Henson Chair
Stinnett, Vice Chair
Ellinger
Akers
Lawless
Farmer
Myers
Mossotti
Clarke
Lane

AGENDA
Public Safety Committee
September 16, 2014
11:00 A.M.

1. **July 8, 2014 Committee Summary** (1-7)
2. **Substance Abuse Coordinator Position – Stinnett** (8-10)
3. **Taxicab Ordinance – Lawless** (11-23)
4. **Ridesharing Services – Henson** (24-33)
5. **Items Referred** (34)

"Public Safety Committee, to which shall be referred matters relating to the Department of Public Safety and its related Divisions"-Council Rules & Procedures, Section 2.102(1)

Future Committee Meetings
October 14, 2014
December 2, 2014

Public Safety Committee
July 8th, 2014
Summary and Motions

This meeting started at 1:00 pm. Council Members in attendance were Peggy Henson, Kevin Stinnett, Chuck Ellinger, Diane Lawless, Shevawn Akers, George Myers, Jennifer Mossotti, Harry Clarke, Bill Farmer, and Ed Lane. Steve Kay attended as a non-voting member.

1. Approval of Summary

Motion by Ellinger to approve the summary as amended, second Farmer. Motion passed without dissent.

2. Division of Police, Home Fleet Policy Update

Scott Shapiro distributed related materials at the beginning of the meeting. He said they have an agreement they negotiated with the Fraternal Order of Police (FOP) that was being voted on that week. Shapiro clarified that the phrase "the Home Fleet Policy has been suspended", is not true. There are two ways fleet cars are handled; they can operate with pool cars that use the same car for multiple people or a home fleet policy, which Lexington has used since the mid 1970's and Shapiro said they recognize its advantages. The portion of the policy to allow police officers to drive their fleet cars to and from home has not changed. The policy was amended during the 2012 Collective Bargaining negotiations to disallow officers to use the vehicles for personal use. This amendment was predicted to save about $800k per year but ultimately only saved about $288k. It was initial assumed that the mileage would decrease by 15% but it actually only decreased 7.8%. Despite the cars being driven less, they learned the maintenance cost was driven by the age of the vehicle, not so much related to mileage and the insurance cost did not change either. Shapiro said there are about 150 new cars coming online.

Shapiro said they negotiated to reinstitute personal use at a cost of $50 per month, which would essentially cover the cost of gas. The FOP members are voting on this amendment this week and Shapiro should have an answer on that information early next week.

Shapiro mentioned a recent story linking the personal use policy to crime and by looking at the numbers, it is hard to claim the personal use reduces crime. He said crime declined 7.8% in 2013 when the personal use policy was not in effect. He explained Lexington has a violent crime rate that is less than half of our peer cities but we do see the value in having a greater police presence.

Stinnett said he placed this in committee over a year ago because the numbers weren't supporting what was negotiated. He mentioned that he saw how an off-duty officer's presence at a baseball field diffused the situation. Stinnett cautioned Shapiro saying crime went down because crime stats are tracked differently from two years ago. He said since the state law changed, some crimes you could be arrested for became ticket offenses and that could lead to lower crime statistics because crime data is based on arrests. Stinnett asked if they could report the results of the vote back to the Council and Shapiro agreed he would email out the results. Stinnett asked how the $50 payment would work. Shapiro said Police has a system in place for this type of deduction since there already was a $50 fee in place for off duty work and that officers would only have to pay one monthly $50 fee for personal use. There is no CPI built in to the fee, just flat rate until next collective bargaining agreement where they expect this to be renegotiated.

Lane has always been supportive of taking cars home because there is a benefit to minimizing crime when people see police cars driving. He asked what the average fuel cost per gallon was in 2012 versus 2013 because the fuel rates increased in the last year. Shapiro said that his assumption was the difference between the 7.1% decline in fuel vs. 7.8% decline in mileage. Lane explained savings wouldn't be tied into miles driven but actual fuel costs. Lane mentioned the depreciation may be less for older vehicles and greater for newer vehicles. Shapiro said the depreciation was more soft cost where as the analysis looked more at hard costs related to fuel, maintenance and insurance. Lane asked about the number of cars run in 2012 and 2013, if we had more cars in 2013, we would have more mileage, the maintenance might be that way too. Lane said it could be tweaked a bit more to get some hard numbers on this to use it in upcoming negotiations.

Clarke is very happy to see the personal use reestablished. There is no way to estimate the value in having more police on the street in a more regular fashion. He asked if all officers can take their car home or opt in if they don't want to pay $50. Shapiro said all officers are issued a car and they can take it home at no cost, this did not change and has been in place for 40 years. They can opt into to the $50 fee for personal use. Clarke assumes that if there is a need for a police officer and the officer is using their vehicle off duty, we expected the officer to respond and questioned why we are charging them $50 if we are expecting them to be on duty if the case requires them to be responsible in that way. He does not like the $50 fee and stands behind the home fleet policy as good plan. He said we ought to provide officers their vehicle and allow personal use in anyway we can, what ever the expense.

Ellinger asked what the FOP is voting on. Shapiro said because it is collective bargaining, we both have to agree to the changes and they have to put it up for a vote to their membership. They are voting to amend the home fleet policy to allow officers to opt into a monthly $50 payment for personal use of their vehicle. Ellinger said there's a lot of benefit to having the police presence and you can't assign a dollar figure to it. He is not sure we need to be charging the $50.

Mossotti asked if the $50 is for officers using their vehicles for off-duty jobs. Shapiro explained officers had been paying $50 to use their vehicles for off duty jobs but the fee would now cover any off-duty use, personal and off-duty jobs. She doesn't think we can quantify the value to this and doesn't think you can equate dollars and cents to public safety. Mossotti said she's not sure we should charge $50 at all. She hopes the negotiations are less about dollars and more about safety.

Farmer asked why the handout was given out the day of the presentation and not included in the packet. Shapiro said the information is in flux as they are negotiating with the FOP so he thought a handout would be better then a presentation. He was not sure what Jason Rothermund provided to the FOP membership who is voting. Framer would like to see this information in writing. Shapiro said he could email that around.

Lane said $50 equals $600 per year and that would allow about 1,200 miles each year or 100 miles per month based on the IRS rate per mile of $0.50 so he doesn't thinks a $50 fee is unreasonable Lanes thinks most people drive more than 100 miles per month so it would be a good deal. Lane said if we have 500 cars and collected $600 per car, that adds up to $300k of reimbursement per year, which needs to be considered in negotiations. Lane does support personal use but it needs to be a fair deal for both sides.

