

SUBSTITUTE ORDINANCE NO. __

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF MEMPHIS, TENNESSEE, CHAPTER 6 -BUSINESS LICENSES AND REGULATIONS -TO DEFINE ENTERTAINMENT TRANSPORTATION VEHICLES, AND TO PROVIDE FOR THE LICENSING AND REGULATION OF THE SAME

WHEREAS, in recent years a new type of transportation business has emerged in various cities within the United States in which the passengers hire a motor vehicle not only as a means of transportation but also for some entertainment or social purpose; and

WHEREAS, the General Assembly of the State of Tennessee did in its recent session amend Tennessee Code Annotated, Section 7-51-1007, to recognize Entertainment Transportation Vehicles as a category separate from other types of vehicles already included in said law, and to allow municipalities within Tennessee to regulate the operation of Entertainment Transportation Vehicles; and

WHEREAS, in other cities in which such vehicles operate, governments have encountered various problems caused by the vehicles in the area of public safety and welfare, including accidents resulting in damage and injury, the commission of crimes related to the operation of the vehicles, and complaints from businesses and citizens about noise and offensive behavior by patrons; and

WHEREAS, the Memphis City Council deems it necessary for the health, safety, and welfare of citizens to amend the code of ordinances to regulate the operation of Entertainment Transportation Vehicles in the City of Memphis.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF MEMPHIS

that Chapter 39 – Vehicles for Hire – of the City of Memphis Code of Ordinances, also referenced in Chapter 6-44, is hereby amended to create a new Article V, which shall read as follows:

Section 1. Sec. 39-256. Definitions.

For purposes of this chapter:

"Certificate" means a certificate of public convenience and necessity, a license granted, upon application and approval, by the Memphis Transportation Commission (MTC) for the sole purpose of authorizing the certificate holder to provide entertainment transportation through an Entertainment Transportation Vehicle.

"Certificate holder" means a person, company, corporation or association which has applied for, and been granted, a certificate of public necessity and convenience.

"Customer" means any person on an Entertainment Transportation Vehicle other than the driver or other employee of the entertainment transportation business, who has paid money for the services of the business or is attached to a party that has done so.

"Driver" means any individual who physically operates an Entertainment Transportation Vehicle as a for-hire vehicle under this chapter. This person may share additional, company-related titles, such as owner, employee of the owner, holder or independent contractor.

"Driver permit" means a permit issued by the MTC to drive and operate an Entertainment Transportation Vehicle.

"Entertainment Transportation Vehicle" means any motor vehicle that is designed or constructed to accommodate and transport more than one passenger for hire, the principal operation of which is confined to the area within the Memphis City Limits, whether it is operated on a fixed

route or schedule, and where the passengers hire the motor vehicle not only as a means of transportation but also for some entertainment or social purpose. "Entertainment transportation" includes, but is not limited to, trucks, buses, and wagons/trailers pulled by a motor vehicle. "Entertainment transportation" does not include a limousine, sedan, shuttle, taxicab, horse-drawn carriage, or electric-assist pedal carriage.

"For hire" means a transaction whereby any money, thing of value, charge tickets, surcharge, payment, pecuniary consideration or compensation, reward, donation, tip, or any other remuneration or profit is paid to, accepted by, or received by a driver, employee, agent, owner, or any other representative of an Entertainment Transportation Vehicle in exchange for the temporary use by or for the transportation of a passenger, whether such is paid voluntarily or upon solicitation, demand, request, contract, agreement, or as a surcharge; or otherwise in conjunction with the purchase of any other services wherein the entertainment transportation is part of the services provided.

"Inspector(s)" means the inspector(s) for the Commission.

"Memphis Transportation Commission," hereinafter referred to as "MTC" or "the Commission," means the Memphis Transportation Commission as established by the City of Memphis Code of Ordinances, Chapter 39, Article V, the same being identified as Chapter 6-46 of the Code of Ordinances of the City of Memphis.

"MTC Director" means the Executive Secretary of the MTC, as employed by the City of Memphis on behalf of the MTC.

"Owner" means the person who holds the legal title of the Entertainment Transportation Vehicle.

"Passenger" means any person on an Entertainment Transportation Vehicle other than the

driver.

"Person" means any individual, partnership, corporation, association or public or private organization of any character.

"Permittee" means a holder of any permit issued under this chapter.

"Solicit" means the distribution of flyers or other material, or an appeal by bell, horn, whistle, words, or gestures by a driver or his or her agent directed at individuals or groups for the purpose of attracting passengers for immediate hire.

"Vehicle permit" means a permit issued by the MTC for an Entertainment Transportation Vehicle to carry passengers.

Section 2. Certificate of Public Convenience and Necessity

Sec. 39-257. Required Certificate and Effective Term.

A. No Entertainment Transportation Vehicle shall be used or operated on a for hire basis by any person in the territorial jurisdiction of the Memphis City government without an owner or operator having first obtained a certificate of public convenience and necessity. Each certificate shall be valid for one year and shall be subject to renewal pursuant to the provisions set forth in this article. Applications will be reviewed and considered as they come in to the MTC.

