federal laws.
- Sec. 18A-15. - Vehicles: equipment and maintenance.
- Sec. 18A-16. - Taximeter required.
- Sec. 18A-17. - Rates of fare; rate card required.
- Sec. 18A-18. - Receipts.
- Sec. 18A-19. - Nonfare passengers.
- Sec. 18A-20. - Prohibitions of drivers.
- Sec. 18A-21. - Taxicab service.
- Sec. 18A-22. - Manifest.
- Sec. 18A-23. - Holder's records and reports.
- Sec. 18A-24. - Division of police; duty to enforce chapter.
- Sec. 18A-25. - Penalty.

Sec. 18A-1. - Definitions.

The following words and phrases, when used in this chapter, have the meanings as set out herein:

- (1) *Certificate* means a certificate of public convenience and necessity issued by the Transportation Cabinet, Commonwealth of Kentucky, authorizing the holder thereof to conduct a taxicab business.
- (2) *Driver's permit* means the permission granted by the commissioner of public safety to a person to drive a taxicab upon the streets of the urban county.
- (3) *Holder* means a person to whom a certificate of public convenience and necessity or a local taxicab permit has been issued.
- (4)

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

- (5) *Rate card* means a card approved by the commissioner of finance and issued by the owner of the taxicab for display in each taxicab which contains the rates of fare then in force.
- (6) *Taxicab* means a motor vehicle operated under an unrestricted taxicab certificate issued by the bureau of vehicle regulation or a vehicle providing transportation within Fayette County that is not affiliated with a licensed taxi company accepting tips, donations, gas money or any other form of compensation. This section shall not apply to carpooling situations by private citizens or any local, state or federal ridesharing program.
- (7) *Local taxicab permit* means a permit issued by the department of public safety authorizing the holder thereof to conduct a taxicab business in the urban county.
- (8) *Special event permit* means a permit issued by the department of public safety authorizing the holder of a local taxicab permit to modify its vehicle identification scheme for all or part of its taxicab fleet for a specified period of time and for the purpose of advertising a special event located within the boundaries of Fayette County.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 331-2005, § 1, 12-13-05; Ord. No. 186-2009, § 1, 9-3-09)

Sec. 18A-2. - Administration; rules and regulations.

The commissioner of public safety shall exercise all administrative functions of the urban county in relation to the operation of vehicles for hire regulated under this chapter. The commissioner shall have the authority to promulgate such rules and regulations as are necessary for the orderly and completed administration of this chapter. The department of public safety shall notify all local taxicab permit holders of any change to the rules and regulations sixty (60) days before their effective date.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-3. - Local taxicab permit required.

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire on the streets of the urban county without having first obtained a local taxicab permit from the department of public safety. The chief of police or his designee shall, upon consideration of an application for a local taxicab permit, approve or reject the application. If the application is rejected, the chief or his designee shall state his reasons in writing. The applicant may request a hearing before the commissioner of public safety to offer evidence why his application should be reconsidered.

All persons previously issued a certificate of public convenience and necessity from the Transportation Cabinet, Commonwealth of Kentucky to operate a taxicab business in the urban county shall automatically be issued a local taxicab permit for the number of vehicles in effect on the date the urban county government is granted regulatory authority from the Transportation Cabinet, Commonwealth of Kentucky. No local taxicab permit shall be issued if the vehicles do not meet the safety requirements set forth in this chapter. All persons applying for or renewing a local taxicab permit shall have a minimum of twenty-five (25) taxicabs in their fleet before a local taxicab permit shall be issued unless the applicant was previously issued a certificate of public convenience and necessity from the Transportation Cabinet, Commonwealth of Kentucky, for a fleet of less than the minimum requirement for this chapter.

Local taxicab permits shall be renewed annually.

Local taxicab permits shall not be sold, transferred or leased without the written authorization of the commissioner of public safety. All persons desiring to obtain a local taxicab permit by sale, transfer or lease shall comply with the provisions of this chapter.