Akers asked when the FOP is voting. Shapiro said it started yesterday. Akers asked if they vote against this, what would happen. Shapiro said not change to the agreement would take place because both sides must agree. She asked what the policy is for officers responding off-duty. Bastin said priority calls require officers to stop, minor calls do not require officers to stop. They use overtime or flex time when officers respond off-duty. Flex time lets officers off a little early and can help manage overtime but does not always work.

Stinnett asked when the collective bargaining agreement was up and Shapiro responded next year, which means this amendment will be good for one year. Stinnett asked if an amendment to the resolution would come to the council. Emmons said they were not sure how that works but would look into. Stinnett asked when the effective date was and Shapiro said they have not discussed that but he will email that to everyone.

Henson wants a better understanding on the $50 fee and why $50 was selected. She understands the $50 fee for other off-duty jobs but not for personal use where you might have to stop whatever you're doing to take a call. She did not remember $50 being discussed when you said were going to renegotiate. Shapiro said the FOP did do an initial survey with their membership and they feel confident it will pass. The $50 is voluntary, officers would not be required to do this. Henson did not feel we should be charging $50 per month.

Emmons said it's important to remember we asked for concessions from all the unions when we began the negotiations a few years ago and this is a product of that process. The FOP chose to go this route, rather than take concessions in another way.

Lane believes Council should approve any amendments to the collective bargaining agreement. He said the way this was handled could have been better because information shared could hinder negotiation powers.

Mossotti said everything we're discussing is a mute point and that we did this backwards. She said we should have had this conversation first and then gone into negotiations. Emmons said he was present for the last conversation in committee, he heard those concerns and they used those in negotiations. The concessions were a product of the recession. He said we did not want to be having these conversations but we had to ask for concessions and this is a product of that negotiation. Mossotti said that we are discussing the $50 fee that some of us don't support.

Stinnett said we put this in committee a year ago because the numbers were not proving to be what was predicted and explained we asked the administration in January to renegotiate a better deal. He asked if that the best deal we could get and if it was offered with no cost? Shapiro said this was the compromise where we preserved some savings, at least covering gas, which was a low enough monthly fee the FOP felt comfortable bringing it to their members. Stinnett said the Council has no legal power to dictate it one way or another and he wants this kept on the table in the upcoming negotiations.

Shapiro will circulate a paragraph that describes the change as well as the outcome of the FOP vote. Stinnett asked to keep in committee until this has been resolved because we want to see a change. Clark said it would be appropriate for Shapiro to translate this conversation to the FOP. He said we can live with this for a year but its important the FOP is aware of this conversation.

Lane clarified this $50 fee is optional. Officers can still drive their vehicle to and from their home at no cost and the fee is for personal use. Lane said the IRS would require the officer to pay taxes if they got the car for free. Shapiro said he would look into that.

Mossotti said her son is a police officer who pays nothing with a home fleet policy; by parking your vehicle in your driveway, you are there to serve. She said officers are on call 24-7 by virtue of the job and it's not necessary to have them pay this for what they are doing for citizens. She asked how many jurisdictions in Kentucky have the home fleet policy and how many pay and don't pay. Shapiro said we did one analysis with information crime reports, the way the FBI looks at crime in cities. They looked at 12 cities that are similar to Lexington in size and population. Of the 12 cities, six of them have a home fleet policy (six cities use a pool policy) and three of those six allow personal use, essentially 25%.

Farmer said we don't meet again until Sept. 16 and asked if this would be concluded before then. Shapiro thought it would. Farmer said this presentation only brought more questions and he wishes more of this information was reflected better in the packet.

Henson said if you place a value on the home fleet, it is certainly more valuable then the savings we are seeing.

3. Community Corrections: Staffing Levels Update

This presentation is a follow up to one given several months ago. Ballard said in FY 2009 the authorized sworn staff was 299. When he came on board in 2012, they were 58 officers short. In FY 2014, there was 263 authorized sworn staff. 15 new officers were included in the FY 2015 budget. Ballard said a new class of 13 people started today and they are currently 11 short of the full staff. The current cap is 278 and Corrections currently employs 267. Ballard explained one of their units is staffed by two people, 24-7, and they want to expand that structure with the additional staff. They plan to have two officers between 8 am – 11 pm since the bulk of the work is done then, which will increase officer safety and decrease the work load.

Corrections requested $975k in the FY 2015 budget for overtime. On average, one correction officer (salary and benefits) costs approximately $53k per year. Essentially the overtime budget equals 18 full time employees. Adding more employees will not eliminate the need for overtime because of sick leave, vacation, military leave, FMLA, Workman's comp, light-duty non-work related, funeral leave, emergency leave, hospital duty, etc. They plan to request ten new officers in both FY 2016 and FY 2017, which will bring their staffing levels similar to what they had in 2009.

Ballard said they purchased the vest discussed in the last meeting and are using them for high risk transport employees. They were able to collect turnover data 2011 – 2014, though it is not something that is tracked in the Peoplesoft. 51 employees left in 2011, 66 left in 2012 and 61 left in 2013. Ballard said new jobs was the most common reason for people leaving, termination was consistently the second most common reason and 2014 is trending the same way. Of the 76 employees who left, 32 (printed red in presentation materials) left for public safety jobs and of those, 13 went to other corrections facilities. Ballard said we're hiring the right people. He is conducting informal exit interviews with every employee that leaves so he can hear first hand why these folks are leaving.

Clark asked how many units are there total and Ballard said 20 units plus intake. Clark asked if there is a chart of how each unit is manned. Ballard said it's difficult because it all depends on the types of inmates in each unit. Clarks said that is why he would like to see it broken down. Ballard said the entry level officers make $14.52 per hour at 40 hours per week. He said he looked at a family of four and assumed his employee was the bread winner in the family and that person also provided the health insurance for the family; that employee's takes home $617 for two weeks.

Lane asked how many beds we have, Ballard said 1,266 beds and the average daily population (ADP) is 1,300. Lane recalled the jail was originally designed for eight people per pod and they're now running at 12 per pod. Ballard explained a pod is called a sub-day room. Inmates can either come out from their bed area one at a time or all at once to the shared space. The dormitory setting, with all beds in one room, is sleeping about 12 today. The total operating costs for the jail per year is about $33m but Ballard was not sure the debt service is included in that number, which breaks down to $72 a day per bed. He said the average length of stay is running 19 days, which is up from 16 days. The Supreme Court instituted new bonding regulations that went into effect July 1st and they hope this will get some of the inmates out faster. When Ballard first started, they did not house class D inmates, today we are being paid to house by the state about 125 class D inmates. There were 35 federal inmates when Ballard started, now there are around 85. He is renegotiating the federal contract right now. If they're able to get a $10 increase on a four year contract, that would amount to about $1.2m in additional revenue. Lane asked what percentage of inmates we are housing for other entities. Ballard said about 200 inmates and they receive about $3.5m in revenue from these outside entities. Ballard considers these beds would be empty if they were not housing these inmates.