B. Certificates shall not be transferred, sold or given from one owner to another, including the sale of one Entertainment Transportation Vehicle company in its entirety to another, without approval of the MTC upon the filing of an application for such transfer.

C. The MTC shall track all certificates, and after the renewal period, if the certificate has not been renewed it shall be determined to be void.

Sec. 39-258. Application - Information and fees required.

- A. An application shall be filed with the MTC for each certificate of public convenience and necessity sought. Forms will be provided by the MTC and payment of a nonrefundable fee of \$200 will be charged.
- B. The application shall require the following information:
1. Name and address of applicant;
 - a. Sole-proprietor: Name and address of the owner.
 - b. Partnership: Names and addresses of all partners.
 - c. Corporation or association: Names and addresses of all the officers, directors, and members.
 2. Business name (d/b/a), business address, and telephone number if different from above;
 3. A background check of each person;
 4. Proof of U.S. citizenship or legal residency;
 5. Names and addresses of two references as to the applicant's financial responsibility;
 6. Prior experience of applicant in transport of passengers;
 7. Number of Entertainment Transportation Vehicle permits requested, and copy of proof of ownership or other evidence of lawful control, as determined by the MTC, for each vehicle to be operated under the certificate;
 8. Applicant's Procedures for training drivers;
 9. Applicant's Rules and regulations governing driver appearance and conduct;
 10. Disclosure of prior state law or City of Memphis Code of Ordinances violations pertaining to noise from motor vehicles, lewd conduct as part of a commercial business, or alcoholic beverage open container laws; any disclosures shall be verified by the MTC;
 11. The financial status of the applicant, including the amounts of all unpaid judgments against the applicant or if a corporation, against any officer, director or shareholder as listed above or, if a partnership, any partner or limited partner, or any other person who is

interested directly in the ownership or operation of the business.

12. Any additional information the applicant desires to include to aid in the determination of whether the requested certificate should be issued; and

13. Such further information as the MTC may require.

C. An applicant will be ineligible for consideration if:

1. Any of the owners, partners, officers, directors, or members are under twenty-one (21) years of age and/or the Entertainment Transportation Vehicle business has no separate legal existence beyond a shareholder, owner, or partner who is under the age of twenty-one years of age;

2. Any of the owners, partners, officers, directors, or members has violated any portion of this chapter of the City of Memphis Code of Ordinances within five years immediately preceding the date of application;

3. Any of the owners, partners, officers, directors, or members have any outstanding unpaid final judgment; or

4. Any portion of the application is incomplete or contains incorrect or untruthful information.

D. An applicant will be ineligible for consideration for a one-year period if any owner, partner, officer, director, or member has been found guilty by a court of competent jurisdiction of violating state law or City of Memphis Code provisions three or more times within the past three hundred sixty-five days pertaining to noise from motor vehicles and/ or lewd conduct as part of a commercial business.

Sec. 39-259. Findings - Issuance of additional certificates.

A. If the MTC finds that further or additional Entertainment Transportation Vehicle service within the Memphis City Limits is warranted for the public convenience and necessity and that the applicant is fit, willing, and able to provide such service and to conform to the provisions of this chapter and the rules promulgated by the MTC, the MTC may issue a certificate of public convenience and necessity. The certificate shall state the name, business address and telephone number of the applicant, the number of vehicles authorized upon such certificate, the date of issuance and the date of expiration.

B. In making the above findings, the MTC shall, at a minimum, take into consideration the number of Entertainment Transportation Vehicles already in operation, whether existing service is adequate to meet the public need; the experience, financial condition and responsibility of the applicant, and such criteria as may be adopted by the MTC in its rules.

C. No more than (25) Entertainment Transportation Vehicles may be permitted to operate upon the streets of Memphis, and the MTC shall accept no applications for additional vehicles once this maximum has been permitted. Applications shall be evaluated in the order in which they are received; and upon issuance of a 25th permit, any other pending applications shall be set aside. Should the number of permitted vehicles drop below the maximum allowed, those applications will be considered in the order in which they were filed with the MTC, beginning with those pending applications that were previously set aside.

D. The MTC may, by rule, establish any further criteria for determining the necessity for additional Entertainment Transportation Vehicle certificates.

E. Any person whose application for a certificate is denied by the MTC may file a written appeal with the MTC within thirty days of denial and request an appearance before the MTC and

appear in-person for consideration of the certificate application.

Section 39-260. Renewal of the Certificate of Public Convenience and Necessity.

A. All certificates issued under the provisions of this chapter shall expire one (1) year from the date on which the certificate was issued. All certificates may be renewed by the MTC director up to 30 days before their expiration date. A renewal fee of \$125 for each approved certificate and other licensing fees shall be charged at the annual renewal of the certificate.

B. All applicants for renewal must be current with all assessments and taxes due to the City of Memphis.

C. If a licensed Entertainment Transportation Vehicle company or individual fails to renew their certificate within thirty (30) days from the expiration date, such company shall be treated as a new applicant upon renewal application.