Out of county taxicabs shall be permitted to deliver passengers to a destination in Fayette County and transport the passengers back to their original starting point without a local taxicab permit. Out of county taxicabs shall be prohibited from accepting fares which originate within the boundaries of Fayette County.

Privately owned businesses may establish a trolley or shuttle service within their parking lots to transport their customers without a local taxicab permit. The trolley or shuttle service shall be limited to the privately owned businesses parking lots and shall not be allowed on the public right-of-way except to cross the public right-of-way in order to access additional established parking lots within a one-mile radius of each other.

Prior to operating a trolley or shuttle service, written notification shall be submitted to the department of

public safety requesting permission to operate the service, listing the location and route of the service, hours of operation and the fee to be charged, if any. The written request to operate the service shall be made annually.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 331-2005, § 1, 12-13-05)

| Sec. 18A-4. - Application and renewal for a local taxicab permit.

Prior to receiving or renewing a local taxicab permit, a holder or applicant shall file with the commissioner of public safety or his designee, upon forms provided by the urban county government, the following information:

- (1) The name and address of the holder.
- (2) The experience of the holder in the transportation of passengers.
- (3) The number of vehicles operated or controlled by the holder and the location of terminals.
- (4) The color scheme and insignia used to designate the vehicle or vehicles of the holder.
- (5) Procedures for handling claims for loss, damage or injury.
- (6) Proof of liability insurance or indemnity bond.
- (7) A current list containing the name, address, age, and operator's license number of each taxicab driver who is employed by or a lessee of the holder. Any change in the list of drivers shall be updated monthly and provided to the commissioner of public safety or his designee.
- (8) Such further information as the commissioner of public safety may require.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-5. - Indemnity bond or liability insurance required.

No person shall operate or cause to be operated a taxicab in the urban county unless there is in full force and effect an indemnity bond for each vehicle authorized. Said bond or bonds shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants or agents. Said bond or bonds shall be filed in the office of the commissioner of finance and shall have as surety thereon a company authorized to do business in the State of Kentucky and the urban county. Compliance with KRS 281.655 shall be deemed compliance with this section by the commissioner of finance.

The commissioner of finance may, in his discretion, allow the holder to file, in lieu of bond or bonds, a liability insurance policy issued by a liability insurance company authorized to do business in the Commonwealth of Kentucky and the urban county. Said policy shall conform to the provisions of this section relating to bonds.

In the event that the holder's liability insurance is cancelled, notice of cancellation of the insurance by the insurer shall be submitted to the department of public safety by either the insured or the insurer. Once the liability insurance is reinstated, a new certificate of insurance shall be filed with the commissioner of finance.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-6. - Local taxicab permit fees.

The holder of a local taxicab permit shall pay an annual permit fee of one hundred twenty dollars (\$120.00) for each vehicle operated under a local taxicab permit.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-7. - Taxicab driver's permit.

No person shall operate a taxicab for hire upon the streets of the urban county, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the urban county government shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have

then in force a taxicab driver's permit issued under the provisions of this chapter.

A taxicab driver's permit shall only be valid while the holder thereof is driving for the taxicab company indicated on the front of the permit. Any driver who wishes to transfer from one (1) company to another shall be required to notify the department of public safety and pay a ten dollar (\$10.00) transfer fee.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-8. - Application for driver's permit.

- (a) An application for a taxicab driver's permit shall be filed with the commissioner of public safety on forms provided by the urban county government, and such application shall be verified under oath and shall contain the following information:
- (1) The names and addresses of four (4) persons who have known the applicant for a period of one (1) year and who will vouch for the sobriety, honesty and general good character of the applicant.
 - (2) The educational background of the applicant.
 - (3) A concise history of his employment.
- (b) The holder of the permit under which the applicant will operate shall verify the applicant's employment history and contact all personal references. The holder shall also verify that it has no information that the applicant abuses alcohol or drugs or has violent tendencies or otherwise poses a safety risk to the public.
- (c) The applicant shall provide with his application copies of accident reports for any accident in which he has been involved and a certificate from a reputable physician of the urban county certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe or unsatisfactory driver.
- (d) At the time the application is filed, the applicant shall pay the sum of twenty dollars (\$20.00). The applicant must be eighteen (18) years of age or older, have a current motor vehicle operator's license and must have had a valid operator's license for at least one (1) year.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-9. - Police investigation of applicant; traffic and police record.