Mossotti said it's hard to believe that pay was not one of the concerns of leaving employees. Ballard said that is reflected in the new job category. Mossotti asked if officers are getting adequate pay for what they're doing. Ballard said if we were in an urban setting with high unemployment rates, these jobs are cherished. In community with a good economy, it's tough. He thinks upper management level is getting paid adequately but the entry level is not. Mossotti asked what would be a fair salary. Ballard said we would have to look at other businesses in the community; in the correctional field, we are paying what is comparable to the industry standard. Mossotti hopes salary is considered down the road.

Stinnett asked for clarification of the authorized strength and vacancies. Ballard said the class of 13 is not realized yet but we are still paying their salaries. He said added another week to the academy to try to hold on to officers longer as well as a polygraph test before accepting them into the academy. The classroom is designed for 20 people and Ballard said the larger classes are not as efficient. Stinnett asked if overtime was going down. Ballard said they are always going to have leave duty and they are hiring a lot of people coming out of the military. They were at least five inmates that had to go to the hospital recently, which requires one officer for each inmate, sometimes an inmate requires two officers. The non collective bargaining employees participated in the compensation study. Stinnett asked for a formal market study so they can see actual numbers, using surrounding communities and comparable cities. There is a natural promotion feeder system for employees when jails are run through a Sheriff's department that Lexington does not have. Stinnett has consistently heard since he has been on Council that things are not being communicated well from top to bottom and there are issues in middle management. He asked if the deputy director position is helping with this. Ballard said he is trying to change a culture, which takes time. He thinks its improved but it is not where it should be. Ballard is investing in the management to participate in leadership trainings. Stinnett wants to hear that middle management is improving.

Mossotti asked if there is a common theme to the terminations. Ballard said they have raised expectations of their employees and those that are not meeting the standards are not staying with us. Ballard said he can send the market report out before the next committee meeting.

Henson said she cares a great deal about community corrections, the employees, the hard work they do and the services they provide. There have been significant improvements to efficiencies and she appreciates it. She said she thinks pay plays a definite factor in turn over. Henson also hears about the middle management issues but said we are moving in the right direction. She mentioned the committee item to reduce turnover and the item for Human Resources to conduct exit interviews. Ballard is fine with Human Resources.

5. Outsourcing of Fire Building Maintenance

Hoskins highlighted that Fire has 44 structures with three civilian employees and one sworn supervisor budgeted for their maintenance division but as of now, they are operating with one civilian and one sworn personnel. In 2010, Fire had three civilian and six sworn personnel assigned to building maintenance. They have received about $115,000 each year for routine maintenance since 2010, this year they received $150,000. Fire and Baradaran determined, using the industry standard of $2/sq. ft. for repairs and maintenance and $0.80/sq. ft. for roof replacement, the budget would look like $545k per year.

Some of the work is outsourced like the overhead door, HVAC, plumbers, electricians and boiler technicians. After business hours, outsourced hourly costs go up. Hoskins mentioned how they need a person in the building when a contractor is there.

Lane asked if all of the maintenance was outsourced if $545k would cover the cost. Hoskins said he thinks it would be more expensive and that their staff would still be necessary to manage the contracts so he does not see where the cost would go down. Some of the maintenance will be capital investment. Fire does not have records to know how old some of the roofs are. They did ask for a steady funding stream for a capital improvement plan that would cover roofs and aprons because those are large dollar items they need regularly. Lane asked what the maintenance personnel costs are annually. Hoskins said a little over $200k for the civilian positions. Lane said it seems like they need to operate a better repair and maintenance program.

Stinnett asked about the outsourcing costs listed in the presentation. Hoskins said that the only one listed they do not currently use is the electrician, everything else is a cost they recently experienced. Stinnett mentioned contacting and bidding these out to lower the cost and asked if General Services' maintenance staff could help with certain needs. Baradaran explained they have lost 23 positions over the years (10-11 were skilled trade workers) and their staffing level is the bare minimum to meet their operational needs. They obviously try to help in emergencies. Scott Kelsey in Environmental Policy is working with Fire to identify issues with the older buildings. Baradaran said Parks and Recreation and Corrections are in similar situations. Stinnett mentioned a blanket contract with flat rates we can negotiate. Baradaran said there are two ways to handle contracts; a general FM contract, which is a one stop shop and what we did with the two court houses that includes a firm price but it's not a cure all, it would take care of the day to day services; or contracts for specific systems based on primary functions on a as needed basis, for example all our data centers use same systems, these would be for mission critical operations and you would have a contractor that routinely services these systems. Baradaran said system specific contracts are best approach financially and allows time to get CIP projects in line. He said the main problem is not having the resources for preventive maintenance and that is the model they are working towards now. He said $150k does not come close to what is needed for Fire's building maintenance.

Clark said he wants to know what Hoskins thinks is the best way to deal with this problem. Hoskins said a two pronged approach. There are certain big problems they cannot tackle and those need to be outsourced. With the 24-7 operation, he thinks Fire is always going to need a maintenance staff to handle smaller more immediate needs to keep them going. Hoskins said a hybrid method is the only way they will be able to operate. Clark asked if it would make sense to reduce outsourcing and increase staff. Hoskins said that do need more people, it might not be necessary to have the staffing level they had in 2010.

Kay said preventive maintenance is a way to invest money that returns money to the community. Maintenance is adequate and repairs are short term that we have to inquer. We need to do the best we can in preventive maintenance so in the long term we save money for the community. He thinks it's hard for Council to make decisions that cost money in the short term but save in the long term and we need to give maintenance the money to save in the long term. Kay asked about the buildings directly across from the central fire station that we own and are in need of significant repairs or demolition. They are high visibility. Hoskins said they are the home of the building maintenance division and that they are unusual because electric, water and a portion of the city's fiber optic network run through the building and it will be very costly to take down.

Baradaran started the second part of this presentation mentioning there some the recommendations he will explain that are not limited to Fire, they can be applied to any division in LFUCG with facilities. He said a company has been selected on a subscription basis to offer a web-based computerized maintenance management system (CMMS), which the most important aspect in building good maintenance operations that will help with a preventive maintenance program and store data. The CMMS has a reporting/work order system built in that can track requests. General Services funded it for the first year but they plan to have the divisions budget for it after this initial year.

Baradaran said Fire needs a Facility Condition Assessment. There is a level one Facilities Condition Assessment that would include a quick walk through, verify data and identifying specific systems associated with each building. Depending on the funding, there is also a modified Facility Condition Assessment which would allow you to pick specific systems to be assessed. Baradaran said the focus for Fire would need to be environmental and touch on things like mold, which can be associated with roof systems. He said about $125k should cover the cost for this kind of assessment and would take about 6-9 months to complete. He recommended Council considers this for the FY14 fund balance discussion.