Section 39-261. Insurance required.

A. Before any certificate shall be issued by the Commission Director, or before the renewal of such certificate shall be granted, the applicant or association shall be required to file an insurance policy and/or certificate of insurance with the MTC director evidencing insurance coverage as required in this section.

B. Insurance coverage as provided in subsection (A) of this section means a policy of public liability insurance issued by an insurance company qualified to do business in the State of Tennessee and naming the City of Memphis as an additional insured. Any policy of public liability insurance issued in compliance with this article shall be for a term of not less than one year, and for any Entertainment Transportation Vehicle insured thereunder shall afford protection to any third party sustaining injury or damage as a result of the negligent operation of any Entertainment

Transportation Vehicle, with the minimum amount of insurance to be determined by the City Risk Management Department, known as combined single limit insurance coverage. Such policy shall expressly provide that it may not be canceled, except after thirty (30) days' written notice to the Commission Director.

C. Such certificate will certify that the policy provides for a minimum coverage per the requirements of the Risk Management Department of the City of Memphis, which may be amended from time to time to remain current with the current risk factors, per Entertainment Transportation Vehicle for liability imposed by law for damages on account of bodily injuries, death or personal damages, other than injuries, death or property damages of the company or driver, in any one accident resulting from the ownership, maintenance or use of such Entertainment Transportation Vehicle. The certificate of insurance shall also list the serial number or identification number of each Entertainment Transportation Vehicle that is insured.

D. The operation of any Entertainment Transportation Vehicle within the Memphis City Limits without having in force the public liability insurance policy as outlined in this section is hereby declared to be a violation of this Article, subjecting the owner and/or certificate holder to all applicable penalties provided in this Article and this Chapter.

E. Any changes in insurance must be reported to the Commission immediately.

Section 39-262. Suspension and revocation.

A. A certificate issued under the provisions of this chapter may be revoked, suspended, placed on probation, otherwise restricted, or not renewed by the MTC if the holder thereof has:

1. Violated any of the provisions of this chapter or failed to comply with any rule or regulation established by the MTC;
2. Violated any other provision of the Code of Ordinances of the City of Memphis or laws of the United States or the State of Tennessee, the violation of which reflects unfavorably

on the fitness of the holder to offer transportation services, including but not limited to, violations for excessive noise;

3. Failed to pay assessments or taxes due to the City of Memphis;

4. Attempted to transfer a certificate or permit; or

5. Made a misrepresentation or false statement when obtaining a certificate or additional permits or transferring a certificate.

B. Prior to any action to revoke, suspend, place on probation, otherwise restrict, or not renew a certificate, the holder shall be given notice to the address listed on their certificate of the proposed action to be taken and shall have an opportunity to be heard by the MTC.

C. If the holder commits an act in violation of the criminal laws of the United States of America or State of Tennessee, and the MTC director determines that holder poses a threat to the public safety, the MTC director may enact an emergency suspension of the holder's certificate to remain in effect until the holder has the opportunity to be heard by the MTC at the next available meeting, but in no circumstance later than sixty (60) days from the date of the emergency suspension.

Section 3. Driver Permits

Section 39-263. Driver Permit required- Violations and term.

A. No person shall drive or otherwise operate an Entertainment Transportation Vehicle engaged in the transportation of passengers unless he or she has a driver permit from the MTC and a currently effective Tennessee commercial driver's license.

B. A person commits an offense if he or she operates an Entertainment Transportation Vehicle in the Memphis City Limits without a driver permit issued by the MTC.

C. A business commits an offense if it employs or otherwise allows a person to operate an

Entertainment Transportation Vehicle owned, controlled, or operated by the permittee without a driver permit issued by the MTC.

D. Each driver permit shall be valid for one (1) year and shall be subject to renewal pursuant to the provisions set forth in this Article.

Section 39-264. Application-Information and fees required.

A. An application for an Entertainment Transportation Vehicle driver permit shall be filed with the MTC on forms provided by the MTC.

B. Such application shall be certified under oath and shall at a minimum contain the following information:

1. The name, residential address, telephone number and date of birth of the applicant.

No applicant under twenty-one (21) years of age will be accepted.

2. The type(s) of vehicle(s) which the applicant will drive under the certificate.

3. The years of experience of the applicant in the transportation industry.

4. A concise history of the applicant's employment.

C. The applicant shall provide copies of the following documents in order to submit his or her application:

1. A valid driver's license issued by one of the fifty states within the United States of America for the issuance or renewal of an Entertainment Transportation Vehicle driver permit corresponding with the type/classification of Entertainment Transportation Vehicle to be operated (i.e., commercial driver license, for-hire endorsement, etc.).

2. If a resident alien, a current work permit or other valid United States Immigration

and Customs Enforcement document.