The division of police shall conduct a criminal records investigation of each applicant for a taxicab driver's permit; and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the commissioner of public safety.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-10. - Consideration of application.

The chief of police or his designee shall, upon consideration of the application for a taxicab driver's permit and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the chief or his designee must state his reasons in writing. The applicant may request a hearing before the commissioner of public safety to offer evidence why his application should be reconsidered.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-11. - Issuance of permit; duration; annual fee; renewal.

Upon approval of an application for a taxicab driver's permit, the commissioner of public safety shall issue a permit to the applicant, which shall bear the name, address, age, signature and photograph of the applicant and the taxicab company.

Such permit shall be in effect for the remainder of the calendar year. The permit for every calendar year thereafter shall be issued upon payment of twenty dollars (\$20.00) unless the permit for the preceding year has been revoked or suspended.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-12. - Display of permit.

Every driver issued a permit under this chapter shall post his driver's permit in such a place as to be in full view of all passengers while such driver is operating a taxicab.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-13. - Suspension and revocation of permit.

The chief of police or his designee is hereby given the authority to suspend any driver's permit under this chapter for a driver's failing or refusing to comply with the provisions of this chapter, such suspension to last for a period of no more than thirty (30) days. The chief of police or his designee is also given authority to revoke any driver's permit for failure to comply with the provisions of this chapter. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf.

If taxicab permit is suspended or revoked, the chief of police or his designee must state his reasons in writing. The driver may request a hearing before the commissioner of public safety to offer evidence why his driver's permit should not be suspended or revoked.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-14. - Failure to comply with urban county, state and federal laws.

Every driver issued a permit under this chapter shall comply with all urban county, state and federal laws. Failure to do so will justify the commissioner of public safety's suspending or revoking a permit in accordance with section 18A-12.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-15. - Vehicles; equipment and maintenance.

- (a) *Periodic inspections.* Every vehicle operating under this chapter may be periodically inspected by the urban county government at such random intervals as shall be established by the commissioner of public safety to ensure the continued maintenance of safe operating conditions.
- (b) *Vehicles must be kept in a clean and sanitary condition.* Every vehicle operating under this chapter shall be kept in a clean and sanitary condition according to the rules and regulations promulgated by the health department.
- (c) *Annual inspection.* Every vehicle operating under this chapter shall be inspected annually by an automotive technician who holds a valid automotive service excellence (A.S.E.) certificate approved by the Transportation Cabinet, Commonwealth of Kentucky and is not employed by holder of the local taxicab permit. Proof of annual inspections shall be filed with the department of public safety at the time of application or renewal of a local taxicab permit. A local taxicab permit shall be issued or renewed following a satisfactory inspection.
- (d) *Vehicle identification.* Every vehicle operating under this chapter shall be painted in accordance with the color scheme and insignia on file with the commissioner of public safety. All identifying markings on the vehicles shall be plainly distinguishable in letters at least three (3) inches high permanently painted or otherwise permanently affixed to each of the two (2) sides of the taxicab and to the rear of the taxicab. The lettering shall show the vehicle number assigned to it by its owner or operator and the name of the company, individual or association by whom the vehicle is owned or operated.
 - (1) Upon written request to the department of public safety, the holder of local taxicab permit may be granted a special event permit. The written request shall include the requested timeframe for the permit and the proposed design. The name of the taxicab company shall be prominently displayed on the sides and the rear of the vehicles. Upon the expiration of said permit, all vehicles with a modified identification scheme shall, within five (5) business days, be returned to the original color scheme and insignia approved pursuant to the local taxicab permit.
- (e) *Out of service.* If a vehicle operating under this chapter fails to pass a random inspection, the vehicle shall be deemed out of service. The division of fleet services shall place a green sticker in the front window indicating that the vehicle is out of service. The vehicle shall remain out of service until it passes an inspection conducted by an automotive technician, in the division of fleet services, who holds a valid

automotive service excellence (A.S.E.) certificate approved by the Transportation Cabinet, Commonwealth of Kentucky. Upon successful inspection, the division of fleet services shall remove the out of service sticker. Unauthorized removal of the sticker is prohibited and may result in suspension or revocation of a permit. Out of service vehicles shall not remain on the premises of the holder of the local taxicab permit for longer than thirty (30) days.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 186-2009, § 2, 9-3-09)

Sec. 18A-16. - Taximeter required.