Baradaran said the current level of Fire's maintenance funding is $0.50 per GSF and inadequate. He recommended that additional funding of about $300k be allocated for immediate environmental testing and remediation as well as major roofing systems repair and replacement projects. Baradaran thinks four additional non-sworn full time personnel for next two years would get Fire to the level they need to be at. Baradaran said Fire's CIP requests needs a major emphasis on repair and maintenance of existing facilities.

Henson asked if the assessment would just be for Fire and Baradaran said yes, to get a handle on Fires Facilities. Henson asked if this has been done for other facilities. Baradaran said they have done it on an as needed basis and because of the conditions of Fire's facilities and the amount of deferred maintenance they have, they are in more immediate need of help. He said it is imperative for addition funding for their maintenance items.

6. Items in Committee

Motion by Farmer to remove Compiling a list of Safe Places People can go in Times of Weather or Emergency Needs from the list of Items in Committee. Seconded by Lane. Motion passed without dissent.

Motion by Farmer to remove Abandoned Housing from the list of Items in Committee. Seconded by Akers. Motion passed without dissent.

Motion by Farmer to remove Tenant Transition and Household Disposal from the list of Items in Committee. Seconded by Lane. Motion passed without dissent.

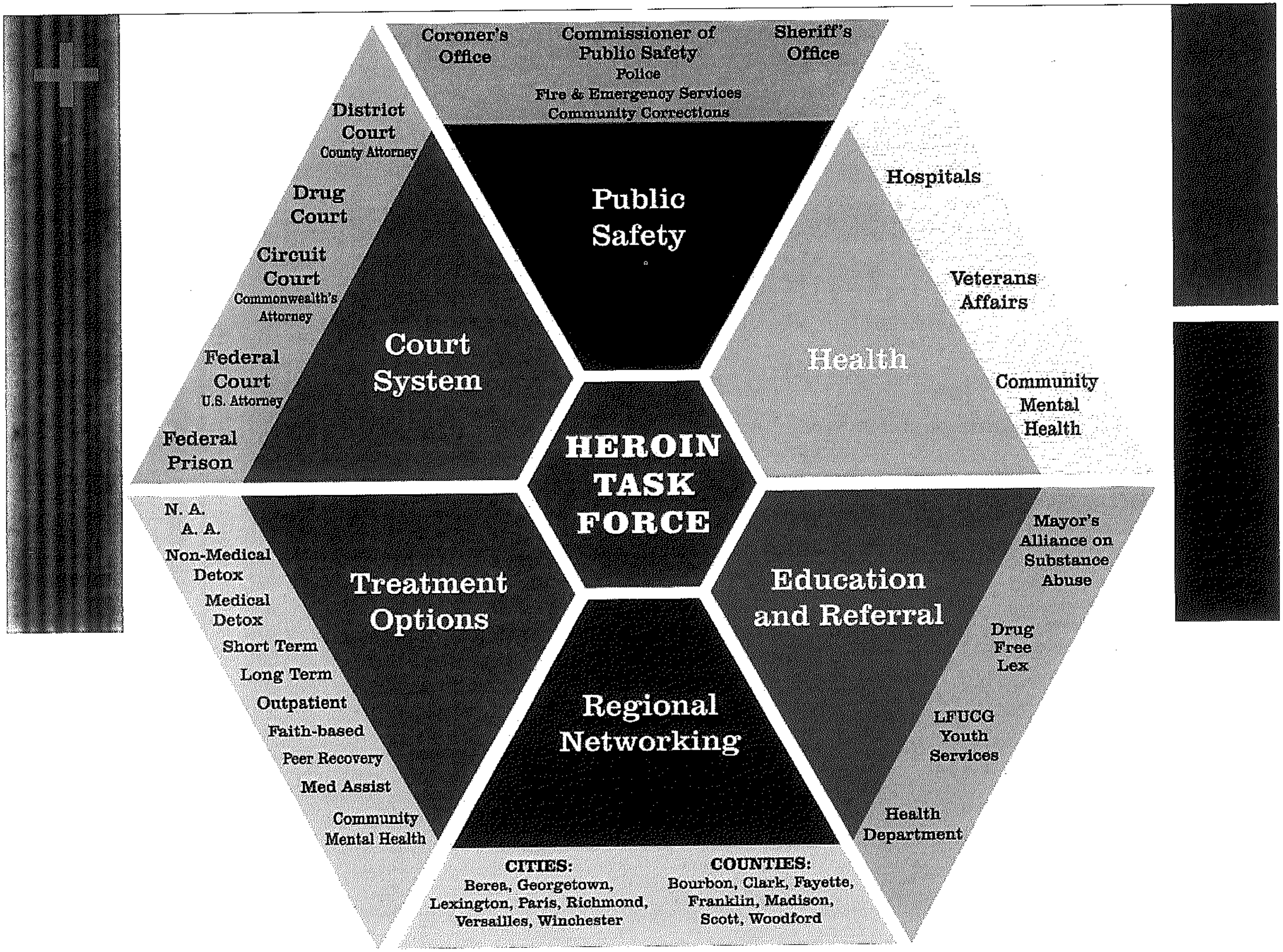
Motion by Lane to remove Fire Station Locations and ISO Ratings from the list of Items in Committee. Seconded by Akers. Motion passed without dissent.

Motion by Mossotti to remove Division of Police Staffing Plan from the list of Items in Committee. Seconded by Akers. Motion passed without dissent.

Motion by Mossotti to remove Animal Remains on Private Property from the list of Items in Committee. Seconded by Akers. Motion passed without dissent.

Motion by Lane to adjourn. Seconded by Akers. Motion passed without dissent.
Meeting adjourned at 2:45 pm.

Submitted by Hilary Angelucci, Legislative Aide.