3. A copy of a currently effective Tennessee commercial driver's license.

D. Each application shall be accompanied by an official driver record obtained no longer than thirty (30) days previous to the date of application. All applicants are required to meet the following standards:

1. No convictions in the last five (5) years for any of the following offenses involving bodily injury or death and no convictions in the last three (3) years for any of the following offenses not involving injury or death:

- Hit and run;
- Driving under the influence of an alcoholic beverage or drug;
- Reckless or careless driving.

2. For an initial driver permit, no more than three moving violations within the last three (3) years and no more than two (2) moving violations in the last year.

3. For a renewal driver permit, no more than four (4) moving violations within the last three (3) years and no more than two (2) moving violations in the last year.

Section 39-265. Fingerprint-based criminal background investigation.

A. All applicants for an Entertainment Transportation Vehicle driver permit must undergo a fingerprint-based identification and background check. The MTC shall provide instructions to applicants on obtaining such background checks. A background check report and a copy of the Motor Vehicle Record (MVR), generated by the Department of Motor Vehicles, of the applicant, if any, shall be attached to the application and forwarded for consideration by the MTC.

B. Any applicant shall, in addition to any disqualifications listed elsewhere in this Chapter, be

disqualified if the applicant:

1. Has been convicted, pleaded guilty, placed on probation or parole, pleaded nolo contendere, or been released from incarceration within a period of five (5) years prior to the date of application for violation of any of the following criminal offenses under the laws of Tennessee, any other state or of the United States:

- Homicide,
- Rape,
- Aggravated assault,
- Kidnapping,
- Robbery,
- Child sexual abuse,
- Domestic violence,
- Any sex-related offense,
- Leaving the scene of an accident,
- Criminal solicitation, or criminal attempt to commit any of above,
- Perjury or false swearing in making any statement under oath in connection with the application for a driver permit, or
- The felony possession, sale or distribution of narcotic drugs or controlled substances.

2. If, at the time of application, the applicant is charged with any offenses in subsection (1) of this section, consideration of the application shall be deferred until the applicant's entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges.

3. Has been convicted of or released from incarceration due to two (2) or more felony offenses within the past seven (7) years.

4. Has been convicted for a period of two (2) years prior to the date of application for violation of two or more sections of this Code or other ordinances governing the operation of Entertainment Transportation Vehicles.

If the applicant fails to disclose any criminal conviction, except traffic citations, on the application for a driver permit, the application may be referred to the MTC for consideration.

Section 39-266. Application - Approval or disapproval.

The MTC or its staff shall, upon the consideration of the application and any reports and certificates required to be attached thereto, approve or reject the application. Any applicant rejected by the MTC staff may file an appeal within thirty (30) days of denial and request an appearance before the MTC. The appeal shall be heard by the MTC at the next available MTC meeting with the appellant appearing in-person for consideration of the application.

Section 39-267. Issuance – Driver Permit contents and display.

A. Upon approval of an application for an Entertainment Transportation Vehicle driver permit, the MTC director shall issue a permit to the applicant, which shall bear the applicant's name, driver permit number, height, date of birth, a photograph of the applicant, and other information deemed appropriate by the MTC.

B. Every driver shall at all times conspicuously display a driver permit within the Entertainment Transportation Vehicle, where it is visible to passengers. A driver shall allow the MTC director, MTC inspector, or a police officer to examine the permit upon request.

Section 39-268. New application after denial.

Upon denial of an application for a driver permit, no new application shall be considered for a period of three (3) months.

Section 39-269. Expiration - Issuance and renewal fee.

A. A driver permit may be issued to qualified applicants upon the payment of a \$35 fee plus the costs of investigation. If the permit for the preceding year has been revoked, no new permit shall be issued without prior MTC approval.

B. Each Entertainment Transportation Vehicle driver permit shall be issued for a period of one year. The fee to renew a driver permit shall be \$17.50. Such fees shall be in addition to the cost of any investigation.

Section 39-270. Unpermitted drivers.

A. If any person is found operating an Entertainment Transportation Vehicle within the Memphis City Limits without a valid Entertainment Transportation Vehicle driver permit on behalf of any holder of a certificate of necessity and public convenience, the MTC director may immediately take action to suspend or revoke the certificate.

B. A person whose Entertainment Transportation Vehicle driver permit is suspended shall not drive an Entertainment Transportation Vehicle within the Memphis City Limits during the period of suspension.

Section 39-271. Suspension, revocation, and appeal.

A. The MTC director is hereby given authority to suspend any Entertainment Transportation Vehicle driver permit issued under this Article for a driver's failure or refusal to comply with the

provisions of this Article. Such suspensions may not last for a period of more than thirty (30) days. The MTC director is also given authority to revoke any driver permit for failure to comply with the provisions of this Article.

B. If a driver is charged in any court with a misdemeanor involving moral turpitude, or with any felony, or with driving while intoxicated or under the influence of drugs, or with violations of this Article, the MTC director is hereby given authority to suspend the driver's permit pending final disposition of the charges against them, and to revoke such permit upon conviction thereof.

C. The MTC director may revoke an Entertainment Transportation Vehicle driver permit if the director determines that the permittee has engaged in conduct detrimental to the public safety.