All taxicabs operated under the authority of this chapter shall be equipped with taximeters. The taximeters shall be fastened in front of the passengers, visible to them at all times, day and night; and, after sundown, the face of the taximeter shall be illuminated. Taximeters shall be operated mechanically by a mechanism of standard design and construction, driven either from the transmission or from one (1) of the front wheels by a flexible and permanently attached driving mechanism. They shall be sealed at all points and connections which, if manipulated, would affect their correct reading and recording. Each taximeter shall have thereon a device to denote when the vehicle is employed and when it is not employed. It shall be the duty of the driver to activate the taximeter at the time the taxicab is employed and to deactivate the taximeter at the termination of each trip. The meter shall be operated on a mileage basis except when the driver is instructed to wait, at which time the meter shall be operated on a time basis. Taximeters shall be subject to inspection from time to time by the division of police. Any inspector or other officer of the division of police is hereby authorized, either on complaint of any person or without such complaint, to inspect any meter, and upon discovery of any inaccuracy therein, to notify the person operating said taxicab to cease operation. Any taxicab ordered to cease operation shall be kept off the highways until the taximeter is repaired and operates in accordance with this chapter.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-17. - Rates of fare; rate card required.

No owner or driver of a taxicab shall charge a greater sum for the use of a taxicab than in accordance with the rates on file with the commissioner of finance. The owner must file his rate with the commissioner of finance and also post the rates in each taxicab so that they are clearly visible to passengers. Three (3) days prior to raising his rates, he must post notice in his taxicabs and file notice with the commissioner of finance. All rate cards posted in accordance with this section shall contain the following language: "No rates other than those set forth on this card shall be charged."

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-18. - Receipts.

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a receipt for the amount charged, either by mechanically printed receipt or by a specially prepared receipt on which shall be the name of the owner, license number or motor number, and date of transaction.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-19. - Nonfare passengers.

No person operating a taxicab shall carry a person other than the passenger(s) by whom he has been engaged or his supervisor.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-20. - Prohibitions of drivers.

It shall be a violation of this chapter for any driver of a taxicab to engage in selling intoxicating liquors, or

to promote prostitution or permit the vehicle to be used for an unlawful purpose.

14

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-21. - Taxicab service.

All persons engaged in the taxicab business in the urban county operating under the provisions of this chapter shall render an overall service to the public desiring to use taxicabs and shall offer service to all geographic locations of the urban county. Holders of local taxicab permits shall maintain a central place of business in the urban county for two-way communication and dispatch of taxicabs and shall offer twenty-four (24) hour service. The central place of business shall be in compliance with the zoning ordinance for the urban county. They shall answer all calls received by them for services inside the boundaries of the urban county as soon as they can do so; and if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefore. Any holder who shall refuse to accept a call anywhere within the boundaries of the urban county when such holder has available cabs, or who shall fail or refuse to give overall service, or any driver or independent contractor operating pursuant to a holder's local taxicab permit who refuses to accept a call anywhere within the boundaries of the urban county area, shall be deemed a violator of this chapter.

No driver shall refuse or neglect to transport any orderly person, upon request, unless previously engaged. A driver may refuse to transport any person who has failed to pay the legal fare any previous trip or service provided to such by such driver or the operator for whom such driver works. No driver shall deceive or attempt to deceive any passenger who may ride in his taxicab or who may desire to ride in such taxicab, as to his destination or the rate or fare to be charged, or transport or cause him to be transported to a place other than directed by the passenger. No driver shall take a longer route than necessary, unless so requested by the passenger. Every taxicab driver shall comply with all reasonable and lawful requests of his passengers as to the speed of travel and the route to be taken.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-22. - Manifest.