HEROIN TASK FORCE
Public Safety
Coroner's Office
Commissioner of Public Safety
Police
Fire & Emergency Services
Community Corrections
Sheriff's Office
Health
Hospitals
Veterans Affairs
Community Mental Health
Education and Referral
Mayor's Alliance on Substance Abuse
Drug Free Lex
LFUCG Youth Services
Health Department
Regional Networking
CITIES:
Berea, Georgetown, Lexington, Paris, Richmond, Versailles, Winchester
COUNTIES:
Bourbon, Clark, Fayette, Franklin, Madison, Scott, Woodford
Treatment Options
N. A.
A. A.
Non-Medical Detox
Medical Detox
Short Term
Long Term
Outpatient
Faith-based
Peer Recovery
Med Assist
Community Mental Health
Court System
District Court
County Attorney
Drug Court
Circuit Court
Commonwealth's Attorney
Federal Court
U.S. Attorney
Federal Prison


Commissioner of Social Services
Substance Abuse Coordinator
Board
(ex-officio by virtue of job)
-Appointed
-Committee Chairs
Program Specialist
(grassroots advocate)
Substance Abuse Prevention Committee
(Drug Free Lex)
Violence Intervention Committee
(Cities United)
Substance Abuse Treatment
(Bluegrass.org)
(The Ridge)
Justice Committee
(Heroin Task Force)
Victim Services Committee
(Commonwealth Attorney)

OFFICE OF SUBSTANCE ABUSE AND VIOLENCE INTERVENTION PROPOSAL
September 16 , 2014

The Departments of Public Safety and Social Services propose the creation of the **Office of Substance Abuse and Violence Intervention** (working title only) to further coordinate key stakeholders in the city to most effectively respond to and ultimately reduce all facets of violence and substance abuse. The office will allow groups that have been addressing these issues independently to come together under one umbrella to more effectively address these issues.

The office will utilize the community collaboration model created by the LFUCG Domestic Violence Prevention Board and is recognized as a model program. The work of the office will be supported by five committees comprised of and chaired by board members (see organizational chart).

The office will:

- Focus on the treatment, prevention, and enforcement of substance abuse as well as violence prevention.
- Develop a five-year strategic plan to guide the direction of the office and its committees
- Conduct ongoing program evaluation
- Promote collaboration among existing treatment, prevention and enforcement initiatives
- Advocate for increased resources for substance abuse treatment, prevention and anti-violence initiatives.
- Provide community education and professional training.
- Serve as a clearing house for accepting tips and filtering information from the community.
- Seek funding (grant and other sources) to support the office mission.
- Work with the detention center on substance abuse treatment and anti-violence initiativesduring incarceration
- Develop a model protocol for communication and post incident review in cases of overdose or gun violence.

The office will be staffed with one full-time Coordinator and a part-time specialist. Both staff members will work with 5 committees that will be chaired by ex-oficios from the community:

The office will have a number of advantages over a commission. An office establishes a permanent entity to address substance abuse and violence. It builds a framework for ongoing community collaboration resulting in better data collection, outcomes, and increases opportunities for grant funding.

ORDINANCE NO. _________ 2014

AN ORDINANCE AMENDING

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

Section 1 - That Section 18A-3 of the Lexington-Fayette Urban County Government Code of Ordinances, be and hereby is amended to read as follows:

> 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 ten (10) [~~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. All persons in possession of a local taxicab permit may increase the number of taxicabs in their fleet in increments of one (1). Upon addition or removal of vehicles, the manager/owner of each company shall also report the changes to the public safety commissioner or his designee.

Section 2 - That Section 18A-21 of the Lexington-Fayette Urban County Government Code of Ordinances, be and hereby is amended to read as follows:

> 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-hour service, three hundred sixty-five (365) days per year~~]. 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.

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

PASSED URBAN COUNTY COUNCIL:

____
MAYOR

ATTEST:

____
CLERK, URBAN COUNTY COUNCIL
PUBLISHED:

00452709

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

Chapter 18A VEHICLES FOR HIRE [1]

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 Lexington-Fayette 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 any form of a motor vehicle operating under a certificate of convenience and necessity issued by the bureau of vehicle regulation, a local taxicab permit or any form of a motor vehicle providing transportation within Fayette County that is not affiliated with a licensed taxi company that accepts any form of compensation including but not limited to: per time or per distance rates, tips, donations, money for fuel or an exchange of goods for service. 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 Lexington-Fayette 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.

(9) *Fare* means any person or group of people being transported in a taxicab.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 331-2005, § 1, 12-13-05; Ord. No. 186-2009, § 1, 9-3-09; Ord. No. 50-2012, § 1, 4-26-12)

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

The commissioner of public safety or his designee shall exercise all administrative functions of the urban county in relation to the operation of vehicles for hire regulated under this chapter. The commissioner or his designee 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) calendar days before their effective date.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 2, 4-26-12)

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 or his designee 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. Upon addition or removal of vehicles, the manager/owner of each company shall also report the changes to the public safety commissioner or his designee.

Local taxicab permits shall be renewed annually each fiscal year, effective July 1, 2012.

Local taxicab permits shall not be sold, transferred or leased without the written authorization of the commissioner of public safety or his designee. 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; Ord. No. 50-2012, § 3, 4-26-12)

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 as required by section 18A-5
(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 or his designee may require.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 4, 4-26-12)

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; Ord. No. 50-2012, § 5, 4-26-12)

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 fifteen-dollar ($15.00) transfer fee. The driver shall also report the transfer to the commissioner of public safety or his designee within ten (10) calendar days of occurrence. Failure of a driver to report a permit transfer within the specified time period shall result in the suspension of his driver's permit for not less than seven (7) days nor more than thirty (30) calendar days.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 6, 4-26-12)

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 or his designee 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-five dollars ($25.00). 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; Ord. No. 50-2012, § 6, 4-26-12)

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 chief of police or his designee for this issuance of a permit.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 7, 4-26-12)

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 or his designee to offer evidence why his application should be reconsidered. The applicant must request this hearing within fourteen (14) calendar days of the date appearing on the letter of rejection. If the hearing is not requested within this time period, the rejection shall remain in place until the applicant is able to reapply as shown on the written rejection.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 8, 4-26-12)

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 or his designee 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 fiscal year. The permit for every fiscal year thereafter shall be issued upon payment of twenty-five dollars ($25.00) unless the permit for the preceding year has been revoked or suspended. The driver shall also renew his annual business license with the LFUCG Division of Revenue.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 9, 4-26-12; Ord. No. 06-2014, § 1, 1-30-14)

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 up to three hundred sixty-five (365) calendar days. The chief of police or his designee is also given authority to permanently 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 request a hearing before the commissioner of public safety or his designee to present evidence on his behalf. A decision to suspend or revoke, and the duration of such a suspension or revocation shall be based upon the number and type of provision(s) for which compliance was not met, their relative severity, and whether the driver has repeatedly failed to meet any compliance requirements.

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 or his designee to offer evidence why his driver's permit should not be suspended or revoked. The applicant must request this hearing within fourteen (14) calendar days of the date appearing on the letter of suspension or revocation. If the hearing is not requested within this time period, the suspension or revocation shall remain in place until the applicant is able to reapply as shown on the written suspension or revocation.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 10, 4-26-12)

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 suspension or revocation of a permit in accordance with section 18A-13.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 11, 4-26-12)

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

(a)

Periodic safety inspections. Every vehicle operating under this chapter may be periodically inspected by an urban county government official at such random intervals as shall be established by the commissioner of public safety or his designee 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) *Bi-annual inspection.* Every vehicle operating under this chapter shall be inspected bi-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. Bi-annual inspections shall be conducted with a minimum of six (6) months between inspections. Fees associated with the bi-annual inspections shall be the responsibility of the registered owner of the vehicle. Proof of bi-annual inspections shall be filed with the department of public safety within ten (10) days of the inspections and a sticker indicating when the inspection occurred shall be visible in the taxicab.