D. The MTC director may not suspend or revoke any driver permit unless the driver has received notice of the charges against them and has had the opportunity to present evidence on their behalf.

E. Any permittee whose driver permit has been suspended or revoked by the MTC director may file a written appeal with the MTC within ten (10) business days. If an appeal is not made to the MTC within ten (10) business days of the MTC director's decision, the MTC director's decision shall be final. A letter addressed to the MTC and delivered to the MTC office stating that an appeal from the decision of the MTC director is desired shall perfect such appeal. The MTC, as soon as practicable after receiving such notice of appeal, shall notify the permittee of the date and time of the hearing which shall be not less than five (5) business days after the mailing of such notice. After the hearing of the appeal, the MTC shall sustain, modify or reverse the findings of the MTC director, and shall notify the MTC director and the permittee of its findings. The findings of the MTC shall be final, subject to any applicable legal processes.

F. A driver whose permit is revoked may not reapply for ninety (90) days from the date of

revocation and will be treated as a new applicant.

Section 39-272. Revocation of a valid driver's license.

An Entertainment Transportation Vehicle driver permit issued under this Chapter shall be valid for one (1) year so long as the permittee's valid driver's license, issued by one of the fifty states in the United States of America for the type/classification of Entertainment Transportation Vehicle to be operated, remains valid for the duration of the permit. Any time that a permittee's driver's license is suspended, revoked, or cancelled, their Entertainment Transportation Vehicle driver permit shall likewise be immediately suspended, revoked, or cancelled. The Entertainment Transportation Vehicle driver permit shall immediately be surrendered to the MTC until such time as their driver's license is reinstated.

Section 39-273. Conduct of drivers.

A. A driver shall at all times:

1. Act in a reasonable, prudent, safe, and courteous manner;
2. Take the necessary measures to prevent and prohibit a person not possessing an Entertainment Transportation Vehicle driver permit from operating the Entertainment Transportation Vehicle;
3. Refrain from allowing more passengers to be carried in an Entertainment Transportation Vehicle than for which there is proper seating, and at no time shall the driver allow any passenger to ride in any area of the Entertainment Transportation Vehicle not specifically designed or designated as a seat;
4. Prohibit any passenger eighteen (18) years of age or younger from riding in an

Entertainment Transportation Vehicle unaccompanied by an adult;

5. Not operate an Entertainment Transportation Vehicle while under the influence of intoxicating beverages or drugs;

6. Not operate an Entertainment Transportation Vehicle while possessing a lighted cigarette, cigar, or pipe at any time;

7. Observe and obey all state and local noise and traffic laws and regulations;

8. Not permit a customer to stand or ride on any part of the Entertainment Transportation Vehicle other than the designated seating area while the Entertainment Transportation Vehicle is in motion and require that passengers must be seated except when loading or unloading.

Section 39-274. Drivers not to work more than 12 hours out of 24.

No driver shall work more than a maximum of twelve (12) driving hours in the aggregate of any twenty-four-hour period, and such driver shall not begin to drive until he has had at least eight (8) consecutive hours of rest.

Section 39-275. Consumption of Alcoholic Beverages

The consumption of an alcoholic beverage by an individual, over the age of twenty-one (21), who is strictly a passenger in the passenger area of an Entertainment Transportation Vehicle is permitted. Sales of alcohol by the operator, driver, or riders of the vehicle are prohibited.

A. If alcoholic beverages are allowed to be consumed on an Entertainment Transportation Vehicle, the vehicle operator shall apply for a permit to allow such consumption from the Permits Office. The application fee for such permit is \$25 and the operator of an Entertainment Transportation Vehicle company shall pay an additional \$25 for each Entertainment Transportation

Vehicle on which alcohol is being consumed. The driver or operator of an Entertainment Transportation Vehicle shall be in possession of the permit referenced in this subsection at all times alcohol is being consumed on the Entertainment Transportation Vehicle. Additionally, the registration number issued by the Permits Office shall be conspicuously displayed on the rear of the Entertainment Transportation Vehicle.

B. If an alcohol consumption permit is granted to the Entertainment Transportation Vehicle operator, the following notice shall be on full display on the Entertainment Transportation Vehicle:

1. Each passenger is asked to drink responsibly; and
2. No passengers are permitted to take any opened alcoholic beverage container with them when they exit the Entertainment Transportation Vehicle, except in the Beale Street Historic District.

C. An Entertainment Transportation Vehicle driver shall not operate an Entertainment Transportation Vehicle while under the influence of alcoholic beverages, nor shall the driver consume alcoholic beverages while operating the vehicle.

D. The Entertainment Transportation Vehicle operator and driver may not allow consumption of alcoholic beverages by persons under the age of twenty-one (21).

E. Any violations of this Section may be enforced under the applicable laws of the City of Memphis and the State of Tennessee, as contemplated by §§ 39-291 and 39-293, which may result in revocation or suspension of the operator's certificate of public convenience and necessity.

Section 39-276. Return of passengers' property.