Every driver shall maintain a daily manifest, upon which are recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare; and all such completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the commissioner of finance.

Every holder of a local taxicab permit shall retain and preserve all driver manifests in a safe place for at least one (1) year, and said manifests shall be available to the commissioner of finance.

(Ord. No. 348-2002, § 1, 12-12-02)

Sec. 18A-23. - Holder's records and reports.

- (a) Every holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures and such other operating information as may be required by the commissioner of finance. Every holder shall maintain the records containing such information and other data required by this chapter at a place readily accessible for examination by the commissioner of finance.
- (b) Every holder shall submit reports of receipts, expenses and statistics of operation to the commissioner of finance for each of its fiscal years in accordance with the uniform system prescribed by the commissioner. Said report shall reach the commissioner on the date the holder's federal tax return is due.
- (c) All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person, or in damage to any vehicle, or to any property in an amount exceeding the sum of fifteen hundred dollars (\$1,500.00) shall be reported within twenty-four (24) hours from the time of occurrence to the division of police in a form of report that is a duplicate of the accident report that must be furnished to the commonwealth.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-24. - Division of police; duty to enforce chapter.

The division of police of the urban county government is hereby given the authority and is instructed to watch and observe the conduct of holders and drivers operating under this chapter. Upon discovering a violation of the provisions of this chapter, the division of police shall report the same to the commissioner of public safety, who will order or take appropriate action.

(Ord. No. 348-2002, § 1, 12-12-02)

| Sec. 18A-25. - Penalty.

Failure to comply with the provisions of this chapter shall constitute a violation. Any person who so violates this article, fails to comply with any of its requirements, or files or maintains fraudulent annual inspection records relating to this chapter shall upon conviction thereof be fined no more than two hundred fifty dollars (\$250.00). Each day shall constitute a separate violation.

The commissioner of public safety shall revoke or permanently deny a local taxicab permit to any holder or applicant who willfully and intentionally files a fraudulent annual inspection record.

(Ord. No. 348-2002, § 1, 12-12-02)

LEXINGTON-FAYETTE URBAN COUNTY COUNCIL
Memorandum

TO: Services Committee

FROM: Paul Schoninger
Staff to Council

DATE: December 2, 2010

SUBJECT: Sidewalk Specifications

Law has provided a draft ordinance pertaining to sidewalk safety enforcement. However Law has advised that Council should not formally adopt the ordinance until the Administration has drafted regulations for the enforcement of sidewalk violations.

Law and Code Enforcement will be available at the Dec 7 Services to address questions.



Paul Schoninger
Staff to Council

ORDINANCE NO. _____

AN ORDINANCE AMENDING SUBSECTION 17-148(a) OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT TO LIMIT ENFORCEMENT TO THOSE DEFECTS WHICH CREATE A HAZARD TO PUBLIC SAFETY AND TO PROVIDE FOR THE ADOPTION OF ENFORCEMENT REGULATIONS BY THE URBAN COUNTY COUNCIL, AND AMENDING SUBSECTION 17-152(b) TO DECREASE THE MAXIMUM CIVIL PENALTY FROM \$1,000 TO \$500.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That subsection 17-148(a) of the Code of Ordinances be and hereby is amended to read as follows:

Whenever the urban county engineer or any code enforcement officer in the division of code enforcement ascertains the existence of holes or other defects in sidewalks of the urban county ~~[meeting the criteria set forth in section 17-147, or the code enforcement officer deems the condition of the sidewalk to be]~~ which create a hazard to public safety, it shall be the duty of the urban county engineer or the code enforcement officer, as appropriate, to notify forthwith, in writing, the owner of the property abutting upon such defective sidewalk to repair or replace the same at his own expense within a reasonable period of time as stated in such notice. This notice shall be personally served upon the owner or shall be mailed via regular mail to the last known address of the owner of the property as it appears on the current tax assessment roll. If such owner be a nonresident of the urban county, or cannot be found, the notice may be delivered to his agent having charge of the property; and if there be no such agent, it may be delivered to the occupant of the property. The Urban County Council shall adopt regulations for the enforcement of sidewalk violations pursuant to this section.