(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 with letters and numbers 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 (magnetic placards are not considered to be permanently affixed). The lettering shall show the vehicle number assigned to it by its owner and the name of the company, individual or association by whom the vehicle is owned. In addition, a light shall be placed on top of the vehicle identifying it as a taxi. Failure to comply with this section upon any type of inspection of a vehicle shall result in a citation for violation of this chapter to be issued to the driver and the vehicle shall be taken out of service until it is in compliance with this chapter. Once taken out of service, only the commissioner of public safety or his designee can place the vehicle back into service.

(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 seven (7) calendar 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 safety inspection, the vehicle shall be deemed out of service. An official of the urban county government shall place a 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, who is an official of the urban county government, 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 shall result in suspension or revocation of the driver's taxi permit or the holder's permit. Out of service vehicles shall not remain on the premises of the holder of the local taxicab permit for longer than thirty (30) calendar days.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 186-2009, § 2, 9-3-09; Ord. No. 50-2012, § 12, 4-26-12)

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 or stopped in traffic, 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.

In the event that a law enforcement officer conducts a probable cause traffic stop on a taxicab while transporting a fare, the fare shall not be assessed fees during the duration of the traffic stop.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 13, 4-26-12)

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 on or 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; Ord. No. 50-2012, § 14, 4-26-12)

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 taxi company, name of the driver, license plate number or motor number, and date of transaction.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 15, 4-26-12)

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 any unlawful purpose.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 16, 4-26-12)

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-hour service, three hundred sixty-five (365) days per year. 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 of 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.

All drivers shall be required to post picture identification, visible to all fares, in their taxicabs.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 17, 4-26-12)

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 issue a citation and report the same to the commissioner of public safety or his designee, who will order or take appropriate action.

(Ord. No. 348-2002, § 1, 12-12-02; Ord. No. 50-2012, § 18, 4-26-12)

Sec. 18A-25. [Random compliance inspections permitted.]

Any law enforcement officer able to enforce LFUCG ordinances shall be permitted to conduct random compliance inspections on taxicabs for violations of chapter 18A, when the taxicab is occupied by only the operator. When a taxicab is occupied by a fare, law enforcement officers shall refrain from stopping a taxicab for the sole purpose of conducting a compliance inspection. Nothing in the section shall limit an officer from conducting a compliance inspection during a lawful, probable cause, traffic stop. Probable cause for a traffic stop for the sole purpose of a compliance inspection is not necessary. Upon inspection of a taxicab, the law enforcement officer shall issue a citation if there are violations of ordinances. If the violations can not immediately be remedied, the taxicab shall be placed out of service by the citing officer. Once taken out of service, only the commissioner of public safety or his designee can place the vehicle back into service.

If a taxicab is taken out of service by a law enforcement officer when a fare is present, the driver of the taxicab shall be responsible for securing alternate transportation for the fare. As the taxicab and its driver were not in compliance with the Code of Ordinances, the fare shall not be responsible for any fees incurred up to the point of the taxicab being placed out of service.

(Ord. No. 50-2012, § 20, 4-26-12)

Sec. 18A-26. 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 less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) or be imprisoned for not less than one (1) day nor more than thirty (30) days or both for each offense. Each day shall constitute a separate violation.

The commissioner of public safety or his designee 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; Ord. No. 50-2012, § 19, 4-26-12)

FOOTNOTE(S):

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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.* (Back)

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. (Back)

Cross reference— *Horse-drawn vehicles, § 4-24 et seq.* (Back)

State Law reference— *Motor carriers, KRS ch. 281.* (Back)

Lexington-Fayette Urban County Government
DEPARTMENT OF LAW

Jim Gray
Mayor

Janet M. Graham
Commissioner

TO: Members, Public Safety Committee

FROM: Department of Law

DATE: September 3, 2014

RE: State and Local Regulation of "Ride Share" Companies, i.e. Lyft and Uber

This memorandum is being provided in response to your request for an opinion concerning whether "Ride Share"[1] companies can be regulated under Chapter 18A of the Code of Ordinances, and, if not, whether Chapter 18A of the Code of Ordinances should be amended to regulate these services. Additionally, the committee requested information concerning whether these types of companies are properly insured. Our opinion is set forth below.

Background

In late April and early May of this year, two national "ride share" companies, Lyft and Uber began operating in both Lexington and Louisville. These companies are also located in other cities around the country. Both companies function through application-based services in which a user downloads the application (app) from the internet to his or her phone and through the use of the app is able to search for, locate in real-time, book, and pay available drivers. Drivers of both companies use their own personal vehicles to transport riders.

On their websites, each company states that all drivers are screened carefully and that background checks are conducted. Additionally, both companies provide drivers with excess insurance policies of up to $1 million per occurrence, contingent collision insurance for drivers who have collision coverage on their personal auto policy and uninsured/underinsurance motorists coverage.

[1] In Kentucky the term "Ride Share" or "Ridesharing", in its normal use, applies to activities such as informal carpooling or complimentary transportation provided through an employer that is exempt from the taxicab and limo services regulation. Code of Ordinances 18A-1(6). Thus, a more appropriate term would need to be created for the services that companies like Uber and Lyft provide should LFUCG decide to regulate these services. In California, the first state to regulate such companies, these companies are referred to as "Transportation Network Companies" or TNCs.

Lastly, on their websites both companies state that they are not providing transportation services, but rather providing a means of communication between needy riders and available drivers.

In its Term of Service Agreement found on the website, Lyft describes the services it provides as "a means to enable persons who seek transportation to certain destinations ("Riders") to be matched with persons driving to or through those destinations ("Drivers").[2] Furthermore, Lyft adds that it "does not provide transportation services, and ... is not a transportation carrier."[3] Lyft cars are identified by the pink mustache. Similarly, based on information found on its website, Uber describes the services it provides as "offer[ing] information and a means to obtain transportation services offered by third party transportation providers, drivers or vehicle operators (the "Transportation Providers").[4] It also warns that "Uber itself does not provide transportation services, and Uber is not a transportation carrier."[5] By denying that they are transportation service providers or carriers, both companies believe that they are exempt from regulation.

Urban County Government's Power to Regulate

Section 18A-1 of the Code of Ordinances defines "taxicab" to include "any form of a motor vehicle providing transportation within Fayette County that is not affiliated with a licensed taxi company that accepts any form of compensation including but not limited to: per time or per distances rates, tips, donations, money for fuel or an exchange of goods for service." Further, Section 18A-3 of the Lexington-Fayette County Code of Ordinances states that "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."