A driver of an Entertainment Transportation Vehicle shall immediately attempt to return to a passenger any property left by the passenger in the vehicle. If unable to locate the passenger, the

driver shall turn the property in to the certificate holder's company office at the end of the driver's shift or at the first available opportunity. In such cases, the certificate holder shall make a good faith effort to locate the passenger, and, if not successful, hold the property in storage at its location for at least thirty (30) days.

Section 39-277. Compliance with provisions.

Every driver granted a driver permit under this Article shall comply with all City of Memphis, state, and federal laws. Failure to do so may result in disciplinary actions including suspension and up to revocation of the Entertainment Transportation Vehicle driver permit.

Section 4. Equipment and Operation

Section 39-278. Entertainment Vehicle permit required.

A. Each Entertainment Transportation Vehicle must have a vehicle permit issued by the MTC in the vehicle. The permit will identify each vehicle by a unique number in accordance with rules and procedures established by the MTC and will be associated with the certificate holder. Entertainment Transportation Vehicle permits are not transferable to other entertainment transportation vehicles or other certificate holders. B. To qualify for a vehicle permit, an applicant must have obtained a Certificate of Public Convenience and Necessity pursuant to § 39-257 of this Article and comply with all of the requirements and stipulations of this Chapter and any rules and regulations adopted by the MTC.

C. A \$125 fee will be charged for the issuance of each approved Entertainment Transportation Vehicle permit associated with the certificate.

D. It shall be unlawful for any person to transport or offer to transport passengers in any

Entertainment Transportation Vehicle which does not have affixed to the vehicle a valid permit issued through the MTC.

Section 39-279. Application for additional vehicle permits.

An application for additional Entertainment Transportation Vehicle permits under the certificate of public convenience and necessity issued pursuant to this Article must be filed with the MTC director. The requirements stipulated in this Chapter shall apply and must be satisfied in order for the application to be considered. If approved, the established permit fee will be applied.

Section 39-280. Ownership and control of vehicles.

All Entertainment Transportation Vehicles permitted under this Chapter must be under the lawful control of a certificate holder demonstrated either by proof of ownership or a copy of a valid lease agreement and must be under the direct control of a permitted driver while in operation or use.

Section 39-281. Vehicle to display identification.

All Entertainment Transportation Vehicles operated under the authority of this Chapter shall be equipped with identification as prescribed by the MTC in rules and regulations.

Section 39-282. Vehicle requirements; safety standards.

A. To the fullest extent permitted by Tennessee and federal law, prior to the issuance of a permit, or the use and operation of any vehicle under the provisions of this Chapter, the vehicle shall be thoroughly examined and inspected by the certificate holder or a designated third party in accordance with rules and regulations prescribed by the MTC. When a certificate holder finds that a vehicle has met all the terms established by the MTC, the holder shall certify this to the MTC

director, who shall authorize an Entertainment Transportation Vehicle permit to be issued.

B. To the fullest extent permitted by Tennessee and federal law, every vehicle operating under this Chapter is subject to random and periodic inspections to ensure the continued maintenance of safe operating conditions. A certificate holder shall make an Entertainment Transportation Vehicle available for inspection in accordance with the rules and regulations adopted by the MTC. If, upon inspection, it is determined that an Entertainment Transportation Vehicle for hire is not in compliance with this Chapter or MTC rules, the MTC staff shall order the vehicle to be removed from service or brought into compliance within two (2) weeks and require it to be reinspected prior to resuming operation.

C. Every vehicle operating under this Chapter shall be kept in a clean and satisfactory condition, according to rules and regulations promulgated by the MTC.

D. Every vehicle operating under this Chapter must be equipped with seats for each passenger.

E. To the fullest extent permitted by Tennessee and federal law, every vehicle operating under this Chapter shall undergo an annual detailed mechanical inspection conducted by an approved mechanic pursuant to the requirements of rules and regulations adopted by the MTC. The records of these inspections must be maintained and made available to MTC staff as provided by the rules and regulations adopted by the MTC. The certificate holder shall certify its compliance with this subsection to the MTC director.

F. The MTC may, by rule, establish additional inspection requirements for Entertainment Transportation Vehicles and other equipment used in the Entertainment Transportation Vehicle service.

Section 39-283. Operating area.

Entertainment Transportation Vehicles shall operate upon the streets in the Memphis City Limits on routes or zones delineated by the Memphis Transportation Commission, within the selected portion of the Central Business Improvement District (CBID - Core District, Edge/Medical District, and South District - see Exhibit A). In addition, Entertainment Transportation Vehicles may operate in the area commonly known as Overton Square, and along Union Avenue between the CBID and Overton Square. Any deviation or amendments to routes or zones must be reviewed by the MTC or its staff and receive approval from the Memphis City Council by Resolution. Any approved deviation must be reported to the MTC or its staff prior to beginning of operations.

Section 39-284. Operating hours.

Entertainment Transportation Vehicles shall operate between the hours of 11 AM to 1 AM local time. Any deviation from these hours must be reviewed by the MTC or its staff and receive approval from the Memphis City Council by Resolution. Any approved deviation must be reported to the MTC or the MTC director staff prior to beginning of operations.