Section 2 - That subsection 17-152(b) of the Code of Ordinances be and hereby is amended to read as follows:

In the alternative, any owner or agent of such owner, or occupant of property who shall fail to make the repairs in defective sidewalks as provided in sections 17-148 and 17-149 within the period of time stated in the notice provided for therein may be assessed a civil penalty of ten dollars (\$10.00) per square foot of unrepaired sidewalk panel, up to a maximum civil penalty of five

hundred dollars (\$500.00) ~~[one thousand dollars (\$1,000.00)]~~, for each thirty-day period such work remains undone after the time stated in the notice elapses.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

X:\Cases\CO\10-CC0__\LEG\00280962.DOC

ORDINANCE NO. 185-99

AN ORDINANCE AMENDING SECTION 17-147 OF THE CODE OF ORDINANCES TO SPECIFY CRITERIA FOR REPAIR OR REPLACEMENT OF SIDEWALKS; AMENDING SECTION 17-148 OF THE CODE TO SPECIFY CRITERIA FOR REPAIR OR REPLACEMENT OF SIDEWALKS AND TO PROVIDE FOR AN ADMINISTRATIVE APPEAL FOR PERSONS ASSESSED A CIVIL PENALTY FOR FAILURE TO REPAIR OR REPLACE; AND AMENDING SECTION 17-152 OF THE CODE TO ESTABLISH A CIVIL PENALTY FOR FAILURE TO MAKE REPAIRS IN SIDEWALKS OF TEN DOLLARS (\$10.00) PER SQUARE FOOT OF UNREPAIRED SIDEWALK PANEL FOR EACH THIRTY (30) DAY PERIOD IN WHICH THE SIDEWALK REMAINS UNREPAIRED, AND TO ESTABLISH A LIEN AGAINST PROPERTY FOR CIVIL PENALTIES WHICH ARE NOT PAID OR APPEALED WITHIN TWENTY (20) DAYS; ALL EFFECTIVE AUGUST 1, 1999.

WHEREAS, the failure of a property owner to maintain a sidewalk abutting his or her property is hereby declared to be a public nuisance as well as a potential safety hazard;

WHEREAS, KRS 82.700 et seq. confers upon local governments the power to assess civil penalties for violations of nuisance ordinances;

WHEREAS, it is necessary to amend the Code of Ordinances to accomplish this extension of authority and to make related changes within the Code;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Code of Ordinances Section 17-147 be and hereby is amended to read as follows:

Sec. 17-147 Required, who is responsible.

(a) It shall be the duty of each owner of real estate abutting on any sidewalk to repair, at his own expense, all holes, uneven surfaces and other defects in the sidewalk upon which his property abuts; and the materials therefor shall be of similar grade and texture to that used in the construction of the sidewalk. If such owner be a nonresident of the Urban county, or if he cannot be found, it shall be the duty of his agent in charge of the property, to make the repairs as herein required, or if there be no such agent, then it shall be the duty of the occupant of the property to make such repairs.

(b) For purposes of this section, repair shall be required for cracks with one-eighth of one inch or greater horizontal displacement; vertical displacements of less than or equal to one inch; spalled areas, popouts or holes; or where sidewalk panels have cracked or broken material but no pieces are missing or loose. Replacement shall be required for vertical displacement greater than one inch; slopes greater than one inch to twelve inches; sidewalk panels with cracked or broken material and missing or loose pieces; or where a safety hazard exists.

shall fail to make the repairs in defective sidewalks as provided in sections 17-148 and 17-149 within the period of time stated in the notice provided for therein may be assessed a civil penalty of ten dollars (\$10.00) per square foot of unrepaired sidewalk panel for each thirty day period such work remains undone after the time stated in the notice elapses.