Since they began operating in Lexington, we have received several complaints about these companies not complying with Chapter 18A of the Code of Ordinances. On May 5, 2014, Police Chief Ronnie Bastin sought a legal opinion from the County Attorney's Office concerning the legality of stopping a vehicle associated with a ride sharing service. The County Attorney's Office advised that these companies do meet the definition of a taxicab and that police officers are permitted to conduct random compliance inspections. To date, none of these vehicles have been cited. The Department of Law agrees with the opinion of the County Attorney's Office. However, there are several sections of Chapter 18A that may need to be amended to include ridesharing companies such as Lyft and Uber.

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[2] "Lyft Terms of Service", LYFT.COM, available at http://www.lyft.me/terms (Mar. 4, 2014).
[3] *Id.*
[4] "Terms and Conditions", UBER.COM, available at http://www.uber.com/legal (May 6, 2013).
[5] *Id.*

Insurance Requirements

As stated above, both companies provide drivers with excess insurance policies of up to $1 million per occurrence, contingent collision insurance for drivers who have collision coverage on their personal auto policy and uninsured/underinsurance motorists coverage. The issue of whether these companies had adequate insurance for their drivers and passengers was presented to the Kentucky Department of Insurance for consideration. In a meeting with representatives from the Department of Insurance, Department of Transportation, and other state agencies as well as representatives from LFUCG, and Louisville, the Department of Insurance indicated that it had met with representatives from Uber and reviewed its insurance coverage and found that it was sufficient. To date, Lyft has not met with the Department of Insurance concerning its insurance coverage for drivers.

The State's Power to Regulate "Ride Share" Companies

Because both Lexington and Louisville have been given the authority to regulate taxicabs, the Kentucky Transportation Cabinet has not issued an opinion concerning this matter. If these companies were to operate in a city or county which does not have local regulatory authority, it is the opinion of this Department that the companies would violate the state statute as well, unless either Uber or Lyft could argue or show reasons why they are exempt.

Other Jurisdictions

Nationally, California was the first state in the nation to initiate litigation and adopt formal regulation of "Ride Share" companies. The initial litigation began after the California Public Utilities Commission sent multiple "cease and desist" letters to each company for violations of state law including "operating as passenger carriers without evidence of public liability insurance" and "failing to enroll drivers in the Department of Motor Vehicles Employer Pull Notice Program".[6] However, after months of deliberations with the founders of the companies, press-conferences, and oral arguments, the California Public Utilities Commission drafted a proposal to incorporate the new technology based transportation services into its existing regulatory scheme.[7]

Under their legislation, each company (referred to as a "Transportation Network Company or TNC) would have to meet some minimum standards and be regulated by the government, in order to ensure safety in this emerging industry. These companies would not be grouped into the same classification as conventional forms of transportation services including taxicabs and limousine services.

Several localities, such as, Miami, Florida and San Antonio, TX, believe that these companies are operating as 'for hire' transportation companies and are therefore in

[6]California Public Utilities Commission, *CPUC Cites Passenger Carriers Lyft, Sidecar, and Uber $20,000 Each for Public Safety Violations*, Press Release (Nov. 14, 2012).
[7] California Public Utilities Commission, *CPUC Establishes Rules for Transportation Network Companies*, Press Release (Sept. 19, 2013).

violation of their established laws and regulations on the matter. Based on this belief, their local law enforcement officers have conducted undercover 'sting' operations which have led to several citations and car impoundments. However, it is highly doubtful that this approach will effectively stifle the growth of these businesses

As of today, Louisville is the only other city in Kentucky with confirmed Lyft and Uber drivers operating in their city. Louisville has embraced their presence but has not moved toward regulation. Local officials believe in time some sort of regulation will be necessary, but currently they are allowed to operate within the city without threat of being cited.

Conclusion

It is the opinion of this Department that these companies do fall under the taxicab ordinance. The ordinance as currently written would prevent these companies from operating in Fayette County because of the minimum number requirement, local taxicab permit requirements, central dispatch requirement, etc. However, there is nothing that would prohibit the Urban County Council from amending the taxicab ordinance to allow other companies from entering the market.

If you have any questions, please let me know.

Glenda Humphrey George, Managing Attorney

Related Articles

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20. http://www.kentucky.com/2014/06/16/3294844/new-ride-sharing-services-drove.html
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Lexington-Fayette Urban County Council

TO:	Peggy Henson, Councilmember 11th District
FROM:	Paul Schoninger Research Analyst
SUBJECT:	Ridesharing
DATE:	September 2, 2014

This is in response to your recent request for information pertaining to the issue of ridesharing. This memo will address what a rideshare company is, how it is used and identify how other local and state governments regulate the services.

Background

As you are aware Lyft and Uber have recently entered the Lexington market. These companies utilize mobile-phone applications to facilitate peer to peer ridesharing for a fee. In addition to Lyft and Uber, other ridesharing apps like Sidecar, Wingz and ZomRide have entered a few large markets. Ridesharing is a fast evolving industry. Recently a few Stanford students even launched their own rideshare app to bring people to and from Palo Alto and San Francisco. In addition, this past spring Lyft launched service in 24 new markets in just 24 hours.

The companies such as Uber and Lyft contend that they are technology companies. Their rationale is that they don't employ drivers or own rolling stock (vehicles) and therefore they are not a taxi service and should not be subject to the taxicab regulations. Conversely, the taxicab and limousine industry contents that the rideshare companies are delivering commercial transportation services, and should be following the rules about safety, insurance, fares and operations as they do.

The rideshare companies compete with local taxicab companies which are generally regulated. As you are well aware, Lexington regulates and permits taxicabs via UCG Code of Ordinances 18A Vehicles for Hire. The ordinance regulates liability insurance coverage, Police screening of drivers; inspection of vehicles and equipment; passenger fares; and other public safety concerns.

According to its own website Lyft states that due to its safety precautions as well as a community focus, has led to a trustworthy reputation, whereby the majority of its passengers are female aged 18 to 35., It identifies the following screening processes for ensuring public safety: Department of Motor Vehicle background check; in person interviews; vehicle inspections; and a 2 hour training and safety session. In addition drivers must be at least 21 years of ager, have a US driver's license for at least 1 year. They also have a zero tolerance drug and alcohol policy.

To use a rideshare service, riders download the company app onto their Smartphone, sign in through Facebook and then enter a valid phone number and credit card details. Upon opening the app, a map displays the locations of the nearest drivers. The app will also display the driver's name, ratings from previous passengers and photo of the driver and vehicle.