Section 39-285. Records and reports.

A. Each holder shall maintain at a single location business records of its Entertainment Transportation Vehicle business. The records must be maintained in a manner approved by the MTC director and contain the following information:

1. An identification of the Entertainment Transportation Vehicle(s) operating each day;
2. An identification of the drivers operating the Entertainment Transportation Vehicles each day and a statement of the hours each driver operated the vehicle each day; and
3. Any other information the MTC director determines necessary for monitoring the

activities, operations, service, and safety record of the licensee.

B. A certificate holder shall make its records available for inspection by the MTC director, inspector, law enforcement officer or designated officials.

Section 39-286. Accidents

A. All accidents arising from or in connection with the operation of an Entertainment Transportation Vehicle shall be reported within seventy-two (72) hours from the time of occurrence to the MTC director if the accident results in:

1. Death or bodily injury to any person; or

2. Damage to any vehicle, or to any property in an amount exceeding the sum of four hundred dollars (\$400).

B. An Entertainment Transportation Vehicle damaged in an accident, but still operable without placing the driver or passengers at risk, must be repaired within two (2) weeks of the accident, or removed from operation until repaired, and inspected prior to resuming operations.

Section 39-287. Passengers-Receiving and discharging by drivers.

A. Drivers shall only receive and discharge passengers at designated staging areas/locations approved by the MTC.

B. Drivers shall not allow additional passengers to board the Entertainment Transportation Vehicle after the vehicle has left its fixed starting point.

Section 39-288. Disposition of disorderly passengers.

Drivers shall act in a reasonable and professional manner in dealing with disorderly passengers.

Section 39-289. Soliciting business.

No certificate holder or driver of an Entertainment Transportation Vehicle shall offer any compensation of whatever form to any person or entity in exchange for the direction or recommendation of passengers to that Entertainment Transportation Vehicle. This section shall not be construed to prohibit certificate holders from advertising their entertainment transportation business by other reasonable means.

Section 39-290. Compliance with other laws.

It shall be a violation of this Chapter for a certificate holder or driver to violate any other applicable federal, state or local law or regulation in offering or providing Entertainment Transportation Vehicle services.

Section 39-291. Enforcement of this Article.

A. The MTC shall promulgate rules and regulations, consistent with applicable state and federal law, relative to the operation and use of Entertainment Transportation Vehicles. These rules and regulations shall be promulgated to provide safe transportation and specify such safety equipment and regulatory devices as the MTC shall deem necessary.

B. Enforcement of any power or authority granted the MTC under this Chapter or any rules or regulations issued by the MTC pursuant to such authority shall be delegated by the Commission to any employee of the Commission staff, who may issue a citation for violations of this Ordinance, pursuant to Tenn. Code Ann. §§ 7-56-101 and 7-63-101.

C. The inspectors of the Memphis Transportation Commission are authorized and instructed

to observe the conduct of holders of certificates and permits operating under this Chapter. Upon discovering a violation of any of the provisions of this Chapter, the inspector may either report the violation to the MTC, which will order or take appropriate action, or issue a citation as authorized under this section.

D. The inspectors of the Memphis Transportation Commission shall conduct random and periodic inspections of the operations of holders of certificates and permits operating under this chapter, to ensure compliance with the provisions of this Chapter and the Rules and Regulations of the MTC.

E. In addition to the enforcement authority provided to MTC inspectors in this section, officers of the Memphis Police Department shall have the authority to enforce this Chapter in performance of their duty to protect and serve and enforce the laws of the City of Memphis and the State of Tennessee; such enforcement includes, but is not limited to the authority of the police officer to issue a summons or misdemeanor citation or effect a physical arrest for violations. A police officer, upon observing a violation of this Chapter or of any regulation or rule established by the MTC or the MTC director pursuant to this Chapter, may take necessary enforcement action to ensure effective regulation of Entertainment Transportation Vehicles.

Section 39-292. Limitation of service due to weather conditions.

Entertainment Transportation Vehicles shall not receive passengers when weather conditions are sufficiently adverse or inclement so as to endanger passengers or the public. The MTC, by rule, may adopt specific guidelines for the operation of Entertainment Transportation Vehicles in inclement weather conditions.

Section 5. Violations – Civil Penalty Schedules

Section 39-293. Violations-Penalties-Additional regulations.

A. All provisions of this Chapter shall be governed by the penalties and procedures for general ordinance violations set forth in Tennessee Code Annotated § 6-54-306, the Charter of the City of Memphis Article 40, Section 355, and the Code of Ordinances of Memphis, Tennessee, Section 1-24-1.

B. Notwithstanding any provision contained herein, the MTC shall have the authority to enforce the provisions of this Chapter.

C. The MTC shall have the authority to promulgate, implement, and enforce additional rules and regulations pertaining to entertainment transportation vehicles, provided such rules and regulations are consistent with the provisions of this Chapter and state and federal laws, and prior approval is obtained from the Memphis City Council.