(c) The urban county government shall have a lien against the property for such civil penalty if the civil penalty remains unpaid twenty (20) days from the date of assessment, unless appeal has been made as provided herein. This lien shall be superior to and have priority over all other liens on the property, except state, county, school board, and city taxes pursuant to KRS 82.720 and shall include the applicable statutory rate of interest pursuant to KRS 381.770 and KRS 360.010, as amended. This lien shall be evidenced by a notice of lien claimed, filed in the county clerk's office, which notice shall include the affidavit of the commissioner of public safety or the citation officer, setting forth the property in question, the amount of the urban county government's civil penalty, and the notice provisions of this section were complied with before assessment of the civil penalty. A copy of the notice of lien claimed shall be mailed to the owner of the premises, or published in a newspaper of general circulation, as required by statute, where the owner of the property cannot be ascertained. However, the failure of the clerk to record such notice of lien claimed or the failure to mail the owner a copy of such notice or publish same, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien.

(d) The commissioner of law is hereby authorized to make the determination that liens shall not be filed when intervening in existing litigation is not cost effective, or when the lien would not be enforceable as a matter of law.

(e) The mayor is hereby authorized and directed to execute a release of the lien provided for in subsection (c) upon payment in full of the civil penalty evidenced by the lien or upon conclusion of any court proceedings resulting in the sale of the property regardless of whether any portion of the civil penalty were paid from the proceeds of the sale. The lien release shall be filed in the county clerk's office.

(f) The department of law is hereby authorized to assert the urban county government's lien rights in any litigation filed by a third party involving a property against which the government possesses a lien.

LEXINGTON-FAYETTE URBAN COUNTY COUNCIL
Memorandum

TO: Services Committee

FROM: Paul Schöninger
Staff to Council

DATE: December 1, 2010

SUBJECT: Golf Operations Enterprise Fund Exercise

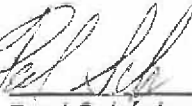
I have been asked to update the Services Committee on the aforementioned item.

Councilmember McChord requested that a group of UCG employees and others meet to discuss this issue. On August 19 the group met. It included representatives from Parks, General Services, Finance, Accounting, Revenue, and Budgeting as well as outside the Government.

The group agreed to refine direct operating expenses, capital expenditures and indirect operating expenses in an effort to develop a fully loaded activity based cost accounting for golf expenditures. The next action steps include an audit of the utility meters at the golf courses, working with accounting to further define the P & L (profit & loss statement) for golf, a review of employee percentages associated with golf services, a breakdown of golf related bonds and capital expenditures, and indirect costs to be determined.

This group will meet again Wednesday December 8th. A report can be made to the appropriate Council standing committee once this group's work is completed.

Should you need any further information please do not hesitate to contact me at 258-3208.



Paul Schöninger
Staff to Council

Services Committee Items

12.01.2010

Item	Referred By	Date Referred	Status
Taxicab Ordinance	Lawless	10-26-10	
Itinerant Merchant	Henson	9-28-10	
Residential Parking Permits	Lawless	9-21-10	
Sidewalk Specifications	Feigel	9-21-10	
Erecting Large Utility Poles on ROW	Martin	6-29-10	Sept 10
Golf Operations Enterprise Fund	McChord	6-22-10	Fall
Street Cleaning On Street Parking Restrictions	Lawless	6-15-10	Sept 10
Gypsy Taxicabs	Myers	6-13-10	
Re-Paving List	Lawless	4-6-10	5 Yr Strategic Plan Bi-annual rating of streets/curbs

<u>Item (cont)</u>	<u>Referred By</u>	<u>Date Referred</u>	<u>Status</u>
Graffiti Removal	Feigel	1-19-10	Task Force to be Formed
Emergency Snow Plan	James	2-23-10	Aug 10
Snow Plan	Myers	1-12-10	Aug 10
Loading & Unloading Zones in Downtown	James	8-18-09	Nov 09
Private Solid Waste Providers	Gorton	2-13-09	Working Group To Be Formed
Horse Cruelty	Beard	8-6-09	
Employee Automobile Usage and Reimbursement	Blues	5-13-08	General Services Update