Companies like Lyft and Uber generally don't own vehicles nor do they employ drivers. The drivers are considered independent contractors. Drivers operate under their own personal insurance policies, which usually don't support commercial activity. While the company carry excess contingent liability insurance coverage, when it is in effect cab vary depending on the company and more importantly the specific situation a driver is in.

The companies have strict lines on when they consider a driver "working" and covered under their insurance policies. According to the Property Casualty Association of America under this model a number of insurance gaps might exist.

How Other Governments Regulate the Service

After reviewing how other cities and states are regulating ridesharing services, there appears to be 3 regulatory models emerging.

1. Develop new regulations specific to the new industry.
2. Treat these rideshare companies like a taxicab;
3. Waive at least some regulations for the transport network companies

Minneapolis, Baton Rouge, Chicago, Columbus, New York City, and Seattle recognizes ridesharing as distinct from taxicabs and created specific licensure programs for them

Minneapolis passed its local ordinance after receiving input from key stakeholders including representatives of rideshare companies, taxicabs and limousine services. The ordinance addresses licensing and training for the drivers and requires additional insurance coverage for both the companies and drivers.

Dallas has also taken the same route, having a transportation for hire group work with members of the cab, limousine, and rideshare industry working together to craft regulations. The group was led by a Dallas Council member. It has proposed new regulations including driver permit licensing, driver training, an annual background check and a drug testing for full time drivers.

Chicago adopted similar regulations in which all rideshare companies register to operate and all drivers would need to obtain a public chauffeur license and submit to background checks. Vehicle Inspections and driver training are also required. Chicago also has the authority to cap "surge pricing" when there is peak demand, such as during rush hours or for special events. It allows part time drivers to avoid some of the regulations. Further, it requires both drivers and companies to get added insurance coverage. It also allows for previously banned service to the airport by the rideshare companies. Prior to adoption there was litigation over the plan. There is a concern that this will devalue taxi medallions.

Columbus, Oh City Council recently adopted legislation that requires increased insurance coverage for both the company and driver as well as requires the drivers to obtain a for hire license from the city. Before the ordinance was adopted Columbus filed suit against both Lyft and Uber because they were operating without proper authority.

Colorado became the first state to pass legislation authoring rideshare services, which the state calls "transportation network companies. Colorado's bill requires the companies to carry a minimum of $ 1 million of commercial liability insurance covering drivers from the time they accept a ride until the passenger exits the vehicle and while the driver is soliciting fares.

The California Public Utility Commission requires rideshare companies to obtain a license to operate in the state. Drivers who work more than 20 hrs per week must have criminal background checks, and the companies are required to inspect vehicles, establish a driver training program, have a zero tolerance policy on drugs and alcohol and hold a commercial liability insurance policy that is in force while the driver is on the way to pick up a rider or is giving a ride. The Commission is now working on language to add a requirement that the companies' insurance be in force as soon as the drivers log on and are available for hire.

Legislation was adopted in Illinois that required drivers who work more than 18 hours a week to obtain a chauffeur license, commercial liability insurance, criminal background checks and vehicle safety inspections. The legislation also requires the companies' primary insurance be in effect whenever the vehicle is available. Rideshare cars would be required to carry registration plates and stickers. In addition the legislation restricts the age of vehicles to 4 years. An Uber spokesman stated that the legislation will hurt consumers and limit transportation options

Annapolis Maryland along with several other local governments regulate rideshare companies similarly to taxicabs. Similar local ordinances have been adopted in Pittsburg, Buffalo and Cleveland.

A few cities have decided not to interfere with these new technology companies in hopes that they attract the young educated creative class. These include Portland, OR; Raleigh, NC; Cleveland; Austin, TX; San Diego; Chapel Hill, NC: and Providence Rhode Island.

A few other governments are still determining how or if they should be regulated. These include Louisville; the Commonwealth of Kentucky; and Lexington. In St Louis a temporary restraining order was issued from the City's taxi commission which cited public safety because the drivers weren't vetted by the commission.

Washington, DC and Boston are in the process of developing their own recommendations. In Washington the City Council is considering a bill to allow rideshare services if they meet insurance requirements and follow safety rules. The DC Taxi Cab Commission has recommended a waiver for part time drivers working less than 15 hours a week. In July taxicab drivers held sporadic protests because they don't think the regulations go far enough.

In Orlando the City and the industry have held talks about developing rules to address the app based ride model. At present the services operate on an unregulated basis.

In Arizona the services continue to operate on an unregulated basis when Gov Jan Brewer vetoed legislation regulating ride services. She cited a lack of required drug testing, and gaps in required insurance. In Virginia the State has temporarily relaxed vehicle and driver registration requirements in order to study the rideshare model. In Maryland a Public Service Commission plan to regulate the services as "common carriers' is on hold pending litigation

Conclusion

Ridesharing is a new and innovative transportation mode that can add to the collage of options that people have to get from point A to point B. However it isn't a new industry distinct from taxicab and limousine companies. They have simply made access to ride for hire services more convenient through the use of mobile technology.

What ridesharing companies provide through their respective apps is no different than what a dispatcher does for any taxicab company. Instead of a phone call to get a ride, users do it themselves cutting out the middle man. It appears that the service ultimately provided through the app is clearly a commercial activity providing transportation for a fee.

If, after reviewing this memo and attached materials, you have any questions, comments or need clarification, please don't hesitate to contact me.

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Paul Schoninger
Research Analyst

c: Hilary Angelucci

ITEM	REFERRED BY	DATE	STATUS
Division of Police Home Fleet Policy	Stinnett	4/16/13	5/07/13, 11/05/13, 2/18/14
Standards and Oversight of Rehabilitation Homes	Lawless	11/12/13	
Staffing Level at the Div. of Community Corrections and the Inmate to Officer Ratio	Henson	11/19/13	October 2014
Outsourcing of Fire Building Maintenance	Budget Link	12/3/13	2/18/14
Taxi Cab Ordinance	Lawless	2/11/14	September 2014
Anonymous Employee Satisfaction Survey Every 6 Months for Community Corrections	Lawless	4/28/14	October 2014
Substance Abuse Coordinator	Stinnett	6/17/14	September 2014
Community Corrections Turnover	Public Safety Link	6/17/14	October 2014
Community Corrections Exit Interviews Conducted by Human Resources	Public Safety Link	6/17/14	October 2014
Merge Division of Emergency Management (DEM) into Fire & Emergency Management Services	Public Safety Link	6/17/14	
Community Corrections Exit Interviews	Public Safety Link	6/17/14	October 2014
EMS Transport Fees	Henson	7/1/14	
Ridesharing Regulations	Henson	7/8/14	September 2014
Scrape Metal Dealers UCG Code 13.54-3	Farmer	9/9/14	
Sky Lanterns	Clarke	9/9/14	