Section 6. Severability

BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 7. Intent on Legal Effect

BE IT FURTHER ORDAINED, That as amended hereby the remaining provisions of CHAPTER 6 – BUSINESS LICENSES AND REGULATIONS remains in full force and effect.

Section 8. Codification

BE IT FURTHER ORDAINED, That this ordinance amends Chapter 39 of the official City Code. The City has authorized the Municipal Code Corporation to provide a republication of the City's Ordinances in the official City Code, as amended from time to time, for the convenience of the public. The official City Code and the official version of all new, amending, repealing and clarifying ordinances adopted by the City Council are maintained by the City's Comptroller in the Office of Council Records.

Section 9. Effective Date Clause

BE IT FURTHER ORDAINED, That this Ordinance shall take effect after having been passed by City Council, signed by the Chair of Council, certified and delivered to the office of the Mayor in writing by the Comptroller, and becomes effective as otherwise provided by law and shall remain effective and operative unless and until the City Council alters, amends, clarifies or repeals it by a superseding, amending, clarifying or codifying ordinance.

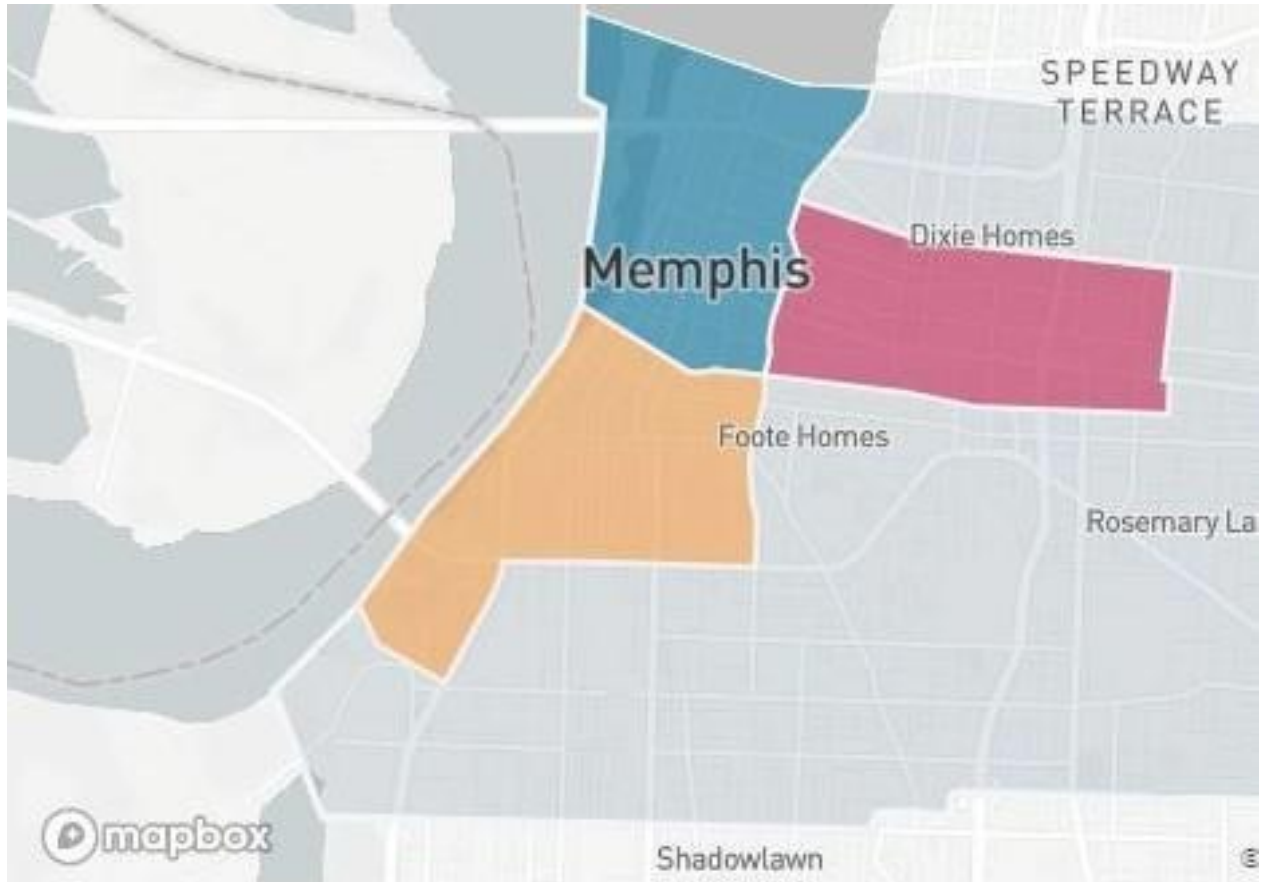
SPONSOR

Ford Canale

CHAIRMAN

JB Smiley, Jr.

Exhibit A



-  South District
-  North District
-  Core District
-  Edge/Medical District
-  Core